

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 Environmental Conservation Law 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. Section 11-0903(10) provides the authority to adopt regulations with respect to the manner of taking, possession, open seasons and bag limits for deer.

2. Legislative objectives:

The legislative objective behind the statutory provisions listed above is to establish, or authorize the Department to establish by regulation, certain basic wildlife management tools, including the setting of open areas, and restrictions on methods of take and possession. These tools are used by the Department to maintain desirable wildlife species in ecological balance, while observing sound management practices.

3. Needs and benefits:

This rulemaking will provide an option for counties to annually “opt-out” of the extended late bow and/or muzzleloader deer season between December 26 and

January 1, otherwise known as the holiday deer hunt, in New York's Southern Zone. The Department adopted the holiday deer hunt in February 2021, after thorough consideration and assessment of public comment. However, after the new season was adopted, elected officials continued to express concern of perceived potential conflicts, particularly regarding snowmobiling activity. Most notably, they were concerned that landowners who prefer to deer hunt may prohibit access to the snowmobile trails on private land during the holiday deer hunt, potentially interrupting the trail network for snowmobilers. Further communication with the snowmobile community indicated that this perception of conflict might largely be avoided through increased education of landowners about liability protections under the General Obligations Law and additional education of deer hunters and snowmobilers about responsible and courteous behavior. Additionally, adequate snow cover for snowmobiling only occurs occasionally in some areas during the holiday hunt period. Nonetheless, the Department continued to hear from elected officials and some stakeholders who sought local exemption from the holiday deer hunt in areas they presume to have higher potential for conflict. Thus, this proposed regulation amendment will provide an annual "opt-out" provision for those counties that determine a conflict exists.

4. Costs:

Counties choosing to "opt-out" will bear the administrative costs associated with adopting a local law.

The Department's costs relate to the outreach needed to inform hunters and other members of the regulated community of these changes. These costs are minimal and

entail such things as production of press releases and updates to the Department's website and annual hunting and trapping regulations guide.

5. Local government mandates:

The proposed rule does not impose any mandates on local governments. By default, no action is required of counties that wish to allow hunters to participate in the holiday deer hunt as authorized by the Department's regulations. However, counties that wish to prohibit hunters from participating in the holiday deer hunt within their county will be required to annually adopt a local law to accomplish that exclusion.

6. Paperwork:

Counties that choose to opt-out must handle any paperwork associated with adopting a local law.

7. Duplication:

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

8. Alternatives:

No change in the extended late bow and muzzleloader season for deer. Without providing the choice for counties to "opt-out" of the holiday hunt, there is the potential for intervention by the New York State Legislature to allow for such an option. Establishing a county-level opt out provision in law would provide less flexibility for both the county government and the Department than a regulatory approach.

Entirely rescind the extended late bow and muzzleloader season between December 26 - January 1. In most of the southern zone there is no perceived conflict with the recently adopted late deer season and snowmobilers. Snowfall is inadequate for snowmobiling during the holiday hunt period in most locations and years, and on the occasions where sufficient snowfall exists, snowmobile and small game and furbearer hunting activity currently occurs without conflict. Many thousands of big game hunters are aware of the opportunity and are looking forward to the additional week of big game hunting. There would be substantial opposition by hunters to entirely rescind the recently created opportunity.

Modify the extended late bow and muzzleloader season between December 26 - January 1 to only occur when snow depths are less than 4 inches and inadequate for snowmobiling. In most years, the entire Southern Zone either lacks snow or has very shallow snow cover during the holiday week. Only in some years and in some areas is there adequate snow cover for snowmobiling during the holiday week. Thus, this alternative would periodically prohibit deer hunters from participating in the extended late bow and muzzleloader seasons in those few locations and few years when snow conditions are such that snowmobiling could occur between December 26 – January 1. However, tying deer hunting season closure status to snowfall totals would substantially increase complexity and decrease enforceability of the rules, particularly as snowfall totals can be highly variable within a Wildlife Management Unit (WMU), county, or town. Such a rule would also reinforce the false notion that deer hunting and snowmobiling

cannot safely co-occur.

Allow opt-out of the extended late bow and muzzleloader season by Wildlife

Management Unit (WMU). The Department manages deer populations and regulates deer hunting within ecologically defined WMUs, not politically derived counties.

Likewise, the holiday deer hunt has been established within WMUs of the Southern Zone, not within counties. For consistency, the Department could propose an opt-out alternative based on WMU boundaries. In this scenario, for any WMU to be excluded from the existing holiday deer hunt, all counties either wholly or partially contained within that WMU, would have to annually pass a local law authorizing exclusion from the December 26 to January 1 portion of the late bowhunting and late muzzleloader season. This alternative would yield a hunting season framework that is consistent with deer harvest management and population monitoring frameworks but would require coordination and cooperation among counties.

9. Federal standards:

There are no applicable federal standards.

10. Compliance schedule:

Interested counties will be eligible to comply with these regulations upon their adoption.