

## Regulatory Impact Statement

### 1. Statutory authority:

The Commissioner of the Department of Environmental Conservation (Department), pursuant to Environmental Conservation Law (ECL) section 3-0301, has authority to promote the management of the wildlife resources of New York State. Section 11-0303 of the ECL directs the Department to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. ECL section 11-0303 directs the Department to manage fish and wildlife resources in the State, including furbearing species that are trapped.

ECL section 11-1101 describes when trapping activities are prohibited, and states that beaver, fisher and otter shall be taken only as permitted by the Department.

ECL section 11-1103 states that the Department may by regulation permit trapping of beaver, fisher, otter, bobcat, coyote, fox, raccoon, opossum, weasel, skunk, muskrat, pine marten and mink and may regulate the taking, possession and disposition of such animals.

### 2. Legislative objectives:

The legislative objective behind the statutory provisions listed above is to establish, by regulation, certain basic wildlife management tools, including the setting of harvest

regulations for furbearers. These tools are used by the Department in recognition of the importance of trapping for recreational and wildlife management purposes.

### 3. Needs and benefits:

Upon completion of the Department's Fisher Management Plan in 2016, regulations were promulgated to establish a conservative fisher trapping season in select wildlife management units (WMUs) in central and western New York, where the fisher population has been expanding in recent years. In addition, the Department shortened the fisher trapping season in Adirondack WMUs, where there have been concerns over a declining population. Historically, in areas open to fisher trapping, individuals were required to have a trapping license and to have the animal "pelt sealed" (i.e., have a plastic tag affixed by Department staff) after harvest. The addition of a special fisher permit allowed the Department to also collect information on participation, harvest, harvest pressure (e.g., number of days afield, number of traps set) through an activity log, and to collect biological samples. This robust data set allowed biologists to assess the status of the fisher population and evaluate harvest better than pelt sealing alone.

After five seasons of data collection, sufficient information on harvest pressure and take has been collected such that the special permit is no longer needed. The information from the trapping activity logs, fisher carcasses, as well as field surveys in areas open to fisher harvest all confirm that fisher are abundant and current harvest opportunities are sustainable.

This rulemaking will also simplify trapping regulations for pine martens in New York. Since 1978, the Department has issued pine marten permits to any trapper wishing to

take marten in New York State. 6 NYCRR 6.3(b) addresses pine marten permits, and 6.3(b)(3) mandates that anyone with a permit must comply with all conditions stated on the permit. The current permit conditions require that the carcasses of any marten harvested in New York State be submitted to the Department. In addition, marten trappers must complete an activity log, allowing the Department to closely monitor the harvest and take per unit effort of this species, which has a limited range in New York.

The permit condition mandating carcass collection is duplicated in the regulations; 6 NYCRR 6.3(c)(7) mandates that anyone who harvests a marten must submit the entire skinned carcass of the animal to have it sealed, and 6.3(c)(8-11) outline the process that taxidermists skinning a marten must follow to comply with carcass submissions. With several decades of data collected from marten carcasses, there is little additional value in continuing to collect specimens. Marten population dynamics are well understood and current seasons and trapping effort are stable and sustainable.

This proposal will rescind the regulation requiring marten carcass submission while maintaining the requirement of a special permit to take pine marten in New York State. This will allow Department biologists to use an adaptive approach to manage this species, requiring carcass submission and/or activity logs when they are useful and necessary for making management decisions and discontinuing time-intensive approaches as sufficient data is gathered.

Finally, this rulemaking will update outdated regulations related to sealing of harvested marten pelts. Department regulations require that any trapper that harvests a bobcat, fisher, otter, or marten complete a furbearer possession tag that includes harvest information and species and sex of the animal. These possession tags are provided by

trappers to Department staff when the animals are pelt sealed, providing important data on harvest timing and location, as well as information on the species and sex of the animal harvested. Older versions of the furbearer possession tag did not include marten as an option for species taken. However, the furbearer possession tag template was revised in 2019 to include an option for marten, eliminating the need for separate, special possession tags for this species.

4. Costs:

Implementation of this regulation will reduce staff time spent issuing special permits to fisher trappers statewide, as well as time spent gathering and collecting fisher and marten activity logs. In addition, there will be a reduction in time and costs involved with collecting and processing fisher jaws.

5. Local government mandates:

The proposed rule does not impose any mandates on local governments.

6. Paperwork:

Since completion of the Department's Fisher Management Plan in 2016, trappers wishing to pursue fisher have been required to obtain a special fisher trapping permit. Since then, the Department has issued over 10,900 permits to trappers. These permits are generally mailed to trappers, along with activity logs, possession tags and carcass tags. Eliminating this requirement will substantially reduce necessary paperwork.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

No change (maintain the requirement for a special permit for trapping fisher and carcass submission and taxidermy requirements for marten). This regulatory proposal is consistent with actions described in the Fisher Management Plan. The special permit requirement for trapping fisher was designed to allow for collection of biological and trapping effort data for a period of five years. This data has been collected for five seasons and, based upon an evaluation of the information collected, is no longer needed. Continuing to require the special permit and associated trapping activity log and fisher carcass collection would be a significant investment of staff time with little additional benefit in terms of informing management decisions for this species. In addition, the activity logs can take a significant amount of time for trappers to complete, and there are a number of trappers who would prefer to keep the lower jaw of trapped fisher.

Remove the requirement for special fisher trapping permits, but leave marten regulations in place. This proposal would remove duplicative requirements for marten trappers. Carcass submissions are currently a permit condition on Department-issued pine marten trapping permits. Marten carcasses have been collected in some form or another for over 50 years, providing biologists with a large set of valuable data. With a Marten Management Plan in development, it is not expected that carcass submission will be necessary for a prolonged period in the future. If the Department feels there is a continued

need to collect marten carcasses, it is an option that could be included as a permit condition in the future.

Remove marten carcass submission requirements, but keep the special fisher trapping permit requirement in place. This alternative would be inconsistent with actions described in the Fisher Management Plan. The special permit requirement for trapping fisher was designed to allow for collection of biological and trapping effort data for a period of five years. After five seasons, the Department has collected sufficient data on trapping pressure and population trends. Maintaining the permit requirement without adequate reason would place an undue burden on trappers.

Remove all permit requirements for fisher and marten in New York State. Marten occupy a very limited range in New York State and are susceptible to over-harvest, even though harvest data indicate a relatively stable, predictable pattern of trapping pressure and harvest. Should environmental conditions change or market demand for marten pelts increase dramatically, harvest-related mortality could negatively impact marten populations. The data collected from the mandatory pine marten permit allows Department biologists to closely monitor harvest pressure and population trends of this species. Since biologists are still analyzing data while completing the Marten Management Plan, removing the permit requirement at this time would be premature and potentially detrimental to the management of this species.

9. Federal standards:

None.

10. Compliance schedule:

The regulated community (trappers and taxidermists) will be required to comply with these regulations upon their adoption.