ENVIRONMENTAL PROTECTION

NATURAL AND HISTORIC RESOURCES

DIVISION OF FISH AND WILDLIFE

Endangered, Nongame, and Exotic Wildlife

Exotic Species and Nongame Species Requiring a Permit for Possession; Exempted Species

Adopted Amendments: N.J.A.C. 7:25-4.3 and 4.4

Proposed: November 17, 2014, at 46 N.J.R. 2258(a) (see also 47 N.J.R. 597(a)).

Adopted: November 10, 2015, by Bob Martin, Commissioner, Department of Environmental Protection.

Filed: November 12, 2015, as R.2015 d.193, **without change.**

Authority: N.J.S.A. 13:1D-9; 23:1-1 et seq.; and 23:2A-1 et seq.

DEP Docket Number: 07-14-10.

Effective Date: December 7, 2015.

Expiration Date: June 12, 2021.

The Department of Environmental Protection (Department) is adopting amendments to the rules governing the possession of nongame and exotic species at N.J.A.C. 7:25-4 to add bison (commonly known as the American buffalo) to the list of mammals exempted from the requirement to obtain an annual possession permit from the Department. The Department is also

adopting amendments updating the rules to reflect prior statutory changes that classified several other species as agricultural livestock. Specifically, the Department is deleting the llama from the list of species for which a permit is required and adding the llama, alpaca, guanaco, emu, ostrich, greater rhea, and lesser rhea to the list of species exempt from Department permitting.

This adoption document can also be viewed or downloaded from the Department's website at http://www.nj.gov/dep/rules.

Summary of Public Comments and Agency Responses

The following persons timely submitted comments on the proposal:

1.   Jean Public

2.   Matthew Wendler

The timely submitted comments and the Department's responses are summarized below. The number(s) in parentheses after each comment identify the respective commenter(s) listed above.

1. COMMENT: The exemption from the requirement to obtain a permit from the Department will be beneficial to businesses that raise alpaca for their fur because it will help lessen their costs and enable them to focus on their livestock without excessive government oversight. The exempting of the related animals, the llama and the guanaco, will also be of benefit because

farms will now be able to more easily diversify their production and raise these two less common species that are also highly valued for their fur, which is essential to the production of cashmere and other fabrics. (2)

RESPONSE: The Department acknowledges this comment in support of the amendments.

2. COMMENT: In making rules for New Jersey, the statistics used to support the rulemaking should be relevant to New Jersey. National statistics are not relevant and can be misleading. (1)

RESPONSE: The proposal Summary discusses national statistics relating to bison for the purpose of illustrating that there is growing demand for bison meat. The proposal does include New Jersey-specific information in the statements explaining the anticipated social, economic, and agriculture industry impacts of the amendments.

3. COMMENT: The present protected status for bison should not be changed in order to make them farm animals to be abused by agribusiness as other farm animals are. Bison are not cattle and should not be considered cattle because, for instance, they are subject to different diseases. The requirement that permit holders provide reports on how they treat animals is a benefit to a humane society; profiteers and agribusiness cannot be trusted to provide a humane life to animals. (1)

RESPONSE: Bison are not on the Department's list of endangered species at N.J.A.C. 7:25-4.13, and do not have any particular "protected status." Under the Department's rules, bison are an exotic species, which means they are a nongame animal that is not indigenous to New Jersey. See N.J.A.C. 7:25-4.1. There is no prohibition on the raising of bison on farms for human

consumption. The possession of an exotic species is generally permitted. For certain exotic species, listed at N.J.A.C. 7:25-4.3, the Department has established requirements for their possession and disposition. Other exotic species, listed at N.J.A.C. 7:25-4.4, may be possessed without the need to obtain a permit from the Department.

The amendments eliminate the requirement for persons who possess bison from having to obtain a possession permit from the Department, pay an annual fee, and provide a report explaining the disposition of animals in the permit holder's possession during the calendar year of licensure. However, as noted in the proposal Summary, bison are and will continue to be regulated under the rules of the Department of Agriculture because under that department's rules bison are regulated as cattle. The Department of Agriculture's rules in Title 2 of the New Jersey Administrative Code establish humane standards for the raising, keeping, care, treatment, marketing, and sale of domestic livestock and procedures for the enforcement of those standards as required by statute, N.J.S.A. 4:22-16.1.

4. COMMENT: Llama should not be called livestock. Alpaca also are not livestock. Also, ostrich and small rhea should not be put under the control of the Department of Agriculture. (1)

RESPONSE: As noted in the proposal Summary, the designation as livestock of llama (Lama glama), and any other species of the genus Lama capable of being raised, bred, or kept in New Jersey, was accomplished by statute in 1994 (see N.J.S.A. 4:2-16). In 1994, alpaca were classified as being of the genus Lama and thus were covered by the statute. Subsequently, alpaca were reclassified as being of the genus Vicugna. (See Integrated Taxonomic Information System, Taxonomic Serial Number 898279,

http://www.itis.gov/servlet/SingleRpt/SingleRpt?search_topic=TSN&search_value=898279).

Although the classification of the alpaca was changed, the Department does not believe the purpose of its designation under the statute as agricultural livestock is affected. The ostrich, emu, and rhea were designated as livestock by statute in 1998 (see N.J.S.A. 4:2-17). All livestock fall under the regulatory jurisdiction of the Department of Agriculture.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt, or amend any State rule or regulation that exceeds any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The adopted amendments are not promulgated under the authority of or in order to implement, comply with, or participate in any program established under Federal law, or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Therefore, no Federal standards analysis is required.

Full text of the adoption follows:

TEXT