§ 11-0103. Definitions.

As used in the Fish and Wildlife Law:

1. a. "Fish" means all varieties of the super-class Pisces.

b. "Food fish" means all species of edible fish and squid (cephalopoda).

c. "Migratory fish of the sea" means both catadromous and anadromous species of fish which live a part of their life span in salt water streams and oceans.

d. "Fish protected by law" means fish protected, by law or by regulations of the department, by restrictions on open seasons or on size of fish that may be taken.

e. Unless otherwise indicated, "Trout" includes brook trout, brown trout, red-throat trout, rainbow trout and splake. "Trout", "landlocked salmon", "black bass", "pickerel", "pike", and "walleye" mean respectively, the fish or groups of fish identified by those names, with or without one or more other common names of fish belonging to the group. "Pacific salmon" means coho salmon, chinook salmon and pink salmon.

* f. "Speargun" and "under-water gun" means any speargun that stores potential energy provided from the spearfisher's muscles only and is used while submerged under the water. Such gun may only release that amount of energy that the diver has provided to it from such diver's own muscles. Common temporary energy storing devices for spearguns shall include, but not be limited to: rubber bands, springs, and sealed air chambers.

* NB Repealed June 1, 2029

2. "Game" is classified as (a) game birds; (b) big game; (c) small game.

a. "Game birds" are classified as (1) migratory game birds and (2)

upland game birds.

(1) "Migratory game birds" means the Anatidae or waterfowl, commonly known as geese, brant, swans and river and sea ducks; the Rallidae, commonly known as rails, American coots, mud hens and gallinules; the Limicolae or shorebirds, commonly known as woodcock, snipe, plover, surfbirds, sandpipers, tattlers and curlews; the Corvidae, commonly known as jays, crows and magpies.

(2) "Upland game birds" (Gallinae) means wild turkeys, grouse, pheasant, Hungarian or European gray-legged partridge and quail. Grouse means ruffed grouse and every member of the grouse family. Pheasant means the ring-necked, dark-necked and mutant pheasants and all species and subspecies of the genus Phasianus representing the true or game pheasants.

b. "Big game" means deer, bear, moose, elk, except captive bred and raised North American elk (Cervus elaphus), caribou and antelope.

c. "Small game" means black, gray and fox squirrels, European hares, varying hares, cottontail rabbits, native frogs, native salamanders, native turtles, native lizards, native snakes, coyotes, red fox (Vulpes vulpes) and gray fox (Urocyon cinereoargenteus) except captive bred red fox or gray fox, raccoon, opossum, or weasel, skunk, bobcat, lynx, muskrat, mink, except mink born in captivity, fisher, otter, beaver, sable and marten but does not include coydogs.

3. "Wild game" means all game, except (a) domestic game bird and domestic game animal as defined in subdivision 4; (b) carcasses of foreign game as defined in section 11-1717, imported from outside the United States; (c) game propagated or kept alive in captivity as provided in section 11-1907 of this article; (d) game imported alive pursuant to license of the department, or artificially propagated, until such game is liberated; and (e) game so imported or propagated when liberated for the purpose of a field trial and taken during the field trial for which it was liberated.

4. a. "Domestic game bird" means ducks, geese, brant, swans, pheasants, quail, wild turkey, ruffed grouse, Chukar partridge and

Hungarian or European gray-legged partridge, propagated under a domestic game bird breeder's license pursuant to section 11-1901 or a shooting preserve license pursuant to section 11-1903, or propagated on a preserve or island outside the state under a law similar in principle to title 19 of this article.

b. "Domestic game animal" means white-tailed deer propagated under a domestic game animal breeder's license pursuant to section 11-1905 or propagated on a preserve or island outside the state under a law similar in principle to title 19 of this article.

c. To qualify as such domestic game bird or domestic game animal, (1) live game must be held in private ownership, on such licensed premises, and in the case of deer must be held on a preserve which is fenced, or is an island, as provided in section 11-1905, or must be held in confinement in course of transportation, and (2) the carcasses or flesh of such game coming from outside the state must originate on premises operated by the holder of a domestic game certificate as provided in section 11-1715.

5. a. "Unprotected wild birds" means the English sparrow and starling, and also includes pigeons and psittacine birds existing in a wild state, not domesticated.

b. "Protected birds" means all wild birds except those named in paragraph a of this subdivision.

6. a. "Wildlife" means wild game and all other animal life existing in a wild state, except fish, shellfish and crustacea.

b. "Wild bird" means birds which are "wildlife".

c. "Protected wildlife" means wild game, protected wild birds, protected insects, species of special concern and endangered and threatened species of wildlife designated by the department pursuant to section 11-0535 of this article, species listed in section 11-0536 of this article and species protected pursuant to section 11-0311 of this

article.

d. "Unprotected wildlife" means all wildlife which is not "protected wildlife".

e. "Wild animal" shall not include "companion animal" as defined in section three hundred fifty of the agriculture and markets law. Wild animal includes, and is limited to, any or all of the following orders and families:

(1) Nonhuman primates and prosimians,

(2) Felidae and all hybrids thereof, with the exception of the species Felis catus (domesticated and feral cats, which shall mean domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, as well as offspring of such cats) and hybrids of Felis catus that are registered by the American Cat Fanciers Association or the International Cat Association provided that such cats be without any wild felid parentage for a minimum of five generations,

(3) Canidae (with the exception of domesticated dogs and captive bred fennec foxes (vulpes zerda)),

(4) Ursidae,

(5) All reptiles that are venomous by nature, pursuant to department regulation, and the following species and orders: Burmese Python (Python m. bivittatus), Reticulated Python (Python reticulatus), African Rock Python (Python sabae), Green Anaconda (Eunectes maurinus), Yellow Anaconda (Eunectes notaeus), Australian Amethystine Python (Morelia amethistina and Morelia kinghorni), Indian Python (Python molurus), Asiatic (water) Monitor (Varanus salvator), Nile Monitor (Varanus nilocitus), White Throat Monitor (Varanus albigularis), Black Throat Monitor (Varanus albigularis ionides) and Crocodile Monitor (Varanus salvadori), Komodo Dragon (Varanus komodensis) and any hybrid thereof,

(6) Crocodylia.

7. "Protected insect" means any insect with respect to the taking of which restrictions are imposed by the Fish and Wildlife Law or regulations of the department pursuant thereto.

8. "Plumage" is defined in section 11-1729.

9. "Shellfish" means oysters, scallops, and all kinds of clams and mussels.

10. "Hunting" means pursuing, shooting, killing or capturing (other than trapping as defined in subdivision 11) wildlife, except wildlife which has been lawfully trapped or otherwise reduced to possession, and includes all lesser acts such as disturbing, harrying or worrying, whether they result in taking or not, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife.

11. "Trapping" means taking, killing and capturing wildlife with traps, deadfalls and other devices commonly used to take wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, deadfalls and other devices whether they result in taking or not, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, deadfalls or other devices.

12. a. "Fishing" means the taking, killing, netting, capturing or withdrawal of fish from the waters of the state by any means, including every attempt to take and every act of assistance to any other person in taking or attempting to take fish.

b. "Angling" means taking fish by hook and line. It includes bait and fly fishing, casting, trolling and also includes the use of landing nets in completing the catch of fish taken by hook and line. To constitute "angling" the taking must be in accordance with the following requirements: (1) the operator must be present and in immediate attendance when lines are in the water;

* (2) one person may operate not more than two lines, with or without rod, except that one person may operate up to three lines in freshwater;

* NB Effective until December 31, 2027

* (2) one person may operate not more than two lines, with or without rod;

* NB Effective December 31, 2027

(3) each line shall have not more than five lures or baits, or a combination of both, and in addition each line shall have not exceeding fifteen single hooks, or seven double hooks, or five triple hooks, or any combination of such hooks, provided the total number of hook points thereof does not exceed fifteen. Angling does not include snatching or hooking or the use of tip-ups.

c. "Hooking", "snatching" or "snagging" means taking fish that have not taken or attempted to take a bait or artificial lure into their mouth, by impaling fish with one or more hooks or similar devices, whether or not baited, into any part of their body.

d. "Net" means a non-metallic fabric wrought or woven into meshes and includes the types known as seine, gill, pound, trap, scap, fyke, dip, scoop and stake net.

e. "Spear" means a hand-propelled single or multiple pronged pike, blade or harpoon, and does not include the mechanically propelled device commonly called a spear gun or under-water gun.

13. "Taking" and "take" include pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting fish, wildlife, game, shellfish, crustacea and protected insects, and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any net or other device commonly used to take any such animal. Whenever any provision of the Fish and Wildlife Law permits "taking", the taking permitted is a taking by lawful means and in a lawful manner.

