

Consideration for Preliminary Adoption of Amendments to 312 IAC 9 governing game breeder's licenses.

The DNR is proposing changes to the rule governing the game breeder license established under IC 14-22-20 to help clarify housing and other requirements for licensed game breeders.

The proposed changes to the game breeder license are summarized as follows:

- Removes southern flying squirrels from the list of animals that can be possessed under this license because the statutory authority for this license only allows game or furbearing mammals (which are defined by statute) and non-migratory game birds to be possessed under this license
- Clarifies how white-tailed deer can be obtained and possessed
- Clarifies the legal use of wild animals kept under this license in accordance with the statutory authority for game breeder licenses in IC 14-22-20 and cervidae livetosck operations in IC 14-22-20.5
- Clarifies how wild animals can be obtained and kept under this license in accordance with the statutory authority for game breeder licenses (IC 14-22-20)
- Specifies the fence requirements for white-tailed deer
- Clarifies the requirements for housing white-tailed deer, including the availability of fresh water, feed and/or pasture, windbreaks, shelters, shade, and bedding
- Clarifies identification, registration, and disease-testing requirements for white-tailed deer in compliance with the Indiana State Board of Animal Health and USDA
- Adds a provision that white-tailed deer and their products can be sold in Indiana in accordance with IC 14-22-20
- Clarifies record-keeping requirements
- Adds language to address 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 Department of Natural Resources recommends preliminary adoption of the following amendments to 312 IAC 9:

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #09-

DIGEST

Amends 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. Effective thirty (30) days after filing with the Publisher.

312 IAC 9-10-4

SECTION 1. 312 IAC 9-10-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-4 Game breeder licenses

Authority: IC 14-10-2-4; IC 14-22-2-6; IC 14-22-20

Affected: IC 4-21.5; IC 14-22

Sec. 4. (a) ~~An~~ **A person shall apply** application for a license as a game breeder ~~of one (1) or more of the following species of wild animals (common names are included for public convenience, but the scientific names control) shall be made~~ on a departmental form.

(b) A license holder under this section may possess one (1) or more of the following:

- (1) Ring-necked pheasant (*Phasianus colchicus*).
- (2) Bobwhite quail (*Colinus virginianus*).
- (3) White-tailed deer (*Odocoileus virginianus*).
- (4) Eastern cottontail rabbit (*Sylvilagus floridanus*).
- (5) Gray squirrel (*Sciurus carolinensis*).
- (6) Fox squirrel (*Sciurus niger*).
- ~~(7) Southern flying squirrel (*Glaucomys volans*).~~
- ~~(8)~~ (7) Beaver (*Castor canadensis*).
- ~~(9)~~ (8) Coyote (*Canis latrans*).
- ~~(10)~~ (9) Gray fox (*Urocyon cinereoargenteus*).
- ~~(11)~~ (10) Red fox (*Vulpes vulpes*).
- ~~(12)~~ (11) Mink (*Mustela vison*).
- ~~(13)~~ (12) Muskrat (*Ondatra zibethicus*).
- ~~(14)~~ (13) Opossum (*Didelphis marsupialis*).
- ~~(15)~~ (14) Raccoon (*Procyon lotor*).
- ~~(16)~~ (15) Striped skunk (*Mephitis mephitis*).
- ~~(17)~~ (16) Long-tailed weasel (*Mustela frenata*).
- ~~(18)~~ (17) Least weasel (*Mustela nivalis* or *Mustela rixosa*).

(c) Notwithstanding subsection (b), a license holder under this section may lawfully acquire and possess a white-tailed deer that is:

- (1) privately-owned;**
- (2) legally obtained,**
- (3) born in captivity, and**
- (4) possessed by a cervidae livestock operation in accordance with IC 14-22-20.5-2.**

~~(d) Each animal possessed under this section must be lawfully acquired. A receipted invoice, bill of lading, or other satisfactory evidence of lawful acquisition shall be presented for inspection upon the request of a conservation officer. Game or furbearing mammals or game birds, other than wild turkeys, lawfully taken in season may be retained alive after the close of the season. Any person wishing to import:~~

- ~~(1) any live animal under this license; or~~
- ~~(2) the eggs of birds covered under this license;~~

~~must secure a certificate of veterinary inspection from an accredited veterinarian in the state of origin before the animal is shipped into Indiana. Documentation in the form of a copy of a valid game breeder license or~~

AGENDA ITEM #9

~~valid dated receipt that establishes lawful acquisition or ownership must accompany any transportation of wild animals. A license holder under this section may lawfully acquire and possess furbearing mammals, eastern cottontail rabbits, fox squirrels, gray squirrels, ring necked pheasants and bobwhite quail as follows:~~

- (1) Furbearing mammals and eastern cottontail rabbits must be:**
 - (A) lawfully taken in season, or**
 - (B) born in captivity.**
- (2) Fox squirrels and gray squirrels must have been born in captivity.**
- (3) Ring-necked pheasants and bobwhite quail must have been hatched in captivity.**

(e) A license holder under this section may possess:

- (1) White-tailed deer and their products for breeding, propagating, purchasing, marketing, and selling under IC 14-22-20.5.**
- (2) Furbearing mammals, squirrels, and eastern cottontail rabbits for breeding purposes under IC 14-22-20.**
- (3) Ring-necked pheasants and bobwhite quail for breeding purposes, for food, or for release.**

~~(b)~~ **(f) A person must application apply** for a license under this section ~~must be made~~ within five (5) days after the:

- (1) acquisition of an animal within Indiana; or
- (2) importation of an animal into Indiana.

~~Each cage or enclosure for these animals will~~ **must** be inspected by a conservation officer before a license may be issued.

~~(c)~~ **(g) A license holder under this section may add a species to a game breeder license other than those identified in the application upon:**

- (1) an inspection by a conservation officer; ~~and~~ **or**
- (2) approval by the division of fish and wildlife.

A conservation officer must be notified within five (5) days of acquisition **of the new species.**

(h) A license holder under this section who imports:

- (1) any live animal under this license; or**
- (2) the eggs of birds covered under this license;**

must secure a certificate of veterinary inspection from an accredited veterinarian in the state of origin before the animal is shipped into Indiana. Documentation in the form of a copy