

Agenda Item Summary

BACKGROUND

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

1. Marten harvest be closed west of Interstate 5;
2. All furbearer and unprotected mammal trapping be closed in the Oregon Dunes National Recreation Area; and
3. Prohibition on the use of traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests.

This request was a “petition for rulemaking” under the Administrative Procedures Act (APA). Such APA petitions are used to put a rulemaking concept (a proposed new rule, some amendment, or repeal of an existing rule) in front of the Oregon Fish and Wildlife Commission (Commission) to determine whether that body of decision makers is interested in putting the concept out for public review through a rulemaking process. On August 3, 2018, the Commission accepted the petition which initiated a rulemaking process, culminating in the recommended rule modifications in this agenda item.

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
- Other public correspondence

ISSUE 1

Development of staff proposals based on petition request to amend OAR Chapter 635 Division 050

ANALYSIS

Staff evaluated each specific petition request and considered stakeholder discussions, public comment, court documents, agency data, and publications to develop the staff recommendation.

Petition request #1: Marten harvest be closed west of Interstate 5

The Pacific marten is found in the Blue Mountains, Cascades, and Coast Range of Oregon, but petitioners are focused on the Humboldt subspecies. The current and historical range of that subspecies in Oregon appears to primarily occur west of Interstate 5. However, more recent marten locations in that area are limited to a range from Lincoln and Benton Counties south to Curry County. Throughout the entire area west of Interstate 5, furtrapper data from mandatory reporting reveals that, on average, less than one marten (0.48) marten has been harvested annually over the last 31 years. Furtrappers must report all harvest that is obtained by hunting, trapping or that is found as roadkill (furtrappers are allowed to

collect roadkilled marten during marten harvest season).. No marten have been harvested west of I-5 since 2014. Petitioners acknowledge this extremely low rate of harvest. Carcasses of martens harvested statewide are not required to be checked-in, however it is requested that licensed furtakers do so regardless of the harvest method.

Petition request #2: All furbearer and unprotected mammal trapping be closed in the Oregon Dunes National Recreation Area
The Oregon Dunes National Recreation Area (ODNRA) covers areas of Lane, Douglas, and Coos Counties and contains dense populations of marten. Over the last 31 years in the ODRNA, 11 marten have been harvested in Coos County (11 trap, 1 roadkill; total 0.32/year), but none since 2014; 4 marten have been harvested in Douglas County (3 trap, 1 roadkill; total 0.13/year), but none since 2008; and zero marten have been harvested in Lane County over that time. When including other known mortalities (reported non-harvest roadkills, research mortalities), averages range from 0.23/year in Lane County to 0.52/year in Coos County.

Marten populations in the ODRNA have received much attention from wildlife researchers and habitat managers in recent years. One effort modeled hypothetical population responses to varying levels of human mortality. Under simulated conditions, focal areas experiencing an average of three human caused mortalities per year saw high probabilities of a population decline over a 30-year period. Despite substantial problems with model assumptions and omission of empirical data, these modeling exercises have helped increase focus and attention on ways to reduce potential threats to these ODNRA marten populations including current efforts to improve habitat and connectivity to better facilitate movement and dispersal between ODNRA and other extant populations.

Unintended consequences of this request to prohibit all trapping in the ODNRA include potentially negative impacts on snowy plover and Humboldt marten populations. Snowy plover nest predators (e.g. red foxes, coyotes, striped skunks, raccoons) are being removed through federal agency management activities and the harvest of these predators by licensed trappers may benefit these efforts. Although detections are infrequent in the ODNRA, bobcats are a known predator of marten and are identified as potential conservation threat to Humboldt marten. As such, bobcat harvest by licensed trappers provides a benefit to marten populations in the ODNRA.

Petition request #3: Prohibiting use of traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests

The Humboldt marten subspecies is found in both the Siskiyou and Siuslaw National Forests; ODNRA occurs in a portion of the Siuslaw National Forest. Outside of the ODNRA, no marten harvest has been reported in these forests in the last 31 years.

Trapping for marten consists of multiple techniques, but none for marten or other harvested species can be simply defined by “traps suspended in trees”. Oregon State Police has stated that the petition’s proposed language is difficult to interpret and therefore would be difficult to enforce. Leaning pole trap sets are one technique for capturing marten and the closest trap set design to the petition’s description. Although

prohibiting leaning pole trap sets seems straightforward, it would be difficult to compose regulation language that adequately describes these sets and would therefore be difficult to enforce. Regardless, these sets are not very common and no connection can be made between the prohibition and benefit to marten.

Summary

Request #1 prohibits all harvest, despite harvest levels being extremely low. The requested closure area far exceeds the Humboldt marten range as determined by decades of empirical data. Harvest, including both lethal take and roadkills has not occurred in most Humboldt marten populations throughout their range and that will likely continue based on furtaker data. Although the request is focused on lethal take, it also prohibits the legal salvage of roadkill, which is a valuable source of data. This request ultimately includes an area far larger than the range of extant populations and will likely not reduce the lethal take of marten for much of the area, but it will eliminate important data sources.

Through discussions and testimony, the greatest interest pertains to marten populations in the ODNRA and ultimately Request #2. The past and current research conducted in and surrounding the ODNRA makes it an area of focus for the Department and agency partners. Based on modeling exercises and empirical data, marten harvest in the ODNRA has no long-term impact on marten populations. However, due to the ongoing research interest in and surrounding the ODNRA, and to increase the chance that research and habitat management activities can be successful on this area, staff can see value in restricting marten harvest. Additionally, furtaker groups indicate they may compromise on this restriction if recommended by the Department. However, the potential for the harvesting predators that prey on plover nests and martens by licensed furtakers warrants retaining trapping of other species in the ODRNA.

Even if Request #3 language were significantly improved, it is still problematic to enforce and a direct connection between it and a benefit to marten has not been made.

Staff recommend marten harvest be prohibited in the ODNRA and require the carcasses of all marten harvested west of Interstate 5 be submitted to the Department to improve monitoring and data collection.

OPTIONS

1. Adopt staff recommendations.
2. Amend staff recommendations.
3. Reject staff recommendations; no changes to current regulations.

STAFF RECOMMENDATION

Option 1.

DRAFT MOTION

I move to amend Oregon Administrative Rule Chapter 635, Divisions 050 as proposed by staff to set regulations and seasons for the harvest of marten.