

## Notice of Public Hearing

LSA Document #17-436

## Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on March 14, 2018, at 5:30 p.m., at the Spring Mill Inn, Spring Mill State Park, 3333 State Road 60 East, Lakeview Room, Mitchell, Indiana **AND** on March 22, 2018, at 5:30 p.m., at the Mounds State Park, Pavilion, 4306 Mounds Road, Anderson, Indiana, the Natural Resources Commission will hold a public hearing on proposed amendments to [312 IAC 9](#). The proposal amends [312 IAC 9-2-2](#) to allow the use of motor driven conveyances to hunt squirrels; amends [312 IAC 9-2-3](#) to allow bobcats and their parts to be sold; amends [312 IAC 9-2-11](#) governing the taking or chasing of wild animals, except fish, on state parks and historic sites. The proposed rulemaking adds [312 IAC 9-2-16](#) governing the release of captive-bred mammals, reptiles, amphibians, and mussels; amends [312 IAC 9-3-12](#) governing the taking of foxes, coyotes, and skunks; amends [312 IAC 9-3-13](#) governing the taking of minks, muskrats, and long-tailed weasels; amends [312 IAC 9-3-14](#) governing the taking of raccoons and opossums; amends [312 IAC 9-3-14.5](#) governing the possession of furbearing mammals; amends [312 IAC 9-3-18.1](#) governing the taking of bobcats; amends [312 IAC 9-3-18.2](#) governing the trapping of river otters; amends [312 IAC 9-3-18.4](#) by removing the prohibition on the possession of the carcass, hide, or any part of a bobcat; amends [312 IAC 9-3-18.5](#) governing exotic mammals; adds [312 IAC 9-3-18.7](#) governing the take of bats. The proposed rule adds [312 IAC 9-3-18.8](#) governing black bears; amends [312 IAC 9-3-19](#) governing endangered species of mammals; amends [312 IAC 9-4-2](#) governing general requirements for migratory birds and waterfowl; amends [312 IAC 9-4-11](#) governing wild turkey hunting; amends [312 IAC 9-4-14](#) governing endangered species of birds; amends [312 IAC 9-9-4](#) governing endangered species of invertebrates; amends [312 IAC 9-10-4](#) governing the game breeders license; amends [312 IAC 9-10-11](#) governing the nuisance wild animal control permit; amends [312 IAC 9-10-12](#) governing fur buyers' licenses. The proposal adds [312 IAC 9-10-25](#) to establish a deer control permit; adds [312 IAC 9-10-26](#) to establish a propagation permit for endangered species; and amends [312 IAC 9-11-2](#) governing the wild animal possession permit.

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement: [312 IAC 9-2-2](#): This rule would allow squirrel hunters to hunt squirrels from a motorboat to allow additional opportunities to hunt from waterways.

[312 IAC 9-2-3](#): This rule change will allow the sale of any portion of a bobcat, including the hide that is lawfully acquired. With the proposed change to open a bobcat season in [312 IAC 9-3-18.1](#), this change is also needed to allow for the sale of their hides and other parts.

[312 IAC 9-2-11](#): This rule allows state park employees and those authorized by employees to remove specified nuisance wild animals. This allows employees to take care of nuisance wild animals quickly to eliminate conflicts with park visitors. Wild animals can destroy property and carry diseases, creating a need to remove them as quickly as possible.

[312 IAC 9-2-16](#): This rule would not allow a person to release captive-bred native or exotic species into the wild and not authorized already under a permit (such as the game breeder's license and importation permit). These animals could spread diseases or parasites to our native populations or outcompete them for food and other resources. Exotic species of reptiles and amphibians can spread diseases or parasites to native populations, or outcompete them for food and den sites in areas where they can survive in the wild in Indiana. There is currently no prohibition on the release of captive-bred, native species of reptiles and amphibians that are obtained in Indiana except for those that were held under a wild animal possession permit, turtle possession permit, or reptile captive breeder license. There is currently no prohibition on the release of exotic species into the wild, unless they are imported from another state.

[312 IAC 9-3-12](#): This rule change eliminates the starting and ending times for hunting and trapping coyotes and striped skunks so that hunters and trappers can take them as soon as the season opens and eliminates confusion in starting times between hunters and trappers.

[312 IAC 9-3-13](#): This rule change eliminates the starting and ending times for taking mink, muskrat, and long-tailed weasels so that hunters and trappers can take them as soon as the season opens.

