

Document: Proposed Rule, **Register Page Number:** 29 IR 616

Source: November 1, 2005, Indiana Register, Volume 29, Number 2

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #05-214

DIGEST

Amends 312 IAC 9 concerning taking, chasing, and possessing wild animals; fishing, hunting, and trapping without a license by owners and lessees of farmland; tagging requirements for deer hunting; hunting deer by firearms; coyotes; bobcats; river otters; badgers; endangered species of mammals; migratory birds and waterfowl; mute swans; tagging requirements for wild turkey hunting; turtle possession permits; taxidermist licenses; nuisance wild animal control permits; fur buyers' licenses; and confining, enclosing, and housing bobcats under a wild animal possession permit. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The department of natural resources (DNR) estimates that some small businesses will be directly affected by some of the proposed rule changes. The natural resources commission has the authority to adopt rules under IC 14-10-2-4 and IC 14-22-2-6.

The new proposed rule governing the possession and sale of bobcats, badgers, and river otters in 312 IAC 9-3-18.4 would likely affect approximately 58 licensed fur buyers and 600 licensed taxidermists. The removal of the bobcat, badger, and river otter from the state's endangered species list requires additional rules to provide for the protection of the wild populations in Indiana.

The new proposed rule in 312 IAC 9-4-5.5 governing the possession and sale of mute swans would affect approximately 16 entities, which may qualify as a small business under IC 4-22-2.1-4, that have sold mute swans in the past in Indiana.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

A licensed fur buyer or taxidermist, which may operate a small business and which possesses or sells a mounted specimen or other part of a bobcat, river otter, or badger, would be required to document how the carcass or untanned hide of a bobcat, river otter, or badger was obtained. In addition, a licensed fur buyer or taxidermist would be required to provide the purchaser with a receipt, tag, or copy of a license as documentation of where and how the carcass or untanned hide was obtained. These license holders should already be keeping this information for other species of animals that they possess. Licensed fur buyers would also have to issue valid, dated receipts when selling or trading any animal or part, but this requirement should not require significant administrative costs. The DNR estimates that new administrative costs incurred by a small business to comply with this rule will amount to approximately \$120 ($\$10 \text{ per hour} \times 1 \text{ hour per month} \times 12 \text{ months}$).

In 312 IAC 9-4-5.5, the requirements that may apply to a small business are the need to obtain a free one-time permit to possess mute swans in captivity from the DNR and the prohibition on any future sale of mute swans. The DNR estimates that new administrative costs incurred by a small business to comply with this rule would amount to approximately \$20 ($\$10 \text{ per hour} \times 2 \text{ hours to complete paperwork} = \20).

Estimated Total Annual Economic Impact on Small Businesses:

The DNR estimates that there will be an impact on small businesses as a result of compliance with these rules.

• Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law:

Approximately 58 licensed fur buyers and 600 licensed taxidermists would be able to sell mounted specimens and other parts of bobcats, river otters, or badgers that they were not previously able to sell when these species were listed as endangered, thereby creating additional revenue for these small businesses. The requirements on small business for the possession and sale of bobcats, river otters, and badgers is justified in order to ensure the protection of Indiana's wild populations of bobcats, badgers, and river otters and to provide documentation of the legal acquisition and sale of these species for law enforcement purposes.

Approximately 16 small businesses who have sold mute swans in the past in Indiana and may qualify as a small business as defined in IC 4-22-2.1-4 would no longer be able to sell mute swans in Indiana. This proposed rule would have the following costs on the small businesses that sell mute swans and other waterfowl: $\$500 \text{ per mute swan} \times 20 \text{ swans each} = \$10,000 \times 16 \text{ small businesses} = \$160,000$.

The requirement on small businesses that prohibits the sale of mute swans is justified in order to reduce the number of mute swans in the wild in Indiana. Mute swans are nonnative, aggressive birds that often exclude (and sometimes kill) native waterfowl from wetlands. They can be hostile toward humans, sometimes causing injury. Ecologically, mute swans can damage wetland habitats by overgrazing aquatic vegetation, leaving inadequate food and habitat for native wetland inhabitants. Allowing individuals and small

businesses to continue to possess and sell mute swans will only contribute to the number of mute swans in the wild, affecting native species, and create more human conflicts with aggressive swans due to intentional or accidental escapes. Small businesses that sell waterfowl will still be allowed to sell domesticated species of swans as well as protected species of waterfowl as allowed by the U.S. Fish and Wildlife Service, including mallard ducks. The Department would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all who possess mute swans for law enforcement purposes.

• **Supporting Data, Studies, or Analyses:** The number of licensed fur buyers and licensed taxidermists was obtained from the list of license holders available from the DNR's Division of Fish and Wildlife. The number of business that sell mute swans was obtained from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, from a list of businesses the agency previously licensed to sell mute swans. The estimated selling price of mute swans was determined based on advertisements for the sale of mute swans. Research on mute swans populations in Indiana and their damage to native wetlands and other waterfowl was based upon research conducted by the DNR's Division of Fish and Wildlife's Waterfowl Biologist.

Regulatory Flexibility Analysis of Alternative Methods:

• **Explanation of Preliminary Determination:**

In 312 IAC 9-3-18.4, the requirement for licensed fur buyers or taxidermists could be reduced with one of the following options:

- (1) not require the paperwork to possess or sell a bobcat, badger, or river otter;
- (2) not allow them to sell these parts; or
- (3) do not propose this new rule, which would not allow an individual or a business to possess or sell a part of one of these three species of animals.

The paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. A licensed fur buyer or taxidermist can make additional revenue by being able to sell the mounted specimen(s) or parts of these three species of animals. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

In 312 IAC 9-4-5.5, the requirement for small businesses could be reduced with one of the following options:

- (1) allow mute swans to be sold without any requirements;
- (2) allow mute swans to be sold only if pinioned (unable to fly) and kept in an enclosure where escape is not possible and not require a permit; or
- (3) require a free permit with the conditions listed above, but allow their sale only by permit.

Small businesses that sell waterfowl will still be allowed to sell domesticated species of swans and other waterfowl species as allowed by the U.S. Fish and Wildlife Service, including mallard ducks. Allowing small businesses to continue to possess and sell mute swans will only contribute to the number of mute swans in the wild, affecting native species, and create more human conflicts with aggressive swans due to intentional or accidental escapes. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all individuals who possess mute swans for law enforcement purposes.

In 312 IAC 9-10-5, the requirement for licensed taxidermists that are small businesses could be reduced with one of the following options:

- (1) not require the paperwork to possess or sell a bobcat, badger, or river otter;
- (2) not allow them to sell these parts; or
- (3) do not propose this rule change, which would not allow an individual or a business to possess or sell a part of one of these three species of animals.

The paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. A licensed taxidermist can make additional revenue by being able to sell the mounted specimens or parts of these three species of animals once they are no longer endangered. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

In 312 IAC 9-10-12, the requirement for licensed fur buyers could be reduced with one of the following options:

- (1) not require the paperwork to possess a bobcat, badger, or river otter;
- (2) not allow them to possess or sell these carcasses or untanned hides;
- (3) not require a receipt to sell a bobcat, badger, or river otter; or
- (4) not propose this rule change, which would not allow a business who operates as a licensed fur buyer to possess or sell a carcass or untanned hide of one of these three species of animals.

