

Notice of Public Hearing

LSA Document #09-486

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Under [IC 4-22-2-24](#), notice is hereby given that on January 7, 2010, at 6:00 p.m., at the Pike Township Public Library, 6525 Zionsville Road, Meeting Room, Indianapolis, Indiana, the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9-10-4](#) governing game breeder licenses to clarify requirements for the housing and sale of wild animals possessed under the license, including white-tailed deer.

[IC 4-22-2-24\(d\)\(3\)](#) Statement: The changes to the proposed rule in this package from the Department of Natural Resources (DNR) govern the game breeder license. These amendments remove southern flying squirrels from the list of animals that can be possessed under this license, clarify how wild animals can be obtained and possessed, specify the purposes for keeping the wild animals, as well as clarify record keeping requirements for wild animals possessed under this license. Additional amendments clarify the requirements for the housing and sale of wild animals possessed under the license. Furthermore, additional changes deal with inspections by conservation officers to help eliminate stress to animals possessed under this license, help prevent the spread of disease, and clarify when violations must be corrected.

The changes that clarify requirements for the possession, housing, and sale of white-tailed deer were initiated by the Indiana Deer and Elk Farmers Association (IDEFA) in order to provide licensed game breeders with more detailed information to maintain compliance with the rule. Staff from the DNR met with several board members and attorneys with the IDEFA to discuss and develop the rule language. The rule language that has been added to specify how the wild animals can be obtained and kept under this license simply clarifies what is currently allowed by the statute governing game breeder licenses in [IC 14-22-20-1](#) and [IC 14-22-20-2](#).

These rule changes do have the potential to impose costs or requirements on small businesses. The specific housing and record keeping requirements may impose costs on businesses that are licensed game breeders if they do not currently meet these requirements. The administrative requirements for keeping an inventory and issuing proper receipts may create additional administrative costs on businesses. However, an inventory and the majority of the record keeping requirements are already required in the rule. These changes simply make modifications to specify that the records and receipts must be in ink or on an electronic (computerized) record and include a list of the animals or their products that are sold. The deer identification and disease-testing requirements are currently required by the Indiana State Board of Animal Health in [345 IAC 2-7](#) but are being added into this rule to help ensure compliance.

The statutory authority for this license ([IC 14-22-20](#)) only allows game or furbearing mammals (which are defined by statute in [IC 14-8-2-108](#)) and nonmigratory game birds to be possessed under this license. Southern flying squirrels are not a game species in Indiana because there is no open season that allows them to be taken from the wild, and they are not a furbearing mammal as defined in state statute. There are only three game breeders currently licensed to breed and sell southern flying squirrels, so the removal of the southern flying squirrel from the list of animals authorized under this license is not likely to impact revenue for the Fish and Wildlife Fund (3420/130300).

The number of licensed game breeders in Indiana that will be affected by these rule changes is approximately 515. Two hundred sixty-six of these possess white-tailed deer, and three possess southern flying squirrels. Although there are alternatives for some of the rule amendments, the DNR does not believe that any are needed for the following reasons. First of all, the majority of game breeders that are currently licensed by the DNR and are businesses in the state of Indiana are already in compliance with these provisions. For example, an 8-foot fence is already required in the rule for white-tailed deer and the enclosure must already prevent escape of the deer. However, some businesses may not be in compliance and may need to modify fencing or record keeping practices, resulting in additional costs. Secondly, in order for these rule provisions to be required for licensed game breeders and enforced by conservation officers, they must be in administrative rule. Furthermore, the IDEFA requested that many of these changes be put into the administrative rule in an effort to limit various interpretations by DNR conservation officers of existing rule language and help ensure that game breeders understand the rule that they must comply with.

The housing requirements in subsections [312 IAC 9-10-4\(k\)](#) through [312 IAC 9-10-4\(m\)](#) were drafted at the request and approval of the IDEFA. Sources of information for determining costs and benefits were obtained from board members of the IDEFA, DNR conservation officers, and staff from the DNR Division of Fish and Wildlife. The number of licensed game breeders was obtained from the DNR Division of Fish and Wildlife's database of license holders.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

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