14. "Baiting" means the placing, exposing, depositing, distributing or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed in such a manner as to lure, attract, or entice upland game birds to any area where hunters are attempting to take them; "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed whatsoever capable of luring, attracting, or enticing such birds is placed, exposed, deposited, distributed or scattered.

15. "Marine district" means the waters described in section 13-0103.

16. a. "Northern Zone" as used in the Fish and Wildlife Law or in any regulation of the department pursuant thereto means that part of the state situated northerly of a line commencing at a point at the north shore of the Salmon river and its junction with Lake Ontario and extending easterly along the north shore of that river to the village of Pulaski, thence southerly along Route 11 to its intersection with Route 49 in the village of Central Square, thence easterly along Route 49 to its junction with Route 365 in the city of Rome, thence easterly along Route 365 to its junction with Route 28 in the village of Trenton, thence easterly along Route 28 to its junction with Route 29 in the village of Middleville, thence easterly along Route 29 to its junction with Route 4, thence northerly along Route 4 to its junction with Route 22, thence northerly and westerly along Route 22 to the eastern shore of South Bay on Lake Champlain in the village of Whitehall, thence northerly along the eastern shore of South Bay to the New York-Vermont boundary.

b. "Southern Zone" as used in the Fish and Wildlife Law or in any regulation of the department pursuant thereto means that part of the state not included in the "Northern Zone".

17. "Wilderness Hunting Areas" means the following areas:

a. South branch of Moose river--West Canada creek area. Commencing at a point in the village of Indian Lake at the intersection of Route 28 with Route 30, thence southerly along Route 30 to the village of Speculator and its junction with Route 8, thence westerly along Route 8 to its junction with Route 287, thence westerly along Route 287 to its intersection with the Herkimer county line, thence northerly along the Herkimer county line to its intersection with Route 28 near the village of McKeever, thence northerly and easterly along Route 28 to the point of beginning.

b. Essex Chain Lakes area. Commencing with the village of Indian Lake

on Route 28, thence northwesterly on Route 28 to its junction with Route 28-N at the village of Blue Mountain Lake, thence northerly along Route 28-N to the village of Long Lake, thence easterly, and southerly along Route 28-N to its junction with Route 28 in the village of North Creek, thence northwesterly along Route 28 to the point of beginning.

c. Cold River area. Commencing at the village of Long Lake, thence northerly along Route 30 to its junction with Route 3 in the village of Tupper Lake, thence easterly along Route 3 to its intersection with Route 86 in the village of Saranac Lake, thence easterly along Route 86 to its junction with Route 73 in the village of Lake Placid, thence easterly and southerly along Route 73 to its junction with Route 9, thence southerly along Route 9 to the village of Schroon River and the junction of the Blue Ridge road, thence westerly along the Blue Ridge road through the village of Blue Ridge to its junction with the Tahawus road, thence southerly along the Tahawus road to its junction with Route 28-N, thence westerly along Route 28-N to the point of beginning.

d. Oswegatchie-Beaver river flow area and Independence river area. Commencing in the village of Blue Mountain Lake, thence westerly along Route 28 through Old Forge to the intersection of Route 28 with the Adirondack state park boundary at the vicinity of White Lake, thence westerly and northerly along the Adirondack state park boundary to the point where said boundary crosses Route 3 between the villages of East Pitcairn and Fine, thence easterly along Route 3 to its intersection with Route 30 at the village of Tupper Lake, thence southerly along Route 30 to the point of beginning.

e. Middle branch of Grass river area. Commencing in the village of Cranberry Lake on Route 3, thence northeasterly along Route 3 to its junction with Route 56 near the village of Sevey, thence northerly along Route 56 to its intersection with the Adirondack state park boundary southeast of the village of South Colton, thence west and south along said park boundary to its intersection with the Degrasse-Cranberry Lake road, thence easterly and southerly along said road to its junction with Route 3 approximately one mile west of the village of Cranberry Lake thence easterly along Route 3 to the point of beginning.

f. West branch of St. Regis river area. Commencing at the village of Tupper Lake, thence northeasterly along Route 30 to the junction of the Brandon road leading from Paul Smiths to St. Regis Falls, thence westerly and northerly along said Brandon road to its junction with Route 72 about three miles west of the village of Santa Clara, thence northwesterly along Route 72 to its junction with the St. Regis-Lake Ozonia road, thence southerly and westerly along the St. Regis-Lake Ozonia road to Lake Ozonia, thence northerly and westerly along the Lake Ozonia-Hopkinton road to its intersection with the Adirondack state park boundary, thence westerly, southerly, and westerly along the Adirondack state park boundary to its intersection with the Parishville-Stark road, thence southerly along said road to the village of Stark, thence westerly along the Stark-Hubbards road to its junction with Route 56, thence southerly along Route 56 to its junction with Route 3 near the village of Sevey, thence easterly along Route 3 to the point of beginning.

