

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Assessment of Public Comment
Revised Rulemaking I.D. No. ENV-19-15-00010-RP
Amendment to 6 NYCRR Part 6 / Sections 6.2 and 6.3

The Department received 45 comments on the proposed amendment to fisher seasons and general trapping regulations. A summary of comments and Department responses follows.

Comment: General statements opposed to trapping.

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.

Comment: The proposed season length reduction in Adirondack Wildlife Management Units (WMUs) is not science-based or is based on inadequate data.

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 Fisher Management Plan, on which the regulatory proposal was based, incorporates numerous references to scientific literature from peer-reviewed professional journals on fisher and furbearer management.

The assessment of fisher population declines in the Adirondacks is based, in part, on “take per unit effort” (TPUE) data. The scientific literature has several references that demonstrate the utility of using TPUE to monitor changes in furbearer populations. TPUE accounts for sources of variation in harvest (e.g., changes in trapping pressure due to pelt prices, weather, and costs) 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 was considered when interpreting TPUE trends. Some commenters mentioned the link between mast production and harvest. While mast influences variation in harvest between years, over the long-term there has been a consistent decreasing trend in TPUE.

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

Response:

Some 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, harvest rates, and sex ratios) point to a decreasing fisher population. We believe this warrants the proposed season reduction to achieve a 20% harvest rate to stabilize the population.

While the available data indicate that the fisher population in Adirondack WMUs is declining, additional research is needed to better understand the cause(s) of the decline. The need for additional research, including descriptions of potential studies to address this issue, is described in the Fisher Management Plan. Department staff plan to implement these research studies as resources allow.

Data gathered from ongoing and future field surveys, mail surveys, pelt sealing, and formal research projects will be used to evaluate the changes made to fisher trapping seasons, and to make adjustments, if needed.

Comment: Trapping harvest favoring female fishers is "normal" and sustainable, contrary to what is stated in the 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 Fisher Management 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: Trapping season dates should be set for when fur is "prime."

Response:

Many trappers suggested a later season start date 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 response to the input received for Northern New York during the Notice of Proposed Rulemaking (NPR) in 2015, the Department amended the proposed regulation in the Notice of Revised Rulemaking to a season start date of November 1 for Adirondack WMUs (the original proposed start date in the NPR was October 25) and also increased the proposed season length from 22 to 30 days.

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 restrict the fisher trapping season in select townships in Saratoga County that are dissimilar to fisher populations in the central Adirondacks.

Response:

While fishers may be relatively abundant in a given local area, it is not feasible for the Department to manage populations on a small spatial scale such as townships. Furthermore, it is not scientifically valid to extrapolate the status of fisher populations across a larger region based on what is observed at the township level.

The Department collects and analyzes data at the WMU Aggregate level (e.g., Central Adirondacks, Champlain Valley). WMU aggregates are groupings of WMUs based on their ecological similarity. WMU aggregates are the most appropriate scale for managing furbearers such as fisher because they account for ecological variation across a region while providing an adequate sample size for data collection (e.g., pelt sealed fishers, TPUE data).

Comment: The “revocable special permit” for fisher trapping needs clarification.

Trapping log books provide unreliable data due to the variation in experience of trappers.

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. Furthermore, the log books accurately account for the diversity of experience and effort among trappers, thus providing a more accurate assessment of trapping pressure and take. The Department envisions use of the special permit system as temporary as we seek to better understand fisher populations over the next 3-5 years. The special permit would be revoked in the instance where the permit holder committed a violation of the New York State Environmental Conservation Law or New York State Code of Rules and Regulations related to trapping.

Comment: The fisher population in central and western New York cannot sustain the proposed season.

Response:

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. Department staff will use data from trapper diaries (i.e., “log books”), pelt sealing, and other field surveys to evaluate the new season over the next three years and make changes, if needed.

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 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.

Comment: Changes to size of body-grip traps required to use the offset trigger are unnecessary.

Response:

To improve protection of river otter in areas with no otter trapping season, the Department feels this change is necessary given the prevalence of “330” sized body-grip traps that measure less than nine inches that are commercially available. These traps are generally less expensive than other brands and are therefore likely to be

commonly used. Given their smaller dimensions than other “330” sized traps, they may also have a higher likelihood of capturing otter unless offset triggers per 6NYCRR 6.3(a)(12).

Based on the data collected by the Department, the adjustments made to the Fisher Management Plan and original regulatory proposal based on public input, and new comments received on the Notice of Revised Rulemaking, the department has determined that it remains appropriate to allow the modification of existing fisher trapping seasons, expand fisher trapping opportunity into new regions of the state, and to make minor modifications to the general trapping regulations. Therefore, the regulation is being adopted as proposed in the Notice of Revised Rulemaking published on May 11, 2016.