

NEW YORK STATE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Assessment of Public Comment

Proposed Rulemaking I.D. No. ENV-19-15-00010-P

Amendment to 6 NYCRR Part 6 / Sections 6.2 and 6.3

The Department received almost 90 comments on the proposed amendment to fisher seasons and general trapping regulations. A summary of comments and Department responses follows.

Comment: There should not be a trapping season for fishers in central/western New York (C/WNY).

Response:

Some people do not approve of trapping; however, New York's Environmental Conservation Law (ECL) authorizes trapping as a legitimate use of our wildlife resources. Consequently, the proposed regulations provide for this use, while ensuring it is done sustainably.

The Department conducted intense trail camera surveys in C/WNY over the last three winters to estimate fisher occupancy and density, including surveys in Wildlife Management Units (WMUs) currently open to fisher trapping, and based on these data, is confident fisher populations in select areas of C/WNY can sustain a limited harvest.

Comment: The proposed changes are not science-based.

Response:

The proposed regulations are based on analyses of available data including harvest totals and sex ratios, trapping effort, and both mail and field survey results. The draft Plan incorporates numerous references to scientific literature from peer-reviewed professional journals on fisher management and furbearer management.

Although we received a fair number of comments on the draft Plan and proposed regulations, none contained any new scientific information that would cause us to re-evaluate the conclusions and proposals presented in the plan.

Comment: Take-per-unit-effort (TPUE) is not a useful metric for monitoring fisher populations.

Response:

Many comments indicated that changes in annual harvests are likely due to a number of factors including weather, pelt prices, gas prices, and trapper interest, all resulting in decreased effort. The Department agrees these factors can reduce effort and therefore, harvest. However, TPUE accounts for these sources of variation by normalizing harvest by effort expended. TPUE is the product of the number of traps set and the number of nights these traps are set (expressed as the number of fisher harvested per 100 trap-nights). Normalizing harvest data by effort facilitates year-to-year comparisons and addresses changes in effort and resulting harvest. TPUE does not account for changes in trapping vulnerability that occur in response to food

availability, but this can be considered when interpreting TPUE trends. The scientific literature has several references that demonstrate the utility of using TPUE to monitor furbearer populations.

Comment: More research is needed before decreasing the season length in the Adirondacks.

Response:

Several commenters felt that additional research was necessary to document fisher population declines in Adirondack WMUs. We do not believe more research would change the outcome of our proposals. All indicators (TPUE and harvest rates) point to a decreasing fisher population. We believe this warrants the proposed season reduction to achieve a 20% harvest rate to stabilize the population.

Comment: Fisher harvest in the Adirondacks is declining due to public land access losses and lack of habitat management.

Response:

Some comments stated that access to land in the Adirondacks and/or lack of habitat management within the Adirondack Park (Park) are drivers of decreasing fisher populations. The Department recognizes that access to some lands within the Park have become more restrictive; however, it is unlikely these changes have been significant enough over the previous decade to cause the population declines identified. In addition, if restricted access has resulted in decreased trapping effort and harvest, that is accounted for by using estimates of TPUE as described above.

Over the last decade it is unlikely that a lack of habitat management could be a source of population decline for fisher, since habitats in the Adirondacks have changed little during that time. Finally, the State Constitution prohibits the Department from conducting habitat management on State lands within the Park, so management must be based with that constraint in mind.

Comment: Trapping season dates should be set for when fur is “prime.”

Response:

Many trappers suggested a later season start date in eastern New York to improve the quality of fur on harvested fisher. While later dates would lead to an improvement in pelt quality, there are other factors to consider. First, fishers harvested in late October are routinely sold at reasonable prices, so the difference in pelt quality from a modest delay in season dates is small. In addition, incidental capture of fisher by trappers targeting other species using body-grip traps prior to the later opening date is problematic. Body-grip traps are lethal traps and non-target catches cannot be released. In addition, the 2010-11 Trapper Mail Survey showed that a majority of trappers (57%) prefer a concurrent opening season date of October 25th for all land species. Later seasons also are more likely to experience access limitations due to weather and road closures. For these reasons the start date for the existing season in Southeastern New York and proposed new units in C/WNY is October 25th.

In response to the input received for Northern New York (NNY), the Department has amended the proposed regulations as described below:

1. Establish a 30-day season, from November 1 to November 30, in Adirondack WMUs. This will reduce the season length sufficiently to achieve the desired reduction in fisher harvests and also shift season dates later in response to the desires expressed during the public comment period.
2. Modify existing regulations prohibiting the use of baited/lured body-grip traps on land after December 10th in the northern zone to prohibit the use of baited/lured body-grip traps on land in the northern zone whenever the fisher and/or marten seasons are closed. With a proposed start date of November 1 in some Adirondack WMUs, this change will require trappers to use live-restraint type traps from October 25 to October 31 when targeting other land species and allow incidentally captured fisher/marten to be released unharmed.

Comment: There should be no bag limit for the proposed fisher trapping season in C/WNY.

