

Responsiveness Summary

Development of Best Management Practices for Furbearer Trapping

Public Hearing – November 29, 2022

Public Comments – Fall 2022 through January 12, 2023

1.0. Public Comments

Below are the questions asked at the November 29, 2022, public hearing in White River Junction, Vermont. After presentations by the Association of Fish and Wildlife Agencies (AFWA) and the Vermont Fish and Wildlife Department (Department), attendees were arranged in breakout groups and asked to provide feedback. The Department's response follows at the bottom of each question.

1.1. As per Act 159, the overall objective of this endeavor has been to modernize trapping practices to improve animal welfare and selectivity. This legislation charged the Department with implementing Best Management Practices for trapping based on the decades long scientific research effort conducted by the Association of Fish and Wildlife Agencies. Given that context, are there any suggestions that you want the Department to consider when preparing recommendations to the Fish and Wildlife Board?

Most Common Responses/Suggestions:

- Communication/dissemination of information is extremely important
 - *For the public:*
 1. Emphasize over and over that this is a scientific study
 2. Emphasize 24 years and \$40 million spent on this exhaustive, unbiased study that will continue in the future
 3. Professionally crafted messages about trapping in general and the changes being proposed
 4. Follow Maine's example of sending out emails about hunting/trapping/fishing seasons
 5. Emphasize benefits of trapping to the public, selectivity of traps
 6. Dispel fabrications of risks to people and pets
 7. Information at trail kiosks about activities taking place on public land
 - *For the legislators:*
 1. Dispel misinformation being passed on to legislators by other groups
 2. Give them confidence they don't have to look over VFWD/FW Board shoulders
 3. Send them a letter outlining the history and stats of BMPs
 - *For trappers:*
 1. Provide resources on how to move forward using BMP traps
 2. Changes should be well communicated in trapper ed courses
 3. Emphasize trap maintenance more
- Allow for trappers to adapt to use of new devices

- Program to buy new traps/buy back non-BMP traps
- *More clarification/differentiation for land traps vs. water traps i.e., how to make these practical for water sets
- *Anchor chains may still be too short at 18"
- *Consider use of drags; they are BMP compliant

Other Responses/Suggestions:

- Keep the regs simple so we don't lose more trappers
- *Include new devices that are approved in the future
- Regulation changes will work against the movement to eliminate trapping
- Suggest a counterview to BMPs be backed with science as well if possible.
- Suggest a 5 yr. sunset on proposals/legislation
- Continue with research
- Communicate the effect of trapping on management
- *Shock-spring should be included in BMP for foothold
- *Will still side swivel, more swivels
- Adjustable pan tension, foothold spread $\leq 6 \frac{1}{4}$ inches OK
- Allow cable restraints; they are BMP compliant
- Use of non-compliant traps strictly with drowning lines
- The legislature should not be involved in regulating trapping
- Concern about larger groups of constituents having a say over a small number of trappers
- Good job!
- VFWD inadequate in defending the rights of sportsmen
- Vermont will be first to implement BMPs – a positive step
- There is no way trapping is not a blood sport; use accurate, not emotive language
- Selectivity of traps is almost a myth
- VTA suggested incorporating BMPs into regulations
- Not a trapper but will support regulation changes

Questions from Summary:

- How is trapping useful for wildlife management as it is claimed to be?
- Why are we here? Why Act 159? Current practices aren't consistent already? Where's the study that suggests we need to do this?
- Do we need a 24hr check for all traps, i.e., 5' off the ground (impact is price of gas)?
- How many trappers use BMP traps now?
- Will cable restraints be brought up and why?

*See Department response to technical questions below.

Department Response:

The Department agrees that communication and dissemination of science-based information is critical to managing and conserving wildlife. The link below connects the public to information about furbearer management including but not limited to:

- Furbearers as important members of the ecosystem
- Furbearer life histories
- The role of trapping as a furbearer management tool
- Annual furbearer harvests
- Annual newsletters that are sent to every licensed trapper that outline new and past research, habitat concerns, and management and conservation strategies associated with the furbearer program.
- Information about Best Management Practices and links to the Journal of Wildlife Management BMP monograph (White et al., 2021), the AFWA website, science briefs, and other related materials.

