

## Agenda Item Summary

### BACKGROUND

Oregon Administrative Rules (OAR) Division 56, "Importation, Possession, Confinement, Transportation and Sale of Nonnative Wildlife" or Wildlife Integrity Rules, separates non-native wildlife species into four categories; Animals exempt from rule, Prohibited species, Noncontrolled species and Controlled species. The category that a wildlife species is placed will determine what activity or condition must be met before a person could legally possess nonnative species in Oregon. If a species is not classified in any of these four categories then that species is automatically considered a "Prohibited Species" (OAR 635-056-0130 (1)).

The Wildlife Integrity rules also include provisions that allows a person to request or petition that a species, subspecies or hybrid be classified into one of three categories: Prohibited, Noncontrolled or Controlled (OAR 635-056-0130 and 635-056-0140) or to be reclassified into another category.

Tim Creswell owner of "House of Reptiles" requested that the following species be reviewed for classification as a Noncontrolled species:

- Armored Glass Lizard or European Glass lizard (*Anguillidae ophisaurus apodus*)
- Marbled tree frog (*Hylidae Hyla marmorata*)
- Tonkin Bug-eyed frog (*Rhacophoridae Theloderma corticale*)
- Splendid Japure (*Agamidae Japalura splendid*)
- Somali Strange (*Agemidae Xenagama batiffifera*)
- Taylor's Strange Agama (*Agemidae Xenagama taylori*)
- Asian Grass lizard (*Lacrtidae Takydromus sexlineatus*)
- Spanish Ribbed Newt (*Salamandridae Pleurodeles waltl*)
- Redbelly toad or Bumblebee Toad (*Bufoidea Melanophryniscus stelzneri*)
- Pixie Frog or Tschudi's African Bullfrog (*Ranidae Pyxicephalus adsperus*)
- Bell's Hingeback Tortoise (*Testudinidae Kinixys belliana*)

William Ahlquist requested that the following be classified as a Noncontrolled Species:

- Asian Small-clawed otter (*Aonyx cinereus*)
- Eastern subspecies of the North American River Otter (*Lontra canadensis latazina*)

Each of the classifications requested, with the exception of the Bell's Hingeback Tortoise, which is already classified as a Noncontrolled species, was presented to the Wildlife Integrity Panel. The current Wildlife Integrity Panel consist of members from USFWS, PSU, ODFW staff, a member of the

public retired from the Oregon Zoo and a member of the public that shows reptile and amphibians in exhibits around the Pacific Northwest.

Panel members reviewed and graded each request according to the criteria listed in OAR 635-056-0140 as either: Unknown, high, medium or low degree of risk. Each criterion was averaged between members of panel to determine the degree of risk for each criteria and an overall degree of risk for all the criteria.

## **PUBLIC INVOLVEMENT**

Members of the public had the opportunity to view the petition and staff summaries on the ODFW website. A press release will also be issued prior to the Commission meeting to inform the public on pending modifications to the Wildlife Integrity Rules. Members of the public will also have the opportunity to review the packet as part of the Commission meeting where revisions to the rules could be adopted.

## **ISSUE 1**

**STAFF RECOMMENDATION TO AMEND THE WILDLIFE INTEGRITY RULES TO CLASSIFY SIX SPECIES AS NONCONTROLLED, THREE SPECIES AS PROHIBITED AND HAVE THREE SPECIES REMAIN CLASSIFIED AS A PROHIBITED SPECIES.**

## **ANALYSIS**

A person requesting a classification of species to Noncontrolled should address each of the questions listed in OAR 635-056-0140. The Wildlife Integrity Panel members evaluates the petitioner's responses and any additional information to each question to determine the relative risk (high, medium, low, unknown) for each of the criteria.

### **635-056-0130**

#### **Classification Requests**

- (1) For species that are not listed in these rules, no person may possess, import, purchase, sell, exchange, or offer to purchase, sell or exchange the species in Oregon.
- (2) Species may be classified as Prohibited, Controlled or Noncontrolled. The classification may vary by activity (e.g., possession allowed, but sale prohibited). If a specific nonnative species, subspecies or hybrid is not classified as either Prohibited, Controlled or Noncontrolled, or is classified but not for a particular activity (e.g., import, sale, possession, transport), any person may either:
  - (a) Petition the commission to classify the species or allow the particular activity pursuant to OAR 137-001-0070; or
  - (b) Request the director to classify the species as Noncontrolled, pursuant to OAR 635-056-0140.
  - (c) Any person petitioning or requesting classification shall provide information illustrating that the requested action will not harm, nor has the potential to harm, any native species or its habitat. The information should be scientific in nature, in written form and include an appropriate literature cited section.
- (3) In evaluating a request to classify a species, subspecies or hybrid, the commission may consider the following factors, when appropriate:
  - (a) Potential to introduce disease or parasites to native wildlife populations;
  - (b) Potential for interbreeding or hybridizing with native wildlife;
  - (c) Possible competition with native wildlife for habitat, food, water, etc.;

- (d) Impacts on the habitat of native wildlife;
- (e) Potential predation on native wildlife;
- (f) Feasibility and cost of capturing or eradicating escaped animals; or
- (g) Any other factor or consideration the commission considers necessary to protect and maintain native wildlife.