Response:

Many comments were opposed to the proposed limit of one fisher per trapper in select WMUs in C/WNY. The Department understands the challenges of using bag limits to control trapper harvest. Trapping is a passive activity and the possibility of a trapper unintentionally exceeding a one-fisher bag limit exists any time more than a single trap is set; however, bag limits are used successfully in other northeastern states. In response to the opposition to the proposed bag limit, the Department calculated various harvest scenarios and determined that a shorter season length with no bag limit would result in an annual estimated take that is sustainable. Therefore, we have

amended the proposed regulation to a season length of six days with no bag limit for select WMUs in C/WNY.

Comment: There should be a longer fisher trapping season in C/WNY.

Response:

Some comments took exception to the short, nine-day proposed season in C/WNY. Based on our decision to eliminate the bag limit of one fisher per trapper in C/WNY, we had to further reduce the proposed length of the season to six days. This change will allow trappers to target fisher without concerns over exceeding the bag limit but also allow the Department to keep harvest levels within projected sustainable limits. A longer season may be considered in the future if data collected over the next several years supports such a change.

Comment: All trapping seasons should end on the same date.

Response:

Several comments called for all fisher seasons to end on the same date (rather than start on the same date) so that it would be easier for trappers to understand and easier for Department staff to handle pelt sealing demands. The Department cannot say conclusively whether it is easier for trappers to understand uniform start or uniform end dates but it is logical to assume that either could be equally easy to comprehend.

Concerns about pelt sealing are unfounded. Staff need to be prepared to seal pelts from the first day of the season until 10 days after the close of the season.

Aligning seasons to end on the same date would not change the nature of this

responsibility. Finally, there are seasons for many species with variable end dates and we are unaware of any issues resulting from this practice.

Comment: Restricting the fisher trapping season in the Adirondacks will negatively affect marten trapping opportunity.

Response:

Trapping methods for fisher and marten are very similar and therefore, regulations designed to protect one species must also be applied to the other. Were marten seasons to remain unchanged, there is the strong possibility that marten trappers could incidentally take fisher after fisher season closed. We recognize that the proposed changes will result in the loss of marten trapping opportunity, but to avoid the incidental take of fisher, seasons for the two species must be aligned.

Comment: Do not use a “special permit” system for fisher trapping.

Response:

The proposed amendment for fisher trapping specified the requirement for a “special permit” that is obtained from the Department free of charge. The special permit system is a mechanism that has been used successfully for furbearer species to obtain estimates of participation and effort that cannot be obtained from pelt-sealing alone. As stated above, estimates of TPUE are a more accurate representation of abundance than raw harvest totals. The Department envisions that use of a special permit system is temporary as we seek to better understand fisher populations over the next 3-5 years.

Comment: Start fisher trapping seasons later to reduce trapping pressure on fishers or to minimize conflicts between trappers and others (e.g., hunters).

Response:

While it is true that currently most fisher are trapped during the first few weeks of the season, it is unknown if starting fisher seasons on a later date would result in an overall reduction in fisher trapping pressure. It is possible that trapping pressure would remain the same or increase with a later start date to the season.

Starting the season on a later date would also not guarantee a reduction in potential conflicts between trappers and others (e.g., hunters). New York has multiple hunting seasons for various species that span from September to March. In addition, later season dates could overlap with snowmobiling “season”, which typically begins after the close of deer season, opening up the possibility for previously unknown conflicts.

Comment: Trapping harvest favoring female fishers is "normal" and sustainable, contrary to what is stated in the draft Fisher Management Plan.

Response:

Peer-reviewed published research found that adult female fishers had lower mortality rates and were less vulnerable to trapping than adult males, indicating that sex ratios which favor males or approach 1:1 female:male (F:M) reflect a sustainable harvest. Although Fur Harvesters Auction (FHA) data presented to the department indicated a F:M ratio similar to that presented in the draft plan, there are important differences. First, sex ratio data from New York contain both spatial and temporal

components, enabling us to calculate ratios and their variability over time within discrete areas with the same trapping regulations (e.g., northern vs. southeastern NY).

Furthermore, the department evaluated additional harvest data (e.g., TPUE, harvest density, success rate) to corroborate sex ratio data. FHA data were pooled across a large geographic area that varied greatly in F:M ratios and trapping regulations, precluding an understanding of how differences in regulations across jurisdictions influence these ratios, and prohibiting a comparison with other harvest data. Lastly, even if FHA data were an accurate reflection of the fisher sex ratio, it's important to note that other eastern and mid-western states are observing similar declines in fisher harvests, which suggests that ratios exceeding 1:1 indicate increasing harvest intensity and potentially overharvest.

Comment: The phrases "leg hold" traps and traps with "teeth in the jaws" reflect poorly upon trappers.

Response:

Regulatory language regarding "leg hold" traps and the prohibition against using traps with "teeth in the jaws" mirror the language used in ECL §11-1101. We recognize that "foot-hold" trap is a more accurate reflection of this device and that traps with "teeth in the jaws" have been prohibited in New York State for decades; however, the Department uses these phrases to remain consistent with statute. Changing this language would require a law change.