This paperwork is necessary to ensure that the animals were obtained lawfully and to protect the wild populations in Indiana from becoming endangered again, which would prohibit their possession and sale. The current law only allows the possession of furbearing mammals that are lawfully taken in season; these three species of animals cannot be lawfully taken in Indiana and are not defined as furbearing mammals in IC 14-8-2-108. Therefore, a rule change is required to allow the possession or sale, or both, of a carcass or untanned hide of one of these three species of animals. A licensed fur buyer can make additional revenue by being able to sell the carcasses or untanned hides or parts of these three species of animals. The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

• Supporting Data, Studies, or Analyses: The DNR did not rely on any studies in its decision not to employ alternatives to these proposed rules.

312 IAC 9-2-1	312 IAC 9-3-19
312 IAC 9-2-14	312 IAC 9-4-2
312 IAC 9-3-2	312 IAC 9-4-5.5
312 IAC 9-3-3	312 IAC 9-4-11
312 IAC 9-3-12	312 IAC 9-5-11
312 IAC 9-3-18.1	312 IAC 9-10-5
312 IAC 9-3-18.2	312 IAC 9-10-11
312 IAC 9-3-18.3	312 IAC 9-10-12
312 IAC 9-3-18.4	312 IAC 9-11-13

SECTION 1. 312 IAC 9-2-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-2-1 Taking, chasing, and possessing wild animals

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 1. ~~(a) It is unlawful to~~ **A person must not:**

- (1) take;**
- (2) chase; or**
- (3) possess;**

a wild animal except as provided by statute or by this article.

~~(b) Notwithstanding subsection (a), this article does not apply to groundhogs. (Natural Resources Commission; 312 IAC 9-2-1; filed May 12, 1997, 10:00 a.m.: 20 IR 2700; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)~~

SECTION 2. 312 IAC 9-2-14 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-2-14 Fishing, hunting, and trapping without a license by owners and lessees of farmland

Authority: IC 14-22-6-1; IC 14-22-11-1

Affected: IC 14-22

Sec. 1. **(a) An owner or a lessee of farmland and a family member of the owner or lessee, if exempted under IC 14-22-11-1, may:**

- (1) fish;**
- (2) hunt; or**
- (3) trap;**

on the farmland without obtaining a license under this article.

(b) For farmland owned or leased by:

- (1) a corporation;**
- (2) a limited liability company;**
- (3) a partnership; or**
- (4) another person other than an individual or individuals;**

the license exemption applies only to an individual who resides on the farmland. (Natural Resources Commission; 312 IAC 9-2-14)

SECTION 3. 312 IAC 9-3-2, AS AMENDED AT 28 IR 536, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-2 General requirements for deer; exemptions; tagging; tree blinds; maximum taking of antlered deer in a calendar year

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-11-11

Sec. 2. (a) This section and sections 3 through 10 of this rule govern the hunting, transportation, and disposal of deer.

(b) Species of deer other than white-tailed deer (*Odocoileus virginianus*) are exempted from **the following**:

(1) This section. ~~and~~

(2) Sections 3 through 9 of this rule.

A person who claims the exemption provided under this subsection must prove the deer is other than a white-tailed deer.

(c) The licenses identified by sections 3 through 8 of this rule are nonexclusive. An individual may apply for one (1) or more of these licenses.

(d) Before September 1, 2007, a person must not take more than one (1) antlered deer during the seasons for an annual deer license.

(e) The use or aid of:

(1) a food product that is transported and placed for consumption;

(2) salt;

(3) mineral blocks;

(4) prepared solid or liquid intended for ingestion (herein called bait);

(5) snares;

(6) dogs; or

(7) other domesticated animals;

to take deer is prohibited. A person must not hunt by the aid of bait or on or over a baited area. An area is considered baited for ten (10) days after the removal of the bait or the baited soil. Hunting an orchard or another area, which may be attractive to deer as the result of normal agricultural activity, is not prohibited. The use of manufactured scents and lures or similar chemical or natural attractants is not prohibited.

(f) Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt:

(1) deer unless the person possesses a completed and signed license bearing the person's name; ~~The license must be accompanied by a temporary transportation tag bearing the license number and the year of issuance. A person must not hunt or~~

(2) with a deer license ~~or tag~~ issued to another person.

(g) ~~The temporary transportation tag described in subsection (f)~~ **A piece of paper** must, immediately upon taking a deer, be ~~notched as attached to a leg of the deer and state the following~~:

(1) **The name and address of the person.**

(2) **The license number (if applicable).**

(3) The sex of the deer. ~~and~~

(4) The month and day of the kill. ~~A tag that is notched other than three (3) times is void. A person must not tag a deer other than with a tag issued to the person who took the deer was taken.~~

A deer leg must be tagged **with the piece of paper** before leaving the field. A deer that is in the field is not required to be tagged if the person who ~~kills~~ **takes** the deer maintains immediate custody of, and constant visual contact with, the deer carcass.

(h) A person who takes a deer must cause delivery of the deer carcass to an official checking station for registration on the occurrence of the earlier of ~~one (1)~~ **of** the following:

(1) Within forty-eight (48) hours of **the** taking of the deer.

(2) Before the deer is removed from this state.

The person who delivers the deer carcass to an official checking station for registration must provide accurate information for the check station logs.

(i) After the checking station operator records the permanent seal number on the log and collects the ~~upper portion of the license, where applicable, along with the temporary transportation tag; the hunter is provided with that seal. The seal must be affixed by the hunter and sealed to prevent its removal (without cutting piece of paper described in subsection (g), the operator shall give the seal or the body part to which it is affixed); before processing of the deer begins, by affixing person. The person must immediately affix~~ the seal:

(1) between a tendon and bone;

(2) through a section of skin or flesh; or

(3) around a branched antler;

to prevent its removal (without cutting the seal or the body part to which it is affixed). The seal must be maintained until processing of the deer begins.

(j) The checking station operator must **do the following:**

- (1) Accurately and legibly complete all forms provided by the department. **and must**
- (2) Make those forms available to department personnel upon request.

(k) An individual authorized to act under this subsection must attach to a deer carcass a paper that states the name and address of the individual and the date and sex of the deer taken. The requirements of subsections (f) through (g) also apply except to the extent those subsections identify the physical characteristics of a tag. The individuals authorized to act under this subsection are as follows:

- (1) A lifetime license holder.
- (2) A youth license holder.
- (3) For a deer taken on a landowner's land, each of the following:
 - (A) The resident landowner.
 - (B) The spouse of the resident landowner.
 - (C) A child of the resident landowner who is living with the landowner.
- (4) For a deer taken on farmland leased from another person, each of the following:
 - (A) The resident lessee who farms the land.
 - (B) The spouse of the resident lessee.
 - (C) A child of the resident lessee who is living with the lessee.
- (5) An Indiana serviceman or servicewoman who is hunting under IC 14-22-11-11.

(h) (k) A person must not erect, place, or hunt from a permanent tree blind on state-owned lands. A tree blind placed on:

- (1) state-owned or state-leased lands;
- (2) U.S. Forest Service lands;
- (3) the Muscatatuck National Wildlife Refuge; or
- (4) the Big Oaks National Wildlife Refuge;

must be portable and may be left overnight only between September 1 and January 10. A fastener used in conjunction with a tree blind and a tree or pole climber that penetrates a tree more than one-half (½) inch is prohibited. Each portable tree blind must be legibly marked with the name, address, and telephone number of the owner of the tree blind.

(m) (l) The head of a deer must remain attached to the carcass until the tag is attached and locked at the deer checking station.