In addition, the Department sponsors trapper education programs, two youth camps, and media stories (Vermont Public and WCAX) as well as multiple in person presentations per year in an attempt to provide the public with science-based information related to the conservation and management of furbearers.

It is the intent of the Department to continue to stay abreast of the BMP research effort and incorporate additional trap modifications as they become available. In addition, the Department will incorporate any regulation changes into our existing trapper education program.

The legalization of cable restraints was mentioned in some of the responses. The Vermont Trappers Association proposed the legalization of cable restraints however, this would require a change in statute. Cable restraints were tested according to BMP protocols and were shown to score high for animal welfare and selectivity,

1.2. What are your comments on the Department's recommendation to improve animal welfare and trap selectivity through the implementation of Best Management Practices for trapping?

Most Common Responses/Suggestions:

- Good idea, will work if implemented
- Based on sound science from professionals so best place to start, most defensible way to promote a modernization of trapping technology in Vermont, best for the animals
- No issue as long as it does not diminish trappers' rights and need to keep revisiting them; manageable
- Need time window to make the transition to BMP traps
- Concerns about cost to implement, time to modify traps—buy-back or trade-in programs perhaps?
- More education needed about reducing take of non-targets
- *Longer chain or drag helps with recovery of animal if anchor fails

*See Department response to technical questions below.

Other Responses/Suggestions:

- Reflects trappers' willingness to adapt
- Bullet #4 of proposal needs clarification – one of three or all three (padded or offset, laminated, or have jaws...)?
- Legislature must be informed
- BMPs are a positive for general reasons – animal welfare, politics, modernization, etc.

- These go beyond BMPs based on what trappers understand of them, need to pushback on this
- An attempt to satisfy anti-hunting/trapping interests
- A step in the right direction to assure the public of the safety and care that trappers take
- Needs to be coupled with public education
- Clarify private property issue
- Let FW Board make the rules
- Not needed
- Concern about unleashed dogs, restraining free-range dogs that are with hikers
- Education for trappers, like LEAP for loggers, could work well
- Doesn't make sense for water traps that will inevitably drown the animal; doesn't mention water traps
- Concern about BMPs becoming a regulatory tool since they weren't originally intended to be that
- Great that VFWD is so pro-active in keeping trapping a live resource

Questions from summary:

- *Why no in-line chain spring on chain?
- What are trappers doing today and how different are these BMPs?
- Do these apply to nuisance trapping?
- *What about BMPs for smaller animals (i.e., 1 ½) that are not offset or laminated?
- *Are dogless traps compliant vis a vis adjustable pan tension?
- *What specifically defines a pan trap with pan tension adjustment ability?

See Department response to technical questions below.

Department Response:

In general, there was support for this proposal among the attendees of the November 29, 2022 public hearing. A few participants had concerns regarding the cost of transitioning to BMP approved traps and the time it would take to ensure that it could be done before the rules went into effect. According to AFWA surveys, a high percentage of Vermont trappers are already aware of BMP's (76%). This awareness may extrapolate to a quicker acceptance and adoption of BMP trapping systems.

However, the Department will work with the legislature and the Fish and Wildlife Board in an attempt to ensure that there is ample time and funding to transition trappers to BMP trapping systems as quickly as possible. Note that these BMP recommendations only apply to foothold traps on land.

1.3. What are your comments on the Department's recommendation to minimize the capture of non-target animals through the requirement to conceal all meat-based baits used in conjunction with trapping?

Most Common Responses/Suggestions:

- Sound and reasonable; agree with recommendation
- Covering/concealing does not always prevent non-target animals; bait still smells

- Birds have no sense of smell so minimally effective
- Do not think this will help
- Trappers do this anyway
- Define “conceal”
- Has not been an issue for trappers who have trapped many years

Other Responses/Suggestions:

- Don’t want non-target animals to sit on top of the set; birds will perch on the trap, especially a leaning pole set
- Suggest awareness notices, signage indicating active trapping
- Most trappers target animals, don’t catch non-target
- Too much warden discretion
- 5’ height still seems to be available to birds so question if necessary
- Surprised by not allowing meat bait on the ground

Questions from Summary:

- Are bird non-targets an issue? Are there data to show how often this happens?
- How enforceable is this in reality?
- Birds only?
- To what degree is it a violation? If part of bait is barely visible is this a violation?
- Does mesh or a cage trap count as cover?
- Does meat include fish?

