

Regulatory Impact Statement

1. Statutory Authority:

Section 11-0511 of the Environmental Conservation Law (ECL) authorizes the Department of Environmental Conservation (department) to promulgate regulations for the possession, transport, import or export of animals that the department finds would present a danger to the health or welfare of the people of the state or indigenous fish or wildlife populations.

2. Legislative Objectives:

The legislative objective of the statutory provisions listed above is to authorize the department to establish a list of dangerous animals that present a danger to the health or welfare of the people of the state or indigenous fish or wildlife populations and to establish a licensing structure that will ensure that the health and welfare of the people of the state or indigenous fish and wildlife populations are not threatened by possession or release of dangerous animals.

3. Needs and benefits:

This rule making would amend existing 6 NYCRR section 180.1 by expanding the list of animals that the department finds presents a danger to the health or welfare of the people of the state or indigenous fish or wildlife populations. This revision is necessary because the current regulations do not meet the intent of the authorizing statutes. Consequently, the current regulations do not provide adequate safeguards for protecting the health and safety of the people of the state or indigenous fish or wildlife populations nor do they provide a comprehensive list of animals that present a danger to the people of the state or indigenous fish or wildlife populations.

Attacks from dangerous animals held in captivity have resulted in injury and death of humans in the U.S and abroad. In New York State alone, several incidents have occurred resulting in serious injury to individuals.

- Suffolk County 2016 – a 33-year-old man was airlifted to a hospital after being bitten by a viper in his home.
- Putnam Lake, NY 2011 - a woman died after being bitten by an African black mamba snake.
- Washington County 2010 - a seven-year-old girl was bitten by a lemur on display at a facility.
- Catskill, NY 2006 - a woman was attacked by a capuchin monkey leaving her face permanently scarred.
- Saratoga, NY 2006 - a 4-year-old boy was rushed to a hospital after being clawed in the head by a tiger on display at a fair.
- New Brunswick, Canada 2013 - two brothers ages four and six were strangled to death by a python.
- Indiana 2013 - an employee at an exotic cat sanctuary was mauled by a tiger.
- Ohio 2011- police were forced to kill approximately 56 exotic animals including bears, tigers and lions that were released by their owner.
- Connecticut 2009 - a woman was severely injured when a chimpanzee got loose and attacked her.
- Throughout the U.S. cases of attacks, bites and death from python and constrictor snakes are well documented.

Responding to the threat posed by dangerous animals the U. S. Fish and Wildlife Service (USFWS) amended its regulations by adding five python and four anaconda species to its list of injurious wildlife. Additionally, USFWS passed the Captive Wildlife Safety Act which severely restricts

the importation, exportation, purchase, sale or receipt in interstate or foreign commerce of live lions, tigers, leopards, jaguars and cougars. Similarly, several states including New York have passed legislation and regulations banning the private possession of exotic animals as pets. The New York State Legislature, in 2004, found that keeping exotic animals as pets poses a serious threat to the health and safety of New York residents. The Legislature further stated that “[A]cross the country, children have been mauled by tigers, asphyxiated by snakes, and bitten by monkeys. Wild animals kept as pets can transmit serious diseases to people, including Herpes B, Salmonella and Ebola virus. Recapture of escaped wild animals is an expensive and perilous endeavor for municipalities. Other states already prohibit private ownership of certain wild animals as pets, a position supported by the United States Department of Agriculture, the Centers for Disease Control, and the American Veterinary Medical Association. New York must take similar steps to ensure the protection of the public and the humane treatment of wild animals.”

The ban on ownership of exotic animals as pets in New York State has not prevented the threat that these animals pose to the public or indigenous fish or wildlife as evidenced by the escape of and, injury from dangerous animals held at facilities licensed by the department under the current regulatory scheme to possess such animals for exhibition. As listed above, the New York incidents involving the mauling of a woman by a capuchin monkey, the clawing of the four-year-old boy by a tiger, and the biting of the seven-year-old girl by a lemur resulted from injuries sustained from animals that were held under licenses issued by the department. In addition, dangerous animals have escaped from licensed facilities in New York including tigers, lynx, primates, wolves, and alligators. Under the current regulations, the department cannot effectively regulate the private possession of dangerous animals in New York State.