[312 IAC 9-3-14](#): This rule change eliminates the starting and ending times for hunting and trapping raccoons and Virginia opossums so that hunters and trappers can take them as soon as the season opens and eliminates confusion in starting times between hunters and trappers.

[312 IAC 9-3-14.5](#): This rule allows hunters and trappers to hold onto their raw furs and carcasses year-round without a special permit or authorization. In recent years, the prices for the hides of furbearers have risen and fallen with market demands. Local and overseas markets are the main driver in these fluctuations. Currently, fur harvesters (hunters and trappers) are required to sell or market their untanned hides and carcasses by May 15th or June 15th (if the individual submits a report to the department indicating the number of untanned) pursuant to [312 IAC 9-3-14.5\(d\)](#). Allowing fur harvesters to retain their untanned hides or carcasses year-round will allow

individuals to sell/market their hides at a time when values appear to be at their highest, providing greater flexibility and a possible economic incentive/benefit to the fur harvester, as well as help landowners who may experience property damage or crop damage from these species.

[312 IAC 9-3-18.1](#): This rule would open a hunting and trapping season for bobcats. Bobcat populations have expanded during the last two decades; incidental kills have increased with more than 60 mortalities reported annually since 2010, and the population continues to expand in the southern part of Indiana. The population in southern Indiana is sufficient to withstand a regulated harvest and this resource can be utilized. State law requires the DNR to manage for viable populations, and a regulated trapping and hunting season is the best option. An increasing number of bobcats are accidentally killed via vehicle collisions and traps legally set for other species such as coyote and raccoon. At this time, bobcat cannot be retained or used by the trappers or hunters. With current fur prices, there is also the potential for these bobcat pelts and carcasses to be illegally marketed in neighboring states that have open bobcat seasons. A regulated season in Indiana will address this problem and increase recreation and economic opportunities for businesses and individuals. A season will provide successful trappers and hunters the opportunity to sell bobcat pelts to licensed fur buyers who can market these furs through international fur auctions or manufacturers.

[312 IAC 9-3-18.2](#): This change removes the starting and ending times for the river otter trapping season. Changes also allow trappers to keep the raw hides and unprocessed carcasses of river otters that have been lawfully obtained at any time of year without a special permit or authorization, allowing trappers to sell the hides when they are the most valuable.

[312 IAC 9-3-18.4](#): These changes remove bobcats from these restrictions since they would be able to be lawfully taken in Indiana during the proposed bobcat hunting and trapping season in the changes proposed in [312 IAC 9-3-18.1](#).

[312 IAC 9-3-18.5](#): These changes remove bovidae, cervidae, and black bears from the list of exotic mammals in this rule. The DNR no longer has statutory authority over legally owned captive-bred cervidae and bovidae pursuant to a new state law in [IC 14-22-1-1.7](#). Black bears are also now naturally moving into Indiana and no longer meet the definition of exotic mammal. Additional changes remove restrictions for the possession and release of exotic mammals listed in this rule.

[312 IAC 9-3-18.7](#): This rule is needed to deal with the taking of endangered species of bats since the three additional species proposed to be added to the state's endangered species list in [312 IAC 9-3-19](#) can be found in buildings and other structures, posing a health threat to humans. Therefore, the rule provides the ability to take bats year-round that are believed to be a health risk and in a residence, place of work, or outbuildings used by people and specifies the permits that allow the taking of bats.

[312 IAC 9-3-18.8](#): Adds a rule for black bears since they are no longer an exotic mammal as defined in state law ([IC 14-8-2-87](#)). The current rule language assumes that any bears found in the wild escaped from captivity, but since that is no longer the case, the DNR needs to add a rule to deal with black bears since they are moving in from other states. In 2016, a black bear came into Indiana from Kentucky and in 2015, a black bear walked in from Michigan. The DNR would continue to prohibit their take from the wild unless they are taken when they are a known, immediate threat to a person's safety or they are causing substantial damage to private property (including livestock).

[312 IAC 9-3-19](#): This change would add the following three species of bats to the state's list of endangered species: the little brown myotis (bat), northern long-eared myotis (bat), and tri-colored bat. The little brown myotis (bat) and tri-colored bat: The Nongame Mammal Technical Advisory Committee (TAC) recommended these species be elevated from special concern to endangered due to population declines caused by white-nose syndrome (WNS), thus meeting the legal definition of an endangered species in [IC 14-22-34-1](#). Since the initial detection of WNS in Indiana in 2011, the number of little brown myotis has dropped in 18 of 20 infected hibernacula with a cumulative loss of more than 6,800 total bats (-90%) across all sites (from 7,603 pre-WNS to 794 post-WNS). Several caves are down to potentially irrecoverable levels of 10 or fewer individuals. Over the same period, the number of tri-colored bats has declined in 17 of 20 infected hibernacula with a cumulative loss of nearly 940 total bats (-71%) across all sites (from 1,323 pre-WNS to 384 post-WNS). Northern long-eared myotis: Endangered species are defined by Indiana Code to include "any species or subspecies of fish or wildlife appearing on the United States list of endangered native fish and wildlife (50 CFR 17, Appendix D)". The U.S. Fish and Wildlife Service (USFWS) listed the northern long-eared myotis as threatened on May 4, 2015.

[312 IAC 9-4-2](#): One change corrects the Harvest Information Program (HIP) registration so that it is only required for the species of birds required under federal law (50 CFR 20.20). Federal regulations in 50 CFR 20.20 do not require a person to obtain a HIP number when hunting certain species like crows or taking nuisance birds such as common grackles and red-winged blackbirds. The state's definition of migratory birds in [IC 14-8-2-162](#) includes many other species of birds that are not required under the federal regulations. An additional change to this rule would allow a live migratory bird to be captured and humanely removed from a building or enclosure/structure when it is trapped in the interior and released immediately outside the building/structure or given to a licensed rehabilitator ([312 IAC 9-4-2](#)). This is already allowed under federal law and needs to be added to the rule to provide for this same exemption. Federal regulations in 50 CFR 21.12 allow a person to humanely

remove a migratory bird that is trapped in the interior of a building (residence or commercial or government building) and release it immediately outside the building or give it to a wildlife rehabilitator (if sick, injured, or orphaned). Without being removed, the bird will die inside the building and/or cause harm to a person or to property. Since this is allowed in federal law, it is important to allow it in state law so that these birds can be captured as quickly as possible.

**312 IAC 9-4-11:** One change in this rule would allow only registered turkey hunters and those who are fishing between 4:30 a.m. and noon (central time) or 1:00 p.m. (Eastern time) in the field on property managed by the Division of Fish and Wildlife during the spring wild turkey season. Throughout most of Indiana, spring turkey season often coincides with the peak morel (mushroom) hunting season. Morel hunting on a fish and wildlife managed property is a secondary use that, during turkey season, conflicts with the primary use (turkey hunting). Morel hunters often disturb hunters and turkeys while in the field. Moreover, there is a certain amount of risk involved with having morel hunters (and other secondary users) in the field during the spring turkey season. Another change in this rule would open the fall wild turkey firearms season in Noble, Elkhart, and Kosciusko counties. Based on current spring/fall harvest ratios of adjacent counties, the total fall harvest in any of the three named counties is not expected to exceed 20-25 birds in the fall harvest. Currently, the participation and the overall harvest in the fall season are both relatively low in the first 10 years of fall turkey hunting in Indiana. After 10 years of fall turkey hunting, the mean annual harvest is less than 700 birds with approximately a 7% success rate with slightly less than 9,000 hunters participating. Fall turkey hunting is an additional hunting opportunity available to those fall hunters who choose to participate and has not negatively impacted spring hunting success under our current conservative fall season framework of one bird of either sex/hunter/fall season.

**312 IAC 9-4-14:** This change removes the osprey from the list of endangered species of birds and adds the rufa red knot to the list. The U.S. Fish and Wildlife Service ruling to list the rufa red knot as threatened became effective on January 12, 2015. Endangered species are defined by [IC 14-22-34-1](#) to include "any species or subspecies of fish or wildlife appearing on the United States list of endangered native fish and wildlife (50 CFR 17, Appendix D)". The proposed listing was also recommended by the Nongame Bird Technical Advisory Committee in 2015. For the osprey, delisting criteria (50 or more nesting territories documented for more than three years) was met in 2014 with 68 documented nesting territories and 53 successful nests. Further, 2015 was the fourth consecutive year with more than 50 nesting territories (62 active nests; minimum of 102 chicks fledged). Ospreys no longer meet the definition of an endangered species in state law because the population is no longer in jeopardy or likely to be within the foreseeable future. Osprey would still be protected as a migratory bird that could not be harmed, killed, captured, or possessed without a permit.

**312 IAC 9-9-4:** Remove the following six species of mussels from the state's list of endangered species: pyramid pigtoe, orangefoot pimpleback, pink mucket, tubercled blossom, longsolid, and white wartyback. These six species of freshwater mussels are now all considered to be extirpated from the state of Indiana. Dating back to the 1970s, freshwater mussel surveys have been completed at more than 5,000 sites in the waters of Indiana. Verifiable records of live individuals for any of the six species were not reported during any of this survey work. For most of these species, the last occurrence of a live specimen is not even known. Removing these six species from the state list of endangered invertebrates would provide a more accurate list and bring more attention to those endangered invertebrate species still living within the state.

**312 IAC 9-10-4:** These changes would allow either the National Poultry Improvement Plan certificate or the certificate of veterinary inspection to import bobwhite quail or ring-necked pheasants into Indiana, and remove the language referencing cervidae. Changes are needed to allow ring-necked pheasants and bobwhite quail and their eggs to be imported with either a certificate of veterinary inspection or National Poultry Improvement Plan certificate, which is consistent with the Board of Animal Health's rule in 345 IAC 1-3-24, and language needs to be removed that references cervidae, since captive-bred cervidae are no longer regulated by the DNR pursuant to [IC 14-22-20-1](#) and [IC 14-22-1-1.5](#).

**312 IAC 9-10-11:** Changes would require all raccoons, opossums, and coyotes taken under this permit to be euthanized (and not released somewhere else within the county) and allow endangered species of wild animals to be captured under this permit and euthanized with written authorization (currently, endangered species cannot be taken under this permit). The population of raccoons remains at a high level, with young born both in the spring and in the summer. Raccoons and opossums frequently become a nuisance when they get into attics and other buildings. Raccoons can carry and transmit various diseases, including raccoon roundworm, which can be fatal if ingested, and distemper (which can affect other canines that are not vaccinated), rabies, and parvovirus. They are also known to eat the eggs of birds and turtles, and cause damage to poultry owners by killing chickens and eating their eggs. Coyotes are also a predator of domestic cats and dogs, as well as poultry and game birds, and are common throughout the state. The coyote population appears to also be at a high level, with coyotes often found in urban and suburban areas. Euthanizing a coyote, raccoon, and opossum trapped under the nuisance wild animal control permit can prevent problems for others without harming the population. Currently, nuisance wild animal control permit holders are allowed to release them within the county of capture on land where they have permission. Property for release and permission is difficult to obtain in counties with primarily urban areas, and releasing them all on the same property only creates more problems for adjacent landowners and only



causes the animals to disperse since these species are already present on the land where released. They will have to compete with other wild animals for food, water, and shelter. The ability to take endangered species under this permit is necessary with the potential for endangered species of snakes, in particular, that can cause harm to people or domestic animals. Reporting the taking of more than five bats from any one site/structure in June and July is also needed in order to provide data to the DNR regarding maternity colonies of bats, some of which may be endangered species.

[312 IAC 9-10-12](#): These changes govern the fur buyer's license and eliminate the need for bobcats to have been acquired outside Indiana and removes the requirement to record the method of lawful acquisition for wild animals taken in (other than badgers). With the proposed bobcat season in [312 IAC 9-3-18.1](#), there is no need to require bobcats to have been acquired outside Indiana. Additionally, there is no need to record the method of lawful acquisition of animals other than badgers since they can legally be hunted or trapped.

[312 IAC 9-10-25](#): This rule adds the deer control permit that specifies the requirements for obtaining a permit. This permit is necessary to allow farmers, as well as owners of orchards, vineyards, tree farms, and other landowners the ability to take deer that are causing damage or posing a health or safety threat outside the deer hunting season, while still providing protection for the white-tailed deer population. Requirements include a minimum of \$500 in economic damage, unless there is a public health or safety threat, a time frame, a prohibition on selling any part or portion of deer that are taken, methods that can be used to take the deer, and limits on the number of deer that could be taken. Examples that support the necessity of having a rule to address the issues presented by white-tailed deer include personal protection to a homeowner and domestic animals, the discovery of bovine tuberculosis in wild deer that could spread to cattle and other livestock, and alleviating economic damage to agricultural crops, vineyards, orchards, nurseries, tree plantings, and other commercial plants established by humans. The issues affect not only homeowners, but more specifically farmers and business owners who suffer from personal and property damage.