Department Response:

Although we have yet to work out the detailed language with the Vermont Fish and Wildlife Board, we reviewed laws from other northeastern states and provinces and adopted a version of what already exists in nearby states. It is likely that conceal will mean ‘covered’ but a wire, wood, or plastic covering or cage would be acceptable as well as brush, branches, soil, or snow. Meat-based bait would include fish however, feathers and fur would likely be allowed.

The Department has committed to developing notices regarding the trapping season that could be mounted on kiosks, trail heads, and other locations where trapping may be going on.

1.4. What are your comments on the Department’s recommendations to minimize the potential capture of domestic pets through restrictions on the baiting and use of body-gripping traps on land?

Most Common Responses/Suggestions:

- Sound and reasonable; support them; they are good; should be effective in reducing captures
- Domestic pets should not be off leash
- Emphasize the responsibilities of the pet owner and enforce/strengthen leash laws

- Signage to let people know there is trapping in the area
- *12" recess may be excessive and make it more difficult for trap to work effectively
- Recessed body-gripping trap trigger, options on boxes and cages are good
- Strong consensus that 5' off the ground is OK for unenclosed traps

Other Responses/Suggestions:

- Education needed
- Disagree somewhat; a cubby w/body-grip set deep inside has little chance of getting a non-target catch
- Clear distinction between feral vs. domestic
- Minimal issues with legally set traps in the past
- Target feral cats: they should be killed – they kill more birds and rabbits than other wildlife
- Domestic animals don't get caught unless they are let go on someone else's land

Questions from Summary:

- What culpability do pet owners have when pets are caught in traps, if all regs are followed and a dog interferes with a trap? Will a warden ticket owner?
- Would these be implemented on private land? They shouldn't be since taxes are paid to own the land
- Was this a problem? Are we fixing something that doesn't need fixing?

Department Response:

While a common response regarding the Department's proposal to minimize the potential capture of domestic pets was to support it, there were suggestions and questions focused on the responsibilities of pet owners to keep pets under control, the strengthening and enforcement of current leash laws, and the accountability of a pet owner whose pet is caught in a legally set trap. Several suggested educating the public about trapping in general is needed and that perhaps signage indicating trapping is taking place nearby would be helpful for pet owners.

The Department has proposed to prohibit meat-based baited body-gripping traps on both public and private land unless within a specified enclosure. This, coupled with designated hiking trail or walking trail offsets on state-owned public land (excluding Wildlife Management Areas) as well as on public highways as defined in Title 10 V.S.A. § 4705 (f), will significantly reduce the risk to pets, including those that are free roaming.

In Vermont, laws regarding keeping domestic pets under control are set and enforced by municipalities; therefore, the Department does not have the authority to strengthen or change them. Incidents of domestic pets being caught in legally set traps must be addressed on a case-by-case basis by the investigating officer in consult with the County District Attorney.

The Department agrees to develop brochures for trail kiosks and a video link that will address the release of dogs from a foothold or body-gripping trap and will recommend that this be added to trapper education courses. "The Role of Regulated Trapping and the Management of Furbearers in Vermont" is available to the public at the Department's website and offers a comprehensive look at trapping and furbearers in the state.

1.5. What are your comments on the Department's recommendations to maximize human safety and minimize the potential capture of domestic pets through the implementation of trapping setbacks on roads and trails on state-owned lands?

Most Common Responses/Suggestions:

- Clarification of definitions and designations of trails, roads, etc. a must; including logging roads, Class 3 and Class 4, especially on private land
- Exclude under bridges and culverts; needs some flexibility here
- Trails should be well marked and mapped
- 25' reasonable but not next to roadsides, road right of way; make all setbacks 25' for consistency
- Public education – use AFWA presentation to raise public awareness, signage, messaging in brochure is important
- Very strong opinions that the highway setback on major roads infringes upon landowner rights

Other Responses/Suggestions:

- Good trappers do not trap on trails so a non-issue
- Pets need to be kept on a short leash
- OK, but not likely to protect cats
- Some would not want signs up as people might mess with traps, concerns for ADC work
- Never caught a person, no human safety issues with foothold traps
- Do not agree with this major change
- Don't want traps visible to the public
- Not free-range cats
- New devices also allow for safe release

Questions from Summary:

- Was there a problem with this to begin with? Who is driving this as pet conflicts are minimal? What are the statistics?
- Does anyone set traps next to a public trail?
- Does this apply to ADC work?
- Does this apply to private land with a road going through it?
- What are the setback statistics?
- Why the 50'? Why 25' for foothold and 50' for body-gripping?
- Why must my enjoyment be compromised?