(n) (m) The use of infrared sensors to locate or take deer is prohibited. It is unlawful to hunt or to retrieve deer with the aid of an infrared detector.

(o) (n) Notwithstanding subsection (e), dogs may be used only while on a leash to track or trail wounded deer.

(p) (o) Notwithstanding subsection (e):

- (1) donkeys;
- (2) mules; and
- (3) horses;

may be used for transportation to and from a hunt but may not be used while hunting.

(q) (p) The possession of an electronic deer call is prohibited. A person must not hunt deer with the aid of an electronic deer call. (*Natural Resources Commission; 312 IAC 9-3-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2702; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1528; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 536*)

SECTION 4. 312 IAC 9-3-3, AS AMENDED AT 28 IR 538, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-3 Hunting deer by firearms

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-12-1; IC 35-47-2

Sec. 3. (a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is either:

- (1) issued a license to hunt deer by firearms under IC 14-22-12-1(12), IC 14-22-12-1(13), IC 14-22-12-1(15), or IC 14-22-12-1(16);
or
(2) hunting by the use of firearms under IC 14-22-11-1.

(b) The season for hunting deer with firearms is as follows:

- (1) The firearms season using:
(A) shotgun;
(B) shotgun with rifled barrel;
(C) handgun;
(D) muzzle loading gun; or
(E) muzzle loading handgun;

is from the first Saturday after November 11 and ~~continuing~~ **continues** for an additional fifteen (15) days.

(2) The seasonal limit for hunting deer under this subsection is one (1) antlered deer.

(c) In addition to the season established under subsection (b), the season for using a muzzle loading gun or muzzle loading handgun only:

- (1) extends from the first Saturday after the firearms season established under subsection (b); and
(2) continues for fifteen (15) additional days.

The seasonal limit for hunting deer under this extended season is one (1) deer of either sex.

(d) A person must not hunt deer except from one-half (½) hour before sunrise to one-half (½) hour after sunset.

(e) A person must not **do the following**:

- (1) Hunt deer unless that person wears hunter orange.
(f) ~~A person must not~~ (2) Possess bow and arrows while hunting under this section.

~~(g)~~ (f) The following requirements apply to the use of firearms under this section:

- (1) A shotgun:
(A) must have a gauge 10, 12, 16, 20, or .410 bore loaded with a single projectile; ~~A shotgun and~~
(B) may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine.
(2) A handgun must:
(A) conform to the requirements of IC 35-47-2;
(B) have a barrel at least four (4) inches long; and
(C) fire a bullet of **two hundred forty-three thousandths** (.243) inch diameter or larger.

All 38 special ammunition is prohibited. The handgun cartridge case, without bullet, must be at least one and sixteen-hundredths (1.16) inches long. A handgun must not be concealed. Full metal jacketed bullets are unlawful. A handgun may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine. All 25/20, 32/20, 30 carbine, and 38 special ammunition is prohibited.

(3) A muzzle loading gun must be .44 caliber or larger, loaded with a bullet at least **three hundred fifty-seven thousandths** (.357) inch or larger. A muzzle loading handgun must be single shot, .50 caliber or larger, loaded with bullets at least .44 caliber and have a barrel at least twelve (12) inches long. The length of a muzzle loading handgun barrel is determined by measuring from the base of the breech plug, excluding tangs and other projections, to the end of the barrel, including the muzzle crown. A muzzle loading **firearm gun** must be **capable of being loaded only** from the muzzle, **including both powder and bullet**. A muzzle loading **firearm gun** may be possessed in the field outside lawful shooting hours only if:

- (A) for percussion firearms, the cap or primer is removed from the nipple or primer adapter; or
(B) for flintlock firearms, the pan is not primed.

(4) Over-and-under combination rifle-shotguns are prohibited.

(Natural Resources Commission; 312 IAC 9-3-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 13, 1997, 12:09 p.m.: 21 IR 1272; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538)

SECTION 5. 312 IAC 9-3-12, AS AMENDED AT 28 IR 539, SECTION 8, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-12 Foxes, coyotes, and skunks

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 12. (a) The season for hunting:

- (1) red foxes; and
- (2) gray foxes;

is from noon on October 15 until noon on February 28 of the following year.

(b) The season for trapping:

- (1) red foxes;
- (2) gray foxes; and
- (3) skunks;

is from 8 a.m. on October 15 until noon on January 31 of the following year.

(c) Except as provided in subsection (d), the season for:

- (1) hunting ~~and trapping~~ coyotes is from noon on October 15 until noon on March 15 of the following year; **and**
- (2) **trapping coyotes is from 8 a.m. on October 15 until noon on March 15 of the following year.**

A coyote must not be possessed from April 5 through October 14 except to provide for its prompt disposal.

(d) A person who possesses land, or another person designated in writing by that person, may take coyotes on that land at any time.

(e) A person must not possess **the following:**

(1) A red fox or gray fox except from October 15 until March 20 of the following year.

(~~f~~) ~~A person must not possess~~ (2) A skunk except from October 15 until February 20 of the following year.

(Natural Resources Commission; 312 IAC 9-3-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2706; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 539)

SECTION 6. 312 IAC 9-3-18.1 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.1 Bobcats

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 18.1. A person must not take or possess a bobcat (*Felis rufus*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.1)*

SECTION 7. 312 IAC 9-3-18.2 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.2 River otters

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 18.2. A person must not take or possess a river otter (*Lutra canadensis*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.2)*

SECTION 8. 312 IAC 9-3-18.3 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.3 Badgers

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 18.3. A person must not take or possess a badger (*Taxidea taxus*) except as otherwise provided by this article. *(Natural Resources Commission; 312 IAC 9-3-18.3)*

SECTION 9. 312 IAC 9-3-18.4 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.4 Possession and sale of bobcats, river otters, and badgers

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 18.4. (a) A person must not possess or sell a carcass, hide, or any part of a bobcat, river otter, or badger unless the person meets one (1) of the following requirements:

(1) The person possesses satisfactory documentation that the carcass, hide, or part was lawfully acquired. Satisfactory documentation must include one (1) or more of the following:

(A) A legible copy of any of the following:

(i) A tag.

(ii) A receipt.

(iii) A hunting license.

(iv) A trapping license.

(v) A permit.

(vi) Other appropriate record from the state or country where the animal, including any part or portion of the animal, was acquired.

(B) A receipt from either of the following:

(i) A fur buyer licensed under 312 IAC 9-10-12.

(ii) A taxidermist licensed under 312 IAC 9-10-5.

(2) The person obtains the:

(A) carcass;

(B) hide; or

(C) part;

from a department employee with written permission.

(b) In addition to subsection (a), a person must not possess a carcass or untanned hide of a:

(1) bobcat;

(2) river otter; or

(3) badger;

for more than fourteen (14) days unless the person is a fur buyer licensed under 312 IAC 9-10-12.

(c) A fur buyer licensed under 312 IAC 9-10-12, or a taxidermist licensed under 312 IAC 9-10-5, who sells:

(1) a carcass;

(2) a hide; or

(3) any part;

of a bobcat, river otter, or badger must provide the purchaser with the documentation described in subsection (a). A purchaser who relies in good faith upon the documentation may offer it as an affirmative defense to an infraction or civil penalty alleging a violation of subsection (a). (Natural Resources Commission; 312 IAC 9-3-18.4)

SECTION 10. 312 IAC 9-3-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-19 Endangered and threatened species of mammals

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-2; IC 14-22-34-12

Sec. 19. The following species of mammals are ~~threatened~~ or endangered and are subject to the protections provided under IC 14-22-34-12:

(1) Bobcat (*Felis rufus*).