[312 IAC 9-10-26](#): This rule change is needed to allow for the propagation of endangered species in captivity as authorized by state law in [IC 14-22-34-15](#). The DNR needs the ability to allow zoos, universities, and other researchers to possess endangered species that are obtained legally for use in propagation.

[312 IAC 9-11-2](#): These rule changes remove the reference to comply with [IC 14-11-4](#) for Class III animals since it was repealed by the Indiana General Assembly in 2016. Additional changes simply clarify current requirements.

The DNR has the statutory authority to establish the seasons, methods, and bag limits for taking a wild animal. The DNR has the authority to issue fur buyer licenses and establish rules governing fur buyer licenses in [IC 14-22-19-3](#). The DNR has the authority to issue game breeder licenses in [IC 14-22-20](#). The DNR has the authority to issue wild animal possession permits in [IC 14-22-26](#). The DNR has the authority to issue nuisance wild animal control permits in [IC 14-22-28](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)." Additionally, the DNR is required to review the state's list of endangered species at least every two (2) years under [IC 14-22-34-10](#) and [IC 14-22-34-11](#) and make the changes that are necessary in order to ensure the survival of these species in the wild in Indiana. "Wild animal" is defined in [IC 14-8-2-318](#) and includes mammals, birds, reptiles, amphibians, and mussels. The Natural Resources Commission has the statutory authority to adopt rules pursuant to [IC 14-10-2-4](#).

Nuisance wild animal control permit holders are already required to release wild animals such as raccoons within the county of capture or euthanize them under [312 IAC 9-10-11](#), so they are already euthanizing the majority of these animals since release sites are hard to find in many counties. They can euthanize them with firearms (where legal to do so), as well as with other inexpensive methods such as blunt force trauma and carbon dioxide chambers. The DNR could keep this rule the same and not require that these animals be euthanized, but releasing these animals in areas where there are already populations of these animals does not contribute to the survival of these animals (since they have to cross roads and find food and shelter) and only adds to the number of these animals that can cause damage to property. The DNR is required by law to conduct a review of the endangered species list at least once every two years by state law in [IC 14-22-34-11](#) and add species to the endangered species list when necessary ([IC 14-22-34-10](#) and [IC 14-22-34-13](#)), and the data on the populations of the rufa red knot ([312 IAC 9-4-14](#)) and bats ([312 IAC 9-3-19](#)) warrant being added to the list to help prevent their extirpation from Indiana. The nuisance wild animal control permit is free of charge and the exam only has to be taken once; the record keeping is the same as with other wild animals taken under this permit. The DNR also posts their information on the website, assisting them in getting customers and providing referrals to them as a permit holder. The changes for licensed fur buyers in [312 IAC 9-10-12](#) are less restrictive and lessen record keeping requirements for bobcats that they purchase. Orchards, nurseries, tree farms, vineyards, and other small businesses that experience damage to property need to have another option to take deer outside the deer hunting season that are destroying property, and these requirements provide for a free deer control permit to take deer outside the season to alleviate damage, while helping to prevent over-harvest of the deer.

The benefits and costs of the proposed changes were obtained from staff of the DNR Divisions of Fish and Wildlife and Law Enforcement. Sources of information for determining costs and benefits were obtained from staff

*of the DNR Division of Fish and Wildlife and Law Enforcement. Sources of information were obtained from biologists and other staff within the Division of Fish and Wildlife.*

*Individuals requiring reasonable accommodations for participation in these events should contact the Natural Resources Commission at:*

*Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2273*

*Attn: ADA Compliance*

*or call (317) 232-4699. Speech and hearing impaired callers may contact the Natural Resources Commission via the Indiana Relay Service (711) or (800) 743-3333. Please provide a minimum of 72 hours notification.*

*The proposed rule amendments may be inspected and copied at the Natural Resources Commission, Division of Hearings, Indiana Government Center North, 100 North Senate Avenue, Room N103, Indianapolis, Indiana.*

Bryan W. Poynter  
Chairman  
Natural Resources Commission

*Posted: 02/14/2018 by Legislative Services Agency*  
An [html](#) version of this document.