Department Response:

This issue prompted the most discussion in the working group. There is very little data available that helps to inform a solution. Therefore, the Department proposal is a compromise that is based on consistency with other regulations (i.e. shooting from the road), the length of common retractable dog leashes, and enforceability. We

recognize that there is no real data driven justification for any distance, but we believe that the proposal addresses the requirements of Act 159.

1.6. Technical Suggestions:

Below is a compilation of the asterisked technical suggestions from the working group suggestions above and the Department's response.

From Focus Questions Summaries:

- Include new devices that are approved in the future
- More clarification/differentiation for land traps vs. water traps i.e., how to make these practical for water sets
- Anchor chains may still be too short at 18"
- Consider use of drags; they are BMP compliant
- Shock-spring should be included in BMP for foothold
- Will still side swivel, more swivels
- Longer chain or drag helps with recovery of animal if anchor fails
- Why no in-line chain spring on chain?
- What about BMPs for smaller animals (i.e., 1 ½) that are not offset or laminated?
- Are dogless traps compliant vis a vis adjustable pan tension?
- 12" recess may be excessive and make it more difficult for trap to work effectively

From Presentation Questions Summaries:

- Proposed regs do not address drags. Will this be allowed?
- Previous discussions included reimbursement to adapt with metal fabricators. These modifications will require approximately one hour per trap or a cost between \$60 and \$80 each. What will we do with our existing traps? Will the final recommendations include reimbursement to adapt the existing traps?
- Are dogless traps compliant re adjustable pan tension?
- Will new devices be automatically added as they are approved?

Department Response to Technical Recommendations:

There were numerous comments, suggestions, and questions regarding the technical aspects of modifying traps, clarification of types of traps that are BMP compliant, and the use of chains and drags. Some examples are the inclusion of a shock-spring (a.k.a. in-line spring) on the anchor chain of a foothold, whether dogless traps are BMP compliant, and the appropriateness of longer chains and/or drags to facilitate the recovery of an animal if the anchor fails. These technical aspects will be revisited by Department staff and evaluated for the potential to meet the objectives of each of the topics addressed and determined if they should be included in final recommendations to the Fish and Wildlife Board. In addition, there will be an opportunity for additional comments through the Board process.

2.0. EMAIL COMMENTS

The Department received a number of email, phone, and written comments concurrent with the announcement of the November 29 public hearing and development and release of our draft recommendations online. We summarize the common themes from these, below, and provide a record through January 12, 2023, attached. Public comment emails received on or after January 13, 2023, will be summarized as part of the upcoming Fish and Wildlife Board process.

2.1. Comments on the department's recommendations concerning BMP strategies to improve animal welfare and selectivity

- The recommendations are identical to a petition submitted by the Vermont Trapper's Association (VTA's) to the Fish and Wildlife Board in 2022
- Most Vermont trappers already employ BMP traps
- The recommendations will not improve animal welfare
- The recommendations are not enforceable
- Most Vermonters think we should not have leg hold traps
- Vermont is increasingly developed/13 pet captures in 2022 reflects a bigger conflict between trapping and other uses

Department Response: The Department's recommendation for this item aligns with the VTA's 2022 petition to the Vermont Fish and Wildlife Board because Department biologists' and game wardens' expert assessment is that the petition items are consistent with the objectives of Act 159. The Department does not consider this a case of bias, as some commenters were concerned, but rather a case of one stakeholder groups' petition to the Board aligning with the peer-reviewed scientific literature and staff field experience. Although many Vermont trappers are estimated to be knowledgeable about and use BMP traps, the mandate of Act 159 was to establish regulations requiring additional practices. This recommendation would lead to regulations that bring all Vermont trappers into compliance with these standards. Concerns that the recommendations above will not improve animal welfare are not consistent with our biologists' understanding of the peer-reviewed scientific literature, and concerns that they will not be enforceable are not supported by our Warden Service's professional assessment. Our most recent survey, conducted by the nationally respected survey firm Responsive Management, indicates that 60% of Vermonters support regulated trapping. The recommended regulations package in this report should make a significant advance towards minimizing the risk of domestic pet capture. These advances are further discussed in section 2.3 of this document.