(2) (1) Indiana bat (*Myotis sodalis*).

(3) (2) Gray bat (*Myotis grisescens*).

(4) (3) Southeastern bat (*Myotis austroriparius*).

(5) (4) Evening bat (*Nycticeius humeralis*).

(6) Badger (*Taxidea taxus*).

(7) (5) Eastern wood rat (*Neotoma floridana*).

(8) (6) Swamp rabbit (*Sylvilagus aquaticus*).

~~(9)~~ (7) Franklin's ground squirrel (*Spermophilus franklinii*).

~~(10)~~ River otter (*Lutra canadensis*);

(Natural Resources Commission; 312 IAC 9-3-19; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 16, 2002, 12:25 p.m.: 25 IR 3046; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 11. 312 IAC 9-4-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-2 Migratory birds and waterfowl

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 2. (a) The restrictions in this section supplement state statutes and federal laws ~~which that~~ protect migratory birds and waterfowl.

(b) A person must not hunt migratory birds and waterfowl, **except for mute swans (*Cygnus olor*)**, unless the person:

(1) is registered with; ~~the Harvest Information Program~~ and

(2) possesses an identification number issued through;

~~the Harvest Information Program. Exempted from this subsection is a person who is hunting on property where the person is either of the following:~~

~~(1) A landowner;~~

~~(2) A lessee;~~

~~(3) A resident of Indiana on leave from one of the armed services of the United States.~~

(c) A person must not take or possess a Virginia rail. *(Natural Resources Commission; 312 IAC 9-4-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 28, 1998, 5:14 p.m.: 21 IR 3714; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)*

SECTION 12. 312 IAC 9-4-5.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-4-5.5 Mute swans

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 5.5. (a) A person who possesses land, or another person designated in writing by that person, may take a mute swan (*Cygnus olor*) on the land at any time. There is no limit to the number of mute swans that may be taken under this section.

(b) A person may possess a mute swan only if each of the following is satisfied:

(1) The swan is pinioned.

(2) The swan is in an enclosure that prevents its escape into the wild.

(3) The swan was lawfully acquired and possessed by the person before June 1, 2006.

(4) The person describes any mute swan, including the:

(A) method of acquisition; and

(B) number possessed;

on a department form by October 1, 2006.

(c) A wing of each swan must be pinioned so the:

(1) metacarpal bones of one (1) wing or a portion of the metacarpal bones are removed; and

(2) swan is permanently incapable of flight.

(d) A person who lawfully possesses a mute swan as described in subsection (b) must not sell a mute swan. *(Natural Resources Commission; 312 IAC 9-4-5.5)*

SECTION 13. 312 IAC 9-4-11, AS AMENDED AT 28 IR 2946, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-11 Wild turkeys

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-11-11

Sec. 11. (a) Except as provided in subsection (c), the spring season for hunting and possessing wild turkeys:

- (1) is from the first Wednesday after April 20; and ~~continuing~~
- (2) **continues** for an additional eighteen (18) consecutive days.

(b) The fall season for hunting and possessing wild turkeys with a bow and arrows:

- (1) is from October 1 to the end of the fall turkey season with firearms, which begins on the first Wednesday after October 14; and
 - (2) continues for an additional four (4) consecutive days;
- except as provided in subsection (c).

(c) The spring and fall seasons for hunting and possessing wild turkeys on:

- (1) Camp Atterbury; and
 - (2) the Big Oaks National Wildlife Refuge;
- shall be determined by the director on an annual basis.

(d) The limit for taking and possessing is one (1):

- (1) bearded or male wild turkey during the spring season; and
- (2) wild turkey of either sex during the fall season.

(e) A person must not hunt wild turkeys except between one-half (½) hour before sunrise and sunset.

(f) A person must not take a wild turkey except with the use of one (1) of the following:

- (1) A shotgun ~~not smaller than 20 gauge and not larger than 10 gauge loaded only with shot of size 4, 5, 6, 7, or 7½.~~

~~(2) A~~ or muzzle loading shotgun:

(A) not smaller than 20 gauge; and

(B) not larger than 10 gauge;

loaded only with shot of **size** 4, 5, 6, 7, or 7½.

~~(3)~~ (2) A bow and arrows, including crossbows as defined in 312 IAC 9-3-4(j), with the following restrictions:

(A) A person must not use a:

(i) long bow; or

(ii) compound bow;

of less than thirty-five (35) pounds pull.

(B) Arrows must be equipped with metal or metal-edged (or flint, chert, or obsidian napped) broadheads.

(C) A person must not use a:

(i) crossbow of less than one hundred twenty-five (125) pounds pull;

(ii) crossbow unless it has a mechanical safety; or

(iii) poisoned or explosive arrow.

(D) No portion of a bow's riser (handle) or:

(i) track;

(ii) trough;

(iii) channel;

(iv) arrow rest; or

(v) other device;

that attaches to the bow's riser shall contact, support, or guide the arrow from a point rearward of the bow's brace height.

(E) Before or after lawful shooting hours, a person must not possess a:

(i) long bow;

(ii) compound bow; or

(iii) crossbow;

in the field if the nock of the arrow is placed on the bow string.

(g) A person must not hunt wild turkeys in the fall season except in a county the director designates on an annual basis by emergency rule or in the spring season in the following counties:

- (1) Adams, south of State Road 124.

- (2) Blackford.

- (3) Delaware.
- (4) Grant, east of Interstate 69.
- (5) Hancock, east of State Road 9.
- (6) Henry.
- (7) Huntington:
 - (A) south of State Road 124; and
 - (B) east of Interstate 69.
- (8) Jasper:
 - (A) south of State Highway 114; and
 - (B) west of Interstate 65.
- (9) Jay.
- (10) Newton, south of State Highway 114.
- (11) Randolph, north of State Road 32.
- (12) Rush, north of State Road 44.
- (13) Shelby:
 - (A) east of State Road 9; and
 - (B) north of State Road 44.
- (14) Wells, south of State Road 124.
- (15) Whitley, south of U.S. 30.

- (h) The use of:
 - (1) a dog;
 - (2) another domesticated animal;
 - (3) a live decoy;
 - (4) a recorded call;
 - (5) an electronically powered or controlled decoy; or
 - (6) bait;

to take a wild turkey is prohibited. An area is considered baited for ten (10) days after the removal of the bait, but an area is not considered to be baited that is attractive to wild turkeys resulting from ~~either of the following:~~

- ~~(1) normal agricultural practices.~~
- ~~(2) The use of a:~~
 - ~~(A) manufactured scent;~~
 - ~~(B) lure; or~~
 - ~~(C) chemical attractant.~~

(i) A person must not possess a handgun while hunting wild turkeys.

(j) Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt:

- (1) wild turkeys unless possessing a completed and signed license bearing the person's name; ~~The license must be accompanied by a temporary transportation tag bearing the license number and the year of issuance. A person must not hunt or~~
- (2) with a wild turkey license ~~or tag~~ issued to another person.