#### **635-056-0140**

##### **Noncontrolled Classification**

(1) Upon a request pursuant to OAR 635-056-0130(3) (b), the director may classify a species as Noncontrolled if the director determines, based upon scientific information, that the species presents a low risk of harm to native wildlife. In evaluating the risk, the director shall determine the relative risk (high, medium, low, unknown) for each of the following criteria:

- (a) Whether the species' natural range and habitat is similar to Oregon's climate and habitat;
- (b) Whether the species has an invasive history;
- (c) Whether the species can survive in Oregon;
- (d) Whether the species has the potential to prey upon native wildlife;
- (e) Whether the species can potentially degrade the habitat of native wildlife;
- (f) Whether the species has the potential to pass disease or parasites to native wildlife;
- (g) Whether the species has the potential to compete for food, water, shelter, or space with native wildlife;
- (h) Whether the species has the potential to hybridize with native wildlife; and
- (i) Whether the species can be readily distinguished from a native species, or a prohibited or controlled species.

The Wildlife Integrity Panel reviewed each of the classifications requested with the exception of the Bell's Hingeback Tortoise which is already classified as a Noncontrolled species. Panel members graded each of criteria listed in OAR 635-056-0140 as either: Unknown, high, medium or low degree of risk. Each criterion is averaged between members of the panel to determine the degree of risk for each criterion and then an overall degree of risk for all the criteria.

The Wildlife Integrity Panel has determined that the following species are a low risk for becoming invasive in Oregon based on the criteria listed in OAR 635-056-0140 and has recommended that they be listed as a Noncontrolled species:

- 1) Marbled tree frog (*Hylidae Hyla marmorata*)
- 2) Tonkin Bug-eyed frog (*Rhacophoridae Theloderma corticale*)
- 3) Splendid Japaure (*Agamidae Japalura splendid*)
- 4) Somali Strange (*Agemidae Xenagama batiffifera*),
- 5) Taylor's Strange Agama (*Agemidae Xenagama taylori*)
- 5) Asian Grass lizard (*Lacrtidae Takydromus sexlineatus*)

The Wildlife Integrity Panel determined that the following species still pose a high degree of risk for becoming invasive in Oregon based on the criteria listed in OAR 635-056-0140 and has recommended that they remain listed as Prohibited species:

- 1) Spanish Ribbed Newt (*Salamandridae Pleurodeles waltl*)
- 2) Redbelly toad or Bumblebee Toad (*Bufo melanophryniscus stelzneri*).
- 3) Pixie Frog or Tschudi's African Bullfrog (*Ranidae Pyxicphalus adsperus*)

The Wildlife Integrity Panel determined that the following species are a high risk for becoming invasive in Oregon based on the criteria listed in OAR 635-056-0140 and recommends that they be added to the list in OAR 635-056-0500 as Prohibited species:

- 1) Armored Glass Lizard or European Glass lizard (*Anguidae ophisaurus apodus*) was determined by the Wildlife Integrity Panel that this species is a high degree of risk in three of the criteria, medium degree of risk in two of the criteria and unknown degree of risk in three of the criteria. The overall score was a high degree of risk.
- 2) Asian Small-clawed otter (*Aonyx cinereus*) was considered a high degree of risk in all but one criterion which was the "potential that the species could hybridize or interbreed with native species. The overall score was a high degree of risk.
- 3) Eastern subspecies of the North American River Otter (*Lontra canadensis latazina*) was considered overall a high degree of risk in all criteria.