2.2. Comments on the Department's recommendations concerning the use of baits and lures

- Other kinds of baits in addition to "meat-based" baits should be included
- Raptors may be attracted to sight-based baits and lures

Department Response: The recommendation will align the Department's regulations regarding covered bait with those of other states and provinces in the region. The Department's mission is the conservation of wildlife populations. The risk to bird populations—which is the focus of this specific regulation recommendation—as a result of non-target capture in traps is undoubtedly minimal compared to other avian mortality factors such as domestic cats, cars, building glass, uncleaned bird feeders, pesticides, habitat loss, disease, etc. The Department is, however, sensitive to concerns regarding the loss of individual animals and has therefore made the

recommendation that meat-based baits be covered for the purpose of further minimizing such occurrences. Act 159 also directs the Department to annually compile and report non-target capture data to the legislature. Should future analysis of these data reveal that these recommendations fail to achieve their objectives (i.e., do not effectively minimize non-target captures), the Department is committed to further addressing this issue as necessary to meet objectives including the possibility of additional restrictions on other types of baits and lures as several commentors have suggested. Until such time, however, the Department believes the covering of meat-based baits alone, as recommended in this rule package, has been demonstrated in neighboring jurisdictions to effectively address the issue. Furthermore, unlike the various trap modifications tested through the BMP research process, the use of baits has never been scientifically/systematically evaluated. Therefore, the effectiveness of such regulations are subject to much speculation based on the varied experiences of those jurisdictions which specifically regulate bait usage. The Department believes this issue deserves additional assessment and recommends that it be included in future BMP research efforts.

2.3. Comments on the Department's recommendations concerning technical items related to body gripping traps

- How common do issues like capture of domestic pets need to be for the department to see regulating to limit them as a priority
- The Department's recommendation will not protect dogs, cats, or non-target wildlife from being captured
- Bias, reporting compliance, and limited history of data collection mean there is not reliable data on the extent of non-target captures/domestic pet captures
- Change 12" cubby inset to 6" to preserve the viability of cubby trapping as a method.
- Traps made from organic materials/using traditional knowledge should be permitted, steel traps should all have offset jaws, shock springs, and swivels to minimize harm to trapped animals

Department Response: The Department cares about the safety of domestic pets and the health of wildlife populations and is committed to regulations that minimize risks to both to the greatest extent possible. It is important to note that the use of body gripping traps in accordance with current, modern regulations does not pose a threat to wildlife populations. This is evidenced by the bountiful populations we all enjoy today. These have flourished—and even recovered from past extirpation—throughout decades of use of these trapping systems. These recommendations are, therefore, specifically aimed at protecting individual non-target animals both wild and domestic from inadvertent capture in body-gripping traps.

The risk of body gripping traps to domestic pets is an understandable concern. Despite the infrequency of such occurrences, the injury or death of a beloved pet in a body gripping trap is a sad and traumatic experience. It is impossible to suggest any specific threshold of acceptability for such occurrences as commentors have asked given that, to those who have experienced such loss, even one incident is unacceptable. The Department fully recognizes that its obligation is to minimize the likelihood of non-target captures to the greatest extent possible and, in this respect, has had a long history of assessing the risks of existing and proposed rules weighed against the standard of reasonable risk assumed by pet owners. When taken together, the Department is confident that this package of rules—which represents the most significant advancement of regulations specifically designed to address this issue—will result in a measurable reduction in non-target captures and risk to pets. Requiring dog-proof sets for all meat-based body gripping traps set on the ground, for example, will greatly reduce the likelihood of capturing free roaming dogs. By combining this requirement with the proposed 50' trail and public highway setbacks, pet owners will realize an added level of reasonable assurance against this risk in a wide range of settings where they are likely to recreate. However, domestic pets are exposed to a wide

range of risks outdoors, of which traps are only a minor one. The department considers that it is ultimately the responsibility of pet owners to weigh the reasonable assurances of safety and reasonably assumed risks when making choices for their pets.