(k) ~~The temporary transportation tag described in subsection (j)~~ **A piece of paper** must, immediately after taking a wild turkey:

- (1) ~~be notched as to the month and day of the taking and attached to a leg of the turkey directly above the spur; A tag is void if notched more than twice: and~~
- (2) ~~state the:~~ temporary transportation tag must be attached to a leg
 - (A) **name and address of the person;**
 - (B) **license number (if applicable);**
 - (C) **date; and**
 - (D) **sex;**

~~of the wild turkey directly above the spur: taken.~~

(l) A person who takes a turkey must do the following:

(1) Cause delivery of the turkey to an official turkey checking station within forty-eight (48) hours of taking for registration. After the checking station operator:

- (A) records the permanent seal number on the log; and
- (B) collects the piece of paper described in subsection (k);

the person is provided with that seal. The person must

(2) Immediately and firmly affix the seal to the leg of the turkey as follows:

(A) Directly above the temporary transportation tag: piece of paper described in subsection (k) for a turkey taken during the spring season.

(B) Through a section of skin or flesh to prevent its removal (without cutting the seal or the body part to which it is affixed) for a turkey taken in the fall season.

The permanent seal must remain affixed until processing of the turkey begins. The official turkey checking station operator shall accurately and legibly complete all forms provided by the department and make those forms available to department personnel on request.

(4) Each of the following individuals must tag a turkey carcass immediately after taking with a paper that states the name and address of the individual and the date the turkey was taken:

(1) A lifetime license holder.

(2) A youth license holder.

(3) For a wild turkey taken on a landowner's land; each of the following:

(A) The resident landowner.

(B) The spouse of the resident landowner.

(C) A child of the resident landowner who is living with the landowner.

(4) For a wild turkey taken on land leased from another person; each of the following:

(A) The resident lessee who farms the land.

(B) The spouse of the resident lessee.

(C) A child of the resident lessee who is living with the lessee.

(5) An Indiana serviceman or servicewoman hunting under IC 14-22-11-11.

(m) The feathers and beard of a wild turkey must remain attached while the wild turkey is in transit from the site where taken. (Natural Resources Commission; 312 IAC 9-4-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2710; filed May 28, 1998, 5:14 p.m.: 21 IR 3715; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1533; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 541; filed May 25, 2005, 10:15 a.m.: 28 IR 2946)

SECTION 14. 312 IAC 9-5-11, AS ADDED AT 28 IR 546, SECTION 19, IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-11 Turtle possession permit

Authority: IC 14-22-2-6; IC 14-22-26-3; IC 14-22-34-17

Affected: IC 4-21.5; IC 14-22

Sec. 11. (a) Except as provided in subsection (b), this section establishes the requirements for a special purpose that a person must satisfy to possess a turtle possession permit that is listed in section 7(c) of this rule.

(b) Only an Indiana resident can qualify for a permit under this section. An application must be made on a departmental form. Exempted from this section is any:

(1) species of turtle that is possessed lawfully under section 2, 3, or 6 of this rule; and any

(2) endangered species of native turtle that is possessed lawfully under 312 IAC 9-11.

(c) The department shall not issue a permit under this section to possess a turtle that is listed as endangered under section 4 of this rule.

(d) A person must be an Indiana resident to receive a permit under this section.

(e) (e) A person must submit, on a departmental form, an application must be made for a permit under this section within ten (10) days after taking possession of a native turtle. that was not taken from the wild or for The possession of an eastern box turtle that was application must show the person lawfully acquired by obtained the person before January 1, 2005. A person does not violate section 6 of this rule if the person obtains a permit under this section for an eastern box turtle. An application must show the For a turtle that was lawfully acquired: obtained:

(1) a receipted invoice;
(2) a bill of lading; or
(3) other evidence approved by the director;
must accompany the application. ~~To permit a turtle from outside Indiana, the turtle must have been taken lawfully and must be accompanied by~~ A certificate of veterinary inspection from the state of origin **must accompany an application for a turtle obtained outside Indiana.**

(d) (f) If supported by appropriate documentation, an unlimited number of native turtles that were legally obtained but not taken from the wild may be possessed under this permit.

(e) (g) A conservation officer shall inspect each cage or enclosure before a permit can be issued. A turtle must be:
(1) quarantined for at least thirty (30) days and display no signs of illness before being placed with other turtles; ~~A turtle must be~~
and
(2) confined in a cage or other enclosure that:
(A) makes escape of the animal unlikely; and
(B) prevents the entrance of free-roaming turtles.

The cage or enclosure must provide the turtle with ample space for exercise and to avoid overcrowding. Each turtle shall be handled, housed, and transported in a sanitary and humane manner. Mature male and female turtles of the same species must be caged separately. Upon request by a conservation officer, an applicant must make any cage or enclosure available for inspection.

(f) (h) A turtle possessed under this section:
(1) must not be:
(A) bred;
(B) sold;
(C) traded;
(D) bartered; or
(E) released into the wild; ~~A turtle possessed under this section and~~
(2) may be given only to an individual who possesses a permit under this section.

(g) (i) ~~A native~~ turtle with a straight-line carapace length of four (4) inches or greater ~~held under this permit~~ must be permanently marked with a unique passive integrated transponder (pit tag) implanted under the skin. Only pit tags that can be read by an AVID Reader may be implanted. **The director may, however, approve a temporary identification method for use on a sick or injured turtle.**

(h) (j) A permit holder must not commercially advertise adoption services.

(k) ~~A turtle possessed under this section~~ **permit holder** must not be publicly displayed ~~except under an~~ **place a turtle on public display unless the person also possesses an** educational permit issued under 312 IAC 9-10-9.5.

(i) (l) A copy of the records must be kept on the premises of the permit holder for at least two (2) years after the turtle was obtained, and a copy must be provided to a conservation officer upon request. The records shall include the following:

- (1) The:
 - (A) taxa;
 - (B) number;
 - (C) carapace length; and
 - (D) weight;of each turtle obtained.
- (2) The:
 - (A) complete name;
 - (B) address; and
 - (C) telephone number;of the person from whom a turtle was obtained.
- (3) The date obtained.
- (4) The unique passive integrated transponder code of each implanted turtle.

(j) **(m)** A conservation officer:

(1) may enter the premises of the permit holder at all reasonable hours to inspect:

(A) those premises; and

(B) any records relative to the permit; ~~The conservation officer~~

(2) shall immediately notify the permit holder if the inspection reveals a turtle is being kept under unsanitary or inhumane conditions; ~~A conservation officer and~~

(3) may make a second inspection after ten (10) days ~~and the to determine if any permit may be suspended or revoked under IC 4-21.5; and the turtles may be confiscated; if deficiency has been corrected that was reported to the permit holder. fails to comply with the permit.~~

~~(k)~~ **(n)** A permit expires on ~~December 31~~ **June 30** of the year the permit was issued.

(o) The permit holder must provide an annual report to the division by ~~February~~ **July** 15 of each year with the following information: ~~for each turtle possessed under this permit:~~

(1) The taxa and number of each native turtle. ~~obtained:~~

(2) The:

(A) complete name;

(B) address; and

(C) telephone number;

of the person from whom a turtle was obtained.

(3) The date ~~the turtle was~~ obtained.

(4) The unique passive integrated transponder code of each implanted turtle **or another type of unique identification.**

(p) A permit may be suspended, denied, or revoked **and any turtle confiscated**, under IC 4-21.5, if the permit holder fails to comply with any of the following:

(1) A permit issued under this section.

(2) This article.

(3) Another applicable state, local, or federal law.

