

Regulatory Impact Statement

1. Statutory Authority

Section 11-1907 of the Environmental Conservation Law authorizes the Department of Environmental Conservation (department) to renew licenses issued on or before April first two-thousand twelve for the possession, propagation and sale of fur-bearing animals.

Sections 11-1901, 11-1903, and 11-1905 of the Environmental Conservation Law authorize the department to issue licenses for the possession and propagation of domestic game birds and domestic game animals and to allow for their take.

Section 11-1707 of the Environmental Conservation Law authorizes the department to issue licenses for the importation and transportation of certain fish and wildlife species.

Section 11-1728 of the Environmental Conservation Law authorizes the department to promulgate rules and regulations pertaining to the sale of live wild birds.

Sections 11-0535, 11-0535-a, and 11-0536 of the Environmental Conservation Law authorize the department to issue licenses or permits for the sale of endangered and threatened species and their carcasses, hides, and parts, and the sale or offer for sale of articles made in whole or in part from such species.

2. Legislative Objectives

The legislative objectives of the statutory provisions listed above are to establish, or authorize the department to establish, licenses and permits authorizing various activities involving species regulated by the department.

3. Needs and benefits

The purpose of this rulemaking is to amend 6 NYCRR Parts 151, 153, 170, 174, and 182 to bring them current with several recent statutory changes, and as part of the Governor's Lean initiative in which the department carried out a comprehensive analysis of the administration of special licenses to improve application processing time and to increase government service to licensees. As a result of that analysis, regulatory changes were identified to improve the department's process for the issuance of special licenses. The outcome of these changes will result in reduced staff time, less paperwork and decreased cost associated with the review and issuance of licenses. The changes will more importantly serve applicants and licensees in a more effective and efficient manner. Specific changes are as follows:

Part 151 – Propagation and Sale of Fur-Bearing Animals. The Department is proposing to amend 6 NYCRR Part 151 to make the regulations current with changes to ECL 11-1907, which became effective in April 2012. The statutory language now states that the department shall not issue any new licenses after April 1, 2012. The regulatory changes will provide for continued licensing of currently licensed individuals and will prohibit the issuance of any new licenses.

Part 153 - Preserve Licenses. The Department is proposing to amend 6 NYCRR Part 153 to make the regulations current with changes to multiple Sections of the ECL. The statutory language has removed the requirement for marking domestic game species with a Department provided tag and has permanently extended the shooting season authorized for shooting preserve licenses. The regulatory changes will remove the carcass tagging requirements in Section 153.1 and will remove the annual extension of

the shooting season as allowed in Section 153.2. Additionally, Section 153.3 will be amended to require compliance with the Department's CWD regulation and the corresponding requirements of Department of Agriculture and Markets CWD regulations.

Part 170 - Miscellaneous Licenses. The Department is proposing to repeal 6 NYCRR Sections 170.1– Importation license and 170.3 - Special importation license. These changes are proposed to eliminate the nominal \$1.00 fee associated with these licenses and to remove redundant and unnecessary language already found in §11-1707.

Part 174 - Sale of Live Birds. The Department is proposing to amend 6 NYCRR Part 174 to simplify the regulatory language and remove the provisions for licensing. Current regulations have historically been confusing to the regulated community which resulted in several individuals applying for and receiving a license when none was required. These changes are part of the Division's ongoing process to simplify and clarify regulatory language and to increase government services to licensees.

Part 182 - Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern; Incidental Take Permits. The Department is proposing to rewrite 182.8 to clarify and simplify language in regard to the issuance of certain special licenses associated with the possession, sale and transport of endangered species and parts thereof; and to add special provisions for licensing the sale and distribution of elephant and mammoth ivory and rhinoceros horn as provided in enabling statute ECL 11-0535-a. These changes are necessary to clarify when a license is required for possession or sale of certain articles containing endangered or threatened species and also to bring the regulations current with the recent addition of ECL 11-0535-A.

4. Costs

The proposed rule changes will not impose any additional costs on individuals, businesses or local governments or the department. The proposed changes will not alter any existing programs and will not increase requirements or fees associated with these licenses. The rulemaking will simplify the licensing process, eliminate fees associated with several license types and reduce the burden on the regulated community through time and cost savings and paperwork reductions.

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 will not impose any additional paperwork requirements. Most of the proposed changes are technical or clarifying in nature. The rulemaking will simplify the licensing process, eliminate fees associated with several license types and reduce the burden on the regulated community through time and cost savings and paperwork reductions.

7. Duplication

There are no other regulations similar to this proposal and no duplicative requirements of the state or federal governments.

8. Alternatives

Few alternatives were considered as these proposed changes are necessary to bring the regulations current with statutory language; are part of the Governor's Lean initiative; and provide regulatory relief and improved government services to the regulated community.

Alternatives were considered prior to the 2012 statutory changes being proposed and later enacted as well as during the Lean process. The "no change" alternative is counter to the Governor's desire to lean and enhance government services to licensees or applicants.

Prohibiting these activities by removing the ability to obtain a license was considered and, although the majority of these licenses are discretionary, the Department has a history of issuing licenses for these activities and changing the Department's position was not seen as necessary or justified.

9. Federal Standards

The federal standards appear in 16 U.S.C. 4901-4919, Wild Bird Conservation Act; 18 U.S.C. 42-48 and 16 U.S.C 3371-3378 Lacey Act; 15 U.S.C. 1531-1544, Endangered Species Act, and in Title 50 of the Code of Federal Regulations Parts 10, 14, 15, 17, 20 and 21. The proposed rules do not exceed any minimum standards of the federal government. The federal standards deal primarily with import of species into the U.S. and transport of species across state lines.

10. Compliance Schedule

These regulations, if adopted, will become effective immediately. No additional steps will be required of current license holders.