Concerns about the viability of a 12" recess, recommendations about trapping using traditional knowledge, and the technical animal welfare provisions of BMP traps are addressed in section 1.6 of this document.

2.4 Comments on the Department's recommendations concerning trail setbacks

- The department's recommendation does not meet the legislative mandate because it does not establish a setback on federal public lands/does not provide protection on private land
- A 25 ft. setback for foothold traps is not sufficient to protect pets or the public
- Clarity is needed on the types of roads and trails covered by the setback recommendation
- Setbacks should also apply to underwater sets because of human and domestic animal traffic near roadways

Department Response: The Department's proposed setbacks, specifically those pertaining to public highways, apply statewide wherever those highways exist including where they adjoin federal and private lands. Title 10 V.S.A. § 4705 (f) and the Vermont Agency of Transportation highway maps provide a high degree of clarity and, therefore, enforceability on what constitutes a public highway and where they occur. The 25' setback distance for foothold traps is consistent with existing setbacks required for hunters, and allows domestic pet owners who wish to recreate with leashed pets to select a leash length that provides a high degree of protection when staying on the traveled portion of a public highway or on designated trails on state-owned land excluding WMAs. There are no records in Vermont of a human being captured in an underwater set that our staff are aware of, and the recommendation to allow underwater sets closer to public highways and trails is important to mitigating wildlife damage to public infrastructure.

2.5 Comments on the Department's recommendations concerning methods of dispatch

- The Department was not willing to accept/does not appropriately acknowledge Stakeholder Working Group feedback in favor of establishing a gunshot-only standard of dispatch

Department Response: The Department has made an explicit commitment to take up the issue of regulating methods of dispatch when expert recommendations from AFWA become available, per the consensus of all members of the Stakeholder Working Group. At this time we continue to consider feedback from all stakeholder groups.

2.6. Comments on the Department's process for developing the above recommendations

- The Department's proposals do not meet the full charge of Act 159
- The Department's proposals give trappers most of what trapping representatives in the Stakeholder Working Group asked for and do not give animal welfare advocates enough of what they asked for
- The department's Stakeholder Working Group was biased in favor of trappers (e.g. 9 of 12 voting members were trapping proponents)
- What can the public do to change trapping laws in the state/when will public meeting notices be available
- Support the POW/HSUS/VWC positions on animal welfare, baits and lures, body gripping traps, setbacks

- Traps are not the only way to address nuisance wildlife/traps are not a biological necessity for management of wildlife/all trapping should be banned

Department Response: Act 159 did not require that the Department create a working group as part of the process to develop BMP regulations. However, to ensure that we heard from all interested parties we committed significant staff time to hold four working group meetings in August and September and as the Act directed, a public hearing on November 29, 2022. Throughout, Department staff strived to maintain a fair, respectful, and transparent process. The Department's recommendations address the five areas of Act 159 that were unanimously agreed to by working group members as priorities for regulation consistent with the mandate of Act 159. Concerns that the Department's recommendations favor some stakeholders over others are understandable given the contentious nature of the subject but, in our view, these assertions are inaccurate. In any process of compromise no party can expect their wishes to be completely met. The Department's recommendations collectively represent a middle ground that departs from the positions advocated for by both trapping and animal welfare stakeholders on the working group.

The voting membership of the working group was in fact composed of three representatives from trapping organizations; three representatives from animal welfare organizations; one representative of the Association of Fish and Wildlife Agencies (AFWA); two members of the Vermont Fish and Wildlife Board; and two members of the Vermont Warden Service. The AFWA representative, Fish and Wildlife Board members and Game Wardens understood their roles to be as public servants and resources on Department and Board procedures. Two members of the legislature were also invited to participate and attended some meetings. In the interest of fairness and transparency, detailed meeting minutes and video recordings of all four stakeholder working group meetings are available on the department's website.

The Department maintains a web page with the most current information on this process, where the public can learn how to submit comments, including in support of a specific stakeholder group's position or to share a concern or policy preference. The upcoming Board process to move forward from these recommendations will be open to the public and advertised on the Fish and Wildlife Board web page.