(Natural Resources Commission; 312 IAC 9-5-11; filed Sep 23, 2004, 3:00 p.m.: 28 IR 546)

SECTION 15. 312 IAC 9-10-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-5 Taxidermist licenses

Authority: IC 14-22-2-6; IC 14-22-21

Affected: IC 4-21.5; IC 14-22

Sec. 5. (a) A license is required under this section for an individual who performs taxidermy services on a wild animal for another person.

(b) An application for a taxidermist license shall be completed on a departmental form.

(c) A license holder must maintain accurate records, on a calendar year basis, showing the names and addresses of persons from or to whom wild animals were received or delivered. The records shall:

(1) include the:

(A) species and numbers of wild animals; and ~~the~~

(B) dates of receipt and delivery; ~~The records shall and~~

(2) be retained at the premises of the license holder for at least two (2) years after the end of the license year.

A copy of the records must be provided to a conservation officer upon request.

(d) ~~A person who delivers~~ **The carcass or any part or portion of** a wild animal **that is delivered** to a taxidermist must ~~tag the carcass~~ **be tagged** with the following information:

(1) The name and address of the person making delivery to the taxidermist.

(2) The species of animal.

(3) The:

(A) date and manner; ~~the animal was obtained. and~~

**(B) location, including the county and state, where;
the animal was obtained.**

(e) A taxidermist shall not remove from the carcass, except during active taxidermy operations, the tag described in subsection (d).

(f) A taxidermist may sell a lawfully acquired and mounted specimen of wild animal, where **the**:

(1) ~~the~~ tag is affixed; and

(2) ~~the~~ sale is immediately recorded in a log book.

(g) A taxidermist shall not possess a wild animal taken outside the season except under a permit obtained from the department under this subsection. A permit for a special taxidermy mount of a protected species may be granted under this subsection only to an agency or institution ~~which~~ **that** engages in wildlife education or research as a primary function.

(h) Any:

(1) record, tag, log book, or other documentation required under this section; and ~~any~~

(2) storage or work area;

of a taxidermist shall be made available upon request for inspection by a conservation officer.

(i) A federal taxidermy permit is required to perform taxidermy work on **any** migratory ~~birds~~: **bird except a mute swan.**

(j) A license may be suspended, denied, or revoked under IC 4-21.5 if the license holder fails to comply with any of the following:

(1) A provision of a license issued under this section.

(2) IC 14-22-21.

(Natural Resources Commission; 312 IAC 9-10-5; filed May 12, 1997, 10:00 a.m.: 20 IR 2729; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 16. 312 IAC 9-10-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-11 Nuisance wild animal control permit

Authority: IC 14-22-2-6; IC 14-22-28

Affected: IC 14-22; IC 35-46-3-12

Sec. 11. (a) The director may without fee issue a temporary permit to control a nuisance wild animal that is:

(1) causing damage or threatening to cause damage to property; or

(2) posing a health or safety threat to persons or domestic animals.

The method of control and disposition of the animal shall be set forth in the permit.

(b) A wild animal taken under this section shall not be:

(1) possessed for more than forty-eight (48) hours; and ~~shall not be~~

(2) sold;

(3) traded;

(4) bartered; or

(5) gifted.

(c) A property owner or lessee may obtain a permit under this section for the control of a nuisance wild animal.

(d) A person who charges a fee or provides a service to the public for nuisance wild animal control services must obtain a permit under this subsection to assist a property owner or lessee with the control of a nuisance wild animal. The following testing requirements apply:

(1) A permit applicant must correctly answer at least eighty percent (80%) of the questions on a written examination of basic knowledge supervised and administered by the division of fish and wildlife.

(2) A permittee who has satisfied subdivision (1) must, within four (4) years of being issued the permit, either:

(A) satisfy the same requirements as are set forth in subdivision (1) on another examination; or

(B) complete thirty-two (32) hours of continuing education as approved by the division.

(3) A person who fails an examination under this section may retake the examination one (1) additional time within forty-five (45) days, but not again within one hundred eighty (180) days after a second failure.

(e) A person who does not hold a permit under subsection (d) may assist a permittee, but only if the permittee directly supervises the unpermitted person. A copy of the permit must be on the person when conducting any authorized activities.

(f) A captive animal must be handled in an expeditious and humane manner in compliance with IC 35-46-3-12.

(g) Permittees may use the following:

(1) Firearms if possessed and used in compliance with all applicable state, local, and federal firearm laws.

(2) Steel and live traps, except for the following:

(A) A foothold trap:

(i) possessing saw-toothed or spiked jaws; **or**

~~(B) A foothold trap~~ (ii) sized #3 or larger without offset jaws unless the trap is completely covered with water.

~~(C) (B) A Conibear, Dahlgren, Bigelow, or other killer trap that is:~~

(i) eight (8) inches or larger in diameter; ~~or is~~

(ii) larger than eight (8) inches by eight (8) inches unless the trap is completely covered by water.

(3) Snares with a circumference no greater than fifteen (15) inches unless:

(A) at least fifty percent (50%) of the loop of the snare is covered by water; **or**

(B) the snare employs a relaxing snare lock (a lock that will allow the snare's loop size to increase once pulling tension is no longer exerted along the snare from its anchored end).

(h) All traps must be checked at least once every twenty-four (24) hours.

(i) The following restrictions apply to the treatment of an animal captured live under this permit:

(1) When on-site release is not the best viable option, the animal must be:

(A) released in the county of capture;

(B) euthanized; **or**

(C) treated as otherwise authorized in the permit.

(2) An animal must be euthanized with the:

(A) safest;

(B) quickest; **and**

(C) most painless;

available method as recommended and approved by the division of fish and wildlife.

(3) Prior consent is required from the:

(A) landowner; **or the**

(B) landowner's agent;

before an animal is released on any property.

(j) A permit expires on December 31 of the year the permit is issued. The permittee must maintain a current record to include the following:

(1) The name and address of the landowner assisted.

(2) The date assistance was provided.

(3) The number and species of animals affected.

(4) The method of disposition.

A copy of the records shall be kept on the premises of the permittee for at least two (2) years after the transaction and must be presented to a conservation officer upon request.

(k) A permittee must file an application by January 15 of each year in order to renew a permit. The annual report required under subsection (l) must accompany the renewal application.

(l) The permit holder shall provide an annual report to the division by January 15 of each year. The report shall list the following:

(1) The:

(A) number; ~~of animals taken.~~ **and**

- ~~(2)~~ **(B)** species;
of animals taken.
- ~~(3)~~ **(2)** The county where the animal was captured.
- ~~(4)~~ **(3)** The method of disposition.
- ~~(5)~~ **(4)** The county where released (if applicable).

(m) A permit issued under this section may be suspended or revoked if the permittee **does the following:**

- (1) Fails to comply with **any of the following:**
 - (A)** IC 14-22. ~~or~~
 - (B)** This article.
- ~~(2)~~ **Fails to comply with (C)** A term of the permit.
- ~~(3)~~ **(2)** Provides false information to obtain a permit under this section.
- ~~(4)~~ **(3)** Uses or employs any:
 - (A)** deception;
 - (B)** false pretense; or
 - (C)** false promise;to cause a consumer to enter into an agreement for the removal of a nuisance wild animal.

(n) No permit shall be issued under this section:

- (1) for the control of a migratory bird **except a mute swan;**
- (2) for a wild animal that is identified under this article as:
 - (A)** an endangered; ~~species~~ or
 - (B)** a threatened;species; or
- (3) if granting the permit would violate a federal law.