18. "Inhabited" means a permanent occupancy by a species as contrasted with a temporary presence of an occasional individual.

19. a. "Person" means an individual, a co-partnership, joint stock company or corporation.

b. In construing any provision of the Fish and Wildlife Law, gender and number shall be disregarded whenever necessary to give effect to the purpose of the provision.

c. A reference to the "immediate family" of a person means all persons who are related by blood, marriage or adoption to the person whose immediate family is referred to, and are domiciled in the house of such person.

20. "Environmental conservation officer" includes sworn officers in the division of law enforcement in the department.

21. "Carrier" means a person engaged in the business of transporting

goods, and includes a common carrier, contract carrier and private carrier.

22. "Closed area" means any area of lands, or waters, or lands and waters of the state, in which the taking of fish, wildlife or protected insects, or one or more of them, is prohibited, or in which hunting, fishing or trapping, or one or more of them, is prohibited by the Fish and Wildlife Law, by proclamation of the Governor pursuant to section 9-1101, or by rule or regulation of the department.

23. a. "Open season" means the time during which fish, game, wildlife, shellfish, crustacea or protected insects may be legally taken. "Closed season" means the time during which they may not legally be taken.

b. Whenever an open season or a closed season is provided by the fixing of dates, such dates shall be deemed part of such open season or closed season.

24. "Enclosed lands" or "wholly enclosed lands" means lands the boundaries of which may be indicated by wire, ditch, hedge, fence, road, highway or water, or in any visible or distinctive manner which indicates a separation from the surrounding contiguous territory. Except as otherwise provided, any such indication of boundaries is sufficient to constitute the lands within the boundaries "enclosed".

25. "Hunting related incident" means the injury to or death of a person caused by the discharge of a firearm, crossbow or longbow while the person causing such injury or death, or the person injured or killed, is taking or attempting to take game, wildlife or fish.

26. "Muzzle loading firearm" means a gun which is loaded through the muzzle, shooting a single projectile and having a minimum bore of .44 inch.

27. "Leashed tracking dog" means a leashed dog which has been certified by the department pursuant to section 11-0928 of this chapter to track and find wounded or injured big game.

28. "Captive bred" means born in captivity.

29. "Non-native big game mammal" means a mammal species presently found in the wild and hunted as big game that is:

a. Native or an original inhabitant of the continents of Africa, Asia, South America, Australia, or Europe, whether or not captive bred; or

b. A captive bred North American big game mammal including: cougar, wolf, bear, bison, big horn sheep, mountain goat, antelope, elk, musk ox, mule deer, black tailed deer, caribou, and a domestic game animal as defined in paragraph b of subdivision four of this section, provided, however, that nothing herein shall be deemed to expand, diminish, or alter the department's authority under existing statute or regulation to regulate the taking of big game as defined in paragraph b of subdivision two of this section or other protected wildlife as defined in paragraph c of subdivision six of this section.

30. "Facility" means any type of zoo, petting zoo, circus, game farm, game preserve, or similar entity, or part thereof, where non-native big game mammals are housed, held, fed or provided for in any manner.

31. "Pet" means an animal kept for the primary purpose of companionship that is normally maintained in or near the household of the owner or person who cares for such domesticated animal.

32. "Wildlife sanctuary" means an organization as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 and that is in compliance with all applicable provisions of the Animal Welfare Act, 7 USC Sec. 2131 et seq. and operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat, and, with respect to any animal owned by the organization, does not:

a. Use the animal for any type of entertainment, recreational or

commercial purpose except for the purpose of exhibition as defined by the department;

b. Sell, trade, lend or barter the animal or the animal's body parts; or

c. Breed the animal.

33. "Long bow" includes longbows, recurve bows, compound bows, and crossbows.