**1. Accept staff recommendations to amend the Wildlife Integrity rules to place the following species as Noncontrolled:**

- Marbled tree frog (*Hylidae Hyla marmorata*)
- Tonkin Bug-eyed frog (*Rhacophoridae Theloderma corticale*)
- Splendid Japure (*Agamidae Japalura splendid*)
- Somali Strange (*Agemidae Xenagama batiffifera*),
- Taylor's Strange Agama (*Agemidae Xenagama taylori*)
- Asian Grass lizard (*Lacrtidae Takydromus sexlineatus*)

**And the following species should remain or be added to the Prohibited species list:**

- Spanish Ribbed Newt (*Salamandridae Pleurodeles waltl*)
- Bumblebee Toad (*Bufo melanophryniscus stelzneri*)
- Tschudi's African Bullfrog (*Ranidae Pyxicphalus adsperus*)
- Armored Glass Lizard (*Anguidae ophisaurus apodus*)
- Asian Small-clawed otter (*Aonyx cinereus*)
- Eastern subspecies of the North American River Otter (*Lontra canadensis latazina*)

**OPTIONS**

1. Modify staff recommendation.
2. Leave rules as currently written.

**STAFF  
RECOMMENDATION**

Option 1

**DRAFT MOTION**

1. I move to adopt the staff recommendation to amend Wildlife Integrity Rules OAR 635-056-0060 to classify the following species as Noncontrolled:

**EFFECTIVE DATE**

Marbled tree frog (*Hylidae Hyla marmorata*)  
Tonkin Bug-eyed frog (*Rhacophoridae Theloderma corticale*)  
Splendid Japature (*Agamidae Japalura splendid*)  
Somali Strange (*Agemidae Xenagama batiffifera*),  
Taylor's Strange Agama (*Agemidae Xenagama taylori*)  
Asian Grass lizard (*Lacrtidae Takydromus sexlineatus*)

And that the following species be classified as Prohibited in OAR 635-056-0050:

Armored Glass Lizard (*Anguidae ophisaurus apodus*)  
Asian Small-clawed otter (*Aonyx cinereus*)  
Eastern subspecies of the North American River Otter (*Lontra canadensis latazina*)

## ISSUE 2

### **STAFF RECOMMENDATIONS TO AMEND THE WILDLIFE INTEGRITY RULES TO REFORMAT THE LAYOUT OF THE WILDLIFE INTEGRITY RULES, MODIFY THE CLASSIFICATION CRITERIA AND MODIFY CRITERIA FOR GRANDFATHERING A SPECIES.**

## ANALYSIS

Staff discovered that Wildlife Integrity Rules Division 56 page layout is not consistent with other Division page layouts and would recommend that the 635-056-0000 "Purpose and General Information" section be divided into a "Purpose" section and a "General Information" section.

Staff, and on the recommendation of the Wildlife Integrity Panel, would like to amend 635-056-0130 (f) "Feasibility and cost of capturing or eradicating escaped animals" to (f) "Feasibility of capturing and eradicating escaped animals"; (g) "Cost of capturing and eradicating escaped animals".

Separating feasibility and cost would make it more relevant in assigning a degree of risk value to these criteria. An escaped species could be feasible to capture but the cost for capturing or eradicating may not be reasonable or prudent depending on the population size, habitat which the species has expanded into and other factors. On the other hand the cost may be rather low but the feasibility of capture or eradication may be high due to the species size, cryptic coloration, life stage, etc.

Staff, and on the recommendation of the Wildlife Integrity Panel, would request to amend 635-056-0140 (1) (c) and add a new criteria to 635-056-0140. OAR 635-056-0140 (1) (c). "Whether the species has the potential to prey upon native wildlife" to "Whether the species has the potential to prey upon **and impact** native wildlife". Adding "impact" would reflect a more accurate degree of risk that might occur directly or indirectly on native species. For instance a non-native frog may not prey directly on a native species but may prey on the same food source such as insects that the native species consumes so there still may be potential to impact a species.

By adding the criteria "What types of disease or parasites could be passed on to native wildlife" in OAR 6325-056-0140; would provide more information that would allow a better evaluation of the potential degree of risk of disease or parasites being passed on to native species.

Staff would recommend to amend OAR 635-056-0150 and remove "signed affidavit" as proof for grandfathering for legal possession as described in OAR 635-056-0150 (1)(a). Age of some species is very difficult if not impossible to determine if a person actually had possession before January 1, 2000. By removing this criterion it would require a person to show actual proof of possession and removes the burden of proof to staff or OSP to determine if the species meets the standards for "Grandfathering".

## OPTIONS

1. Accept staff recommendations to amend Division 56 rules.
2. Modify staff recommendation.
3. Leave rules as they currently written

## STAFF RECOMMENDATION

Option 1.

**DRAFT MOTION**

I move to adopt staff recommendations to amend Division 56 Wildlife Integrity Rules; 635-056-0000, 635-056-0130, 635-056-00140 and 635-056-0150.

**EFFECTIVE DATE**

Upon Filing