(Natural Resources Commission; 312 IAC 9-10-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2732; filed Oct 28, 2002, 12:03 p.m.: 26 IR 692; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 17. 312 IAC 9-10-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-12 Fur buyers' licenses

Authority: IC 14-11-2-1; IC 14-22-2-6; IC 14-22-19

Affected: IC 14-22-19-3

Sec. 12. (a) This section applies to a person who is issued a fur buyer's license under IC 14-22-19-3.

(b) **Except as otherwise provided in this subsection,** a licensed fur buyer may possess the carcasses and untanned hides:
(1) of furbearing mammals ~~which that~~ are lawfully taken in season for not more than sixty (60) days after the last day of that season; **and**

(2) for bobcats, river otters, and badgers, for not more than sixty (60) days from receipt of the carcass or untanned hide.

(c) **A licensed fur buyer must do the following:**

(1) Not possess the carcass or untanned hide or any part of a bobcat, river otter, or badger unless the carcass, untanned hide, or part was lawfully acquired outside Indiana.

(2) Document lawful acquisition by providing from the seller a legible copy of any:

- (A)** tag;
- (B)** receipt;
- (C)** hunting license;
- (D)** trapping license;
- (E)** permit; or
- (F)** other appropriate record;

from the state or country where the animal, including any part or portion of the animal, was acquired.

~~(e)~~ **(d)** Notwithstanding subsection (b), a licensed fur buyer may, as authorized by the division director, possess a carcass or untanned hide in excess of sixty (60) days after the:

(1) close of a season; or
(2) receipt of a carcass or untanned hide of a bobcat, river otter, or badger;
upon the submission of a report identifying the species, number, and location that furs or carcasses are kept.

(e) A licensed fur buyer must issue a valid, dated receipt for any wild animal that is sold, traded, bartered, or gifted. The receipt must include the following information:

- (1) The fur buyer's license number.
- (2) The buyer's and the seller's names and addresses.
- (3) The:
 - (A) number; and
 - (B) species;
of animals sold.

(Natural Resources Commission; 312 IAC 9-10-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2732; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 18. 312 IAC 9-11-13 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-11-13 Confining, enclosing, and housing for particular wild animals

Authority: IC 14-22-26

Affected: IC 14-22

Sec. 13. (a) This section sets standards for:

- (1) confining;
- (2) enclosing; and
- (3) housing;

particular kinds of wild animals ~~which~~ **that** must be satisfied by a person licensed under this rule.

(b) Rabbits must be provided with the following:

- (1) Bone, wood, or fibrous food to gnaw.
- (2) The:
 - (A) walls;
 - (B) roof; and
 - (C) floor;

of the cage shall be constructed with mesh having openings not more than one and one-half (1½) inches.

(c) Squirrels must be provided with the following:

- (1) Climbing perches.
- (2) Nest boxes with:
 - (A) wood shavings; or
 - (B) another approved material.
- (3) ~~For fox squirrels and gray squirrels;~~ The walls, roof, and floor of the cage shall be constructed with mesh having openings not more than **as follows**:
 - (A) **For fox squirrels and gray squirrels**, one (1) inch.
 - ~~(B) For flying squirrels: the walls, roof, and floor of the cage shall be constructed with mesh having openings not more than~~
 - (i) three-fourths (¾) of an inch; or
 - (ii) one (1) inch by one-half (½) inch;
maximum mesh.

(d) Beavers must be provided with the following:

- (1) Nest boxes or other sheltered retreats.
- (2) Gnawing logs.
- (3) A pool of fresh water with easy access. ~~Half~~ **One-half** (½) of the required floor space shall be a pool of water at least two and one-half (2½) feet deep.
- (4) The walls, roof, and floor of the cage shall be constructed of at least:
 - (A) eleven and one-half (11½) gauge chain link; or

(B) the equivalent.

A six (6) inch overhang or the equivalent containment may be substituted for a full roof.

(e) Coyotes must be provided with the following:

(1) A sheltered retreat and either:

(A) a den; or

(B) an elevated wood platform.

(2) A cage floor shall have a three (3) foot barrier or apron around the inside of the cage. The barrier shall be constructed of one (1) inch by two (2) inch maximum mesh. The mesh shall be made from:

(A) nonrusting, galvanized welded steel; or

(B) an equivalent material.

(3) The:

(A) walls;

(B) roof; and

(C) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh.

(f) Foxes must be provided with the following:

(1) A sheltered retreat and either:

(A) a den; or

(B) an elevated wood platform.

(2) Limbs.

(3) The cage floor shall have a three (3) foot barrier or apron around the inside of the cage. The barrier shall be constructed of one (1) inch by two (2) inch maximum mesh. The mesh shall be made from:

(A) nonrusting, galvanized welded steel; or

(B) an equivalent material.

(4) The:

(A) walls;

(B) roof; and

(C) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh.

(g) Minks must be provided with the following:

(1) A nest box or sheltered retreat with bedding.

(2) Limbs.

(3) The:

(A) walls;

(B) roof; and

(C) floor;

of the cage shall be constructed with mesh not larger than one (1) inch.

(h) Muskrats must be provided with the following:

(1) A nest box or sheltered retreat.

(2) Gnawing logs.

(3) A pool of fresh water with easy access. ~~Half~~ **One-half** (½) of the required floor space shall be a pool of water at least two and one-half (2½) feet deep.

(4) The:

(A) walls;

(B) roof; and

(C) floor;

of the cage shall be constructed with mesh ~~which that~~ is not larger than one and one-half (1½) inches.

(i) Opossums must be provided with the following:

(1) A nest box or sheltered retreat.

(2) Limbs.

(3) The:

- (A) walls;
- (B) roof; and
- (C) floor;

of the cage shall be constructed with mesh ~~which~~ **that** is not larger than two (2) inches.

(j) Raccoons must be provided with the following:

(1) A nest box or sheltered retreat.

(2) Limbs.

(3) A:

- (A) wading pool; or
- (B) water container;

appropriate to the size of the animal.

(4) The:

- (A) walls;
- (B) roof; and
- (C) floor;

of the cage shall be constructed with mesh ~~which~~ **that** is not larger than two (2) inches.

(k) Skunks must be provided with the following:

(1) A nest box or sheltered retreat.

(2) The:

- (A) walls;
- (B) roof; and
- (C) floor;

of the cage shall be constructed with mesh ~~which~~ **that** is not larger than two (2) inches.

(l) Weasels must be provided with the following:

(1) A nest box or sheltered retreat.

(2) Limbs.

(3) ~~For long-tailed weasels,~~ The walls, roof, and floor of the cage shall be constructed from mesh ~~which~~ **that** is not larger than **as follows:**

(A) **For long-tailed weasels,** one (1) inch.

~~(B) For least weasels, the walls, roof, and floor of the cage shall be constructed from mesh which is not larger than one-half (½) inch.~~

(m) Wolves must be provided with the following:

(1) A sheltered retreat and either:

- (A) a den; or
- (B) an elevated wood platform.

(2) The walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:

- (A) a two and one-half (2½) inch maximum mesh; or
- (B) the equivalent.

(3) A three (3) foot incline at the top of an eight (8) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(n) Bears must be provided with the following:

(1) For sun bears, Asiatic bears, sloth bears, and spectacled bears, the following:

(A) A den with shavings, straw, or a wooden platform or flooring for reclining. The den shall:

- (i) have a floor space of at least four (4) feet by four (4) feet; and ~~shall~~
- (ii) be at least four (4) feet high.