In order to meet statutory requirements and ensure the health and safety of the people of the state and indigenous fish or wildlife populations, the department must take steps to prohibit individual ownership of dangerous animals and regulate possession of dangerous animals held for exhibition purposes.

The proposed rule would create a comprehensive list of animals that can cause serious threats to the people of the state or indigenous fish or wildlife populations. The rule would provide the department with the necessary means to allow qualified entities to possess such animals under license issued by the department while ensuring the health and welfare of the people of the state and indigenous fish or wildlife populations.

4. Costs

There are no costs to the department or local governments. The proposed rule would only expand the list of animals that the department has found pose a threat to the health and safety of the people of the state or indigenous fish and wildlife populations. Individuals would follow the same application process already required by the department for possession of listed dangerous animals.

5. Local Government Mandates

These amendments will not impose any programs, services, duties or responsibilities upon any county, city, town, village, school district or fire district.

6. Paperwork

The proposed rule would require individuals currently licensed by the department for possession of dangerous animals to obtain a license issued pursuant to this part. Additionally, any individuals

currently in possession of animals not previously listed as dangerous animals (for example, wolverines and badgers) would be required to obtain a license from the department. The paperwork involved with obtaining such a license from the department is standard and will not impose any undue burden on applicants.

7. Duplication

The Federal Animal Welfare Act (Title 7 U.S. Code, Chapter 54) and Federal Animal Welfare Regulations (Title 9 of the Code of Federal Regulations, Chapter 1) require that any person exhibiting mammals must obtain a U.S. Department of Agriculture (USDA) license. USDA will issue a license following an inspection of a facility evaluating caging and animal handling experience, however, the USDA license does not address issues involving the welfare of the people of the state or indigenous fish or wildlife populations. Additionally, the Animal Welfare Regulations do not apply to reptiles including alligators, crocodiles, large constrictor snakes or venomous reptiles.

8. Alternatives

The department considered several alternatives to the proposed rule.

Alternative 1. Remove all restrictions for possession of dangerous animals in New York State.

Under this alternative only USDA licensed facilities exhibiting mammals would be operating under a license. The USDA license would not cover amphibians or reptiles including alligators, crocodiles, large constrictor snakes, and venomous reptiles. This alternative would not meet the intent of the ECL as it would not ensure the welfare of the people of the state or indigenous fish or wildlife populations.

Alternative 2. Prohibit possession of dangerous animals by any person or entity in New York State.

Under this alternative, the department would prohibit the possession of any animals listed as

dangerous animal for any purpose in NYS including at facilities such as the Bronx Zoo which are accredited by the Association of Zoos and Aquariums (AZA). Although this alternative would arguably meet the intent of the ECL, it would severely impact AZA accredited zoos and other facilities which are capable of safely housing and displaying dangerous animals, from possessing such species for exhibition or for participation in the AZA Species Survival Plan – an integral component in the management of endangered and threatened species. This alternative would require all facilities currently licensed to possess dangerous animals to transfer these animals from their facility. This would impact facilities in New York currently generating revenue from the exhibition of dangerous animals without providing an appreciable improvement in protecting the welfare of the people of the state. The department did not choose this alternative as it would immediately affect facilities in New York State without providing time to adjust their businesses to non-regulated species and would not meet the intent of the ECL.

Alternative 3. Expand the list of animals that the department finds present a danger to the health or welfare of the people of the state or indigenous wildlife populations and require a department issued license to possess these species. This is the department's preferred alternative. By expanding the list of animals that the department finds present a danger to the health or welfare of the people of the state or indigenous wildlife populations the department will be able to regulate possession of these dangerous animals to facilities that can safely house them and ensure that the animals cannot come in contact with the public and provide safeguards that minimize opportunities for animal escapes.

9. Federal Standards

The federal standards appear in Title 7 of U.S. Code, Chapter 54 and Title 9 of the Code of Federal Regulations, Chapter 1. The proposed rule does not exceed any minimum standards of the federal government.

10. Compliance Schedule

These regulations, if adopted, will become effective immediately. Once adopted, currently licensed facilities, and individuals possessing species previously not regulated by the department, will have 180 days to apply for and receive a new license issued pursuant to this part.