



February 9, 2017

Dear Members of the Interagency Committee on Administrative Rules:

This letter is submitted on behalf of Protect Our Wildlife (POW), a Vermont non-profit advocacy group. We understand that your committee will be reviewing an application submitted by the Vermont Department of Fish & Wildlife (Department) regarding a proposed rule that would extend the trapping season for otters. Since your Committee's role is to prescribe a strategy for maximizing public input on the proposed rule and to review the proposed rule for consistency with the law and legislative intent, we'd like to share some concerns we have with the application entitled: *Furbearer Species Rule*.

In order for the public to be able to comment intelligently on the proposed rule, it is important that the Department's application and future notice of proposed rulemaking clearly states the intent and the effect of the rule. In reviewing the application, it is not made clear that the rule seeks to **expand the otter trapping season by a month to include the entire month of March**. For example, under section 7 where applicants are asked to provide a "concise summary", the Department states: "this rule amends the river otter trapping season length and the rules governing the use of body gripping traps during the month of March." The rule change that is sought is not clearly specified here or anywhere throughout the application, other than in the marked-up version of the existing rule that is attached to the application. We respectfully request that the Committee ensures that the public notice and all subsequent related publications by the Department emphasize the fact that the proposed rule **will extend the trapping season for otters by one full month**.

Throughout the document it is suggested that the rule change may benefit Vermont citizens economically, presumably by decreasing the numbers of beavers who might later create a "nuisance" for landowners. This representation by the Department is pure

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conjecture, and in fact the Department has failed to support this statement with evidence of any such benefit to landowners. This is likely due, at least in part, to the fact that the Department does not require reporting of “nuisance” animals who are trapped pursuant to 10 V.S.A. §4828, and thus has very little to no data on the activity. Conflating “nuisance” trapping of beavers and the expansion of otter trapping by a month creates unnecessary confusion and neutralizes the reality of what is being proposed: **to allow trappers to trap and kill otters for an additional month each year. The only clear economic benefit of the proposed rule will flow to commercial trappers.**

There are multiple sections in the Economic Impact Statement that are incomplete, such as section 5 where no alternatives to the rule were offered and analyzed. Protect Our Wildlife has offered alternatives to the rule that would address the Department’s concern with the alleged unsatisfactory functionality of traps set for beavers in March.

There are also unsubstantiated, specious claims that the proposed rule in question will, “have no appreciable economic impact because [it] will not result in significant changes in trapping activities or harvest of those species effected [sic] by these rules.” The proposed rule would extend the trapping season by one full month so it is unclear how the Department has concluded that there will be no significant increase in trapping of this species. Further, otters have been identified in the Department’s Wildlife Action Plan as a species who face new threats to their populations, and thus any additional trapping pressure is counterintuitive to the Department’s mandate and, in fact, could result in costly interventions in the long-run should the population decline and thus be subject to state or federally-mandated measures to ensure its recovery.

In the Scientific Information Statement, and as mentioned above, the Department refers to a concern for animal welfare as a justification for the proposed rule, but the Department fails to mention that there are humane alternatives to expanding otter trapping which would provide an equitable outcome to all interested parties. To use words like “animal welfare” to justify an expanded otter trapping season when the Department currently allows the use of colony traps that are specifically designed to drown animals, is disingenuous, and for the purposes of our letter to you, confusing to the public. It is misleading to suggest to the public that extending otter trapping season by a month is in the interest of the welfare of Vermont’s otters. Again, we respectfully request that the Committee ensure that the public notice and all subsequent related publications by the Department are clear and do not have the potential to mislead the public in any way.

With regard to the proposed change that would make the completion of trapper surveys mandatory, the Department acknowledges that it was missing data in their otter analysis

in large part due to the fact that the majority of trappers do not complete and submit the surveys. We question the thought processes that led the Department to, in the same application to ICAR in which it seeks to expand trapping season on otters, simultaneously acknowledge that they lack data on otters due to poor return of trapper mail surveys. Presumably, the Department would consider it important to have adequate data in hand, of which the trapper surveys are only one potential source, before making a decision to extend the trapping season.

For the reasons set forth in this letter, there is also concern that this proposed rule runs afoul of the Department's legislative mandate to hold Vermont's fish and wildlife "in trust ... for the benefit of the citizens of Vermont," and to "safeguard the fish, wildlife, and fur-bearing animals of the State for the people of the State, and [to do so] with a constant and continual vigilance." VT ST T. 10 § 4081.

Lastly, due to the large number of constituents who reside in Chittenden county, we request that the Department be required to conduct a public hearing in that county in order to provide the opportunity for a large segment of Vermont residents to more easily participate in the process. Over 75 wildlife advocates attended a highly anticipated September Fish & Wildlife Board meeting to oppose this petition, despite the remote location where the meeting was held. We need to make the process easier for the general public to comment on - wildlife is supposed to be here for all to enjoy.

We appreciate the opportunity to comment on this proposed rule change that will impact all Vermont residents and also impact the opportunity for future generations to view these magnificent animals in the wild. We look forward to hearing back.

Sincerely,

A handwritten signature in black ink, reading "Brenna Galdenzi". The signature is fluid and cursive, with the first name "Brenna" being more prominent than the last name "Galdenzi".

Brenna Galdenzi
President & Founder, Protect Our Wildlife