(B) A suitable scratching post.

(C) An indestructible pool or tub. The pool or tub shall:

- (i) contain at least twelve and one-half (12½) feet of surface area; and

(ii) be at least two (2) feet deep.

(D) The:

(i) walls;

(ii) roof; and

(iii) floor;

of the cage shall be constructed of not less than nine (9) gauge steel chain link.

(E) For:

(i) sun bears;

(ii) sloth bears; and

(iii) spectacled bears;

an artificial heat source that is sufficient to maintain a minimum ambient air temperature of forty-five (45) degrees Fahrenheit. (45°F).

(2) For American black bears, European brown bears, and Russian brown bears, the following:

(A) A den with shavings, straw, or a wooden platform or floor for reclining. The den shall:

(i) have a floor space of at least four (4) feet by six (6) feet; and ~~shall~~

(ii) be at least four (4) feet high.

(B) A suitable scratching post.

(C) An indestructible pool or tub. The pool or tub shall:

(i) contain at least twenty-eight (28) square feet of surface area; and

(ii) be at least three (3) feet deep.

(D) The:

(i) walls;

(ii) roof; and

(iii) floor;

of the cage shall be constructed of not less than nine (9) gauge steel chain link.

(3) For polar, grizzly, and Kodiak bears, the following:

(A) A den with shavings, straw, or a wooden platform or flooring for reclining. The den shall:

(i) have a floor space of at least six (6) feet by six (6) feet; ~~of floor space and shall~~

(ii) be at least six (6) feet high.

(B) A suitable scratching post.

(C) An indestructible pool or tub. The pool or tub shall:

(i) contain at least seventy-eight (78) square feet of surface area; and

(ii) be at least three (3) feet deep.

(D) The:

(i) walls;

(ii) roof; and

(iii) floor;

of the cage shall be constructed of not less than six (6) gauge steel chain link.

(o) Cats must be provided with the following:

(1) For lions, tigers, cheetahs, snow leopards, and their hybrids, the following:

(A) A den adequate to provide privacy and comfort for all animals in the enclosure.

(B) An elevated:

(i) wooden loafing platform; or ~~an elevated~~

(ii) dry natural substrate loafing area;

large enough for all animals in the enclosure.

(C) A tree limb or other suitable scratching block.

(D) For lions and tigers, the walls, roof, and floor of the cage shall be constructed of not less than nine (9) gauge steel chain link with:

(i) a two and one-half (2½) inch mesh maximum; or

(ii) the equivalent.

A three (3) foot incline at the top of a fourteen (14) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(E) For cheetahs and snow leopards, the walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:

- (i) a two and one-half (2½) inch mesh maximum; or
- (ii) the equivalent.

For cheetahs, a three (3) foot incline at the top of the eight (8) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(F) For lions and cheetahs, an artificial heat source that is sufficient to maintain a minimum ambient air temperature of forty-five (45) degrees Fahrenheit. ~~(45°F)~~.

(2) For black leopards, spotted leopards, jaguars, clouded leopards, mountain lions (also sometimes called pumas or cougars), European lynxes, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

(i) wood loafing platform; or ~~an elevated~~

(ii) dry natural substrate loafing area;

within the enclosure.

(C) A tree limb or other suitable scratching block.

(D) For black leopards, spotted leopards, jaguars, and mountain lions, the walls, roof, and floor of the cage shall be constructed of not less than nine (9) gauge steel chain link with:

(i) a two and one-half (2½) inch mesh maximum; or

(ii) the equivalent.

(E) For black leopards, spotted leopards, jaguars, and mountain lions, a three (3) foot incline at the top of a fourteen (14) foot wall may be substituted for a full roof. The height of the fence is measured to the top of the incline. The incline must be forty-five (45) degrees.

(F) For clouded leopards and European lynxes, the walls, roof, and floor of the cage shall be constructed of not less than eleven and one-half (11½) gauge steel chain link with:

(i) a two and one-half (2½) inch maximum mesh; or

(ii) the equivalent.

(3) For caracals, Canada lynxes, golden cats, ocelots, servals, jungle cats, fishing cats, **bobcats**, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

(i) wooden loafing platform; or ~~an elevated~~

(ii) dry natural substrate loafing area;

large enough for all animals within the enclosure.

(C) A tree limb or other suitable scratching block.

(D) The:

(i) walls;

(ii) roof; and

(iii) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh. Any weld must be as strong as the wire.

(E) ~~For golden cats~~; An artificial heat source that is sufficient to maintain a minimum ambient air temperature of **as follows**:

(i) **For golden cats**, forty-five (45) degrees Fahrenheit. ~~(45°F)~~;

~~(F) (ii) For jungle cats and serval cats, an artificial heat source that is sufficient to maintain the ambient air temperature of fifty-five (55) degrees Fahrenheit. (55°F)~~;

(4) For margays, leopard cats, pallas cats, marble cats, Geoffrey's cats, African wild cats, European wild cats, jaguarundis, little spotted cats, African black footed cats, sand cats, flatheaded cats, pampas cats, and their hybrids, the following:

(A) Dens large enough to provide privacy and comfort to all animals in the enclosure.

(B) An elevated:

(i) wooden loafing platform; or ~~an elevated~~

(ii) dry natural substrate loafing area;

large enough for all animals within the enclosure. The top of the den or den box may be designed to meet this requirement.

(C) A tree limb or other suitable scratching block.

(D) The:

(i) walls;

(ii) roof; and

(iii) floor;

of the cage shall be constructed of one (1) inch by two (2) inch maximum mesh. Any weld must be as strong as the wire.

(E) ~~For pallas cats~~; An artificial heat source that is sufficient to maintain a minimum ambient air temperature of **as follows**:

(i) For pallas cats, forty-five (45) degrees Fahrenheit. (~~45°F~~) shall be provided.

(~~ii~~) For Geoffrey's cats, leopard cats, African wild cats, little spotted cats, African black footed cats, sand cats, flat headed cats, and pampas cats, an artificial heat source that is sufficient to maintain a minimum ambient air temperature of fifty-five (55) degrees Fahrenheit. (~~55°F~~).

(Natural Resources Commission; 312 IAC 9-11-13; filed May 12, 1997, 10:00 a.m.: 20 IR 2741; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 29, 2005 at 5:00 p.m., at the Conference Room, Atterbury Fish and Wildlife Area Office, 7970 South Rowe Street, Edinburgh, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to 312 IAC 9 concerning taking, chasing, and possessing wild animals; fishing, hunting, and trapping without a license by owners and lessees of farmland; tagging requirements for deer hunting; hunting deer by firearms; coyotes; bobcats; river otters; badgers; endangered species of mammals; migratory birds and waterfowl; mute swans; tagging requirements for wild turkey hunting; turtle possession permits; taxidermist licenses; nuisance wild animal control permits; fur buyers' licenses; and confining, enclosing, and housing bobcats under a wild animal possession permit.

The natural resources commission has the authority to adopt the proposed rules under IC 14-10-2-4 and under IC 14-22-2-6. As more particularly described in the foregoing IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses, the department of natural resources has estimated that some small businesses will be directly affected by some of the proposed changes. These impacts are believed offset by the agency's statutory responsibilities for protection of natural resources, including wild animals, as well as for the long term sustainability of the resources used by the affected small businesses.

Copies of the proposed rules (together with any data, studies, or analyses relied upon under IC 4-22-2-24(d)) are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana and are open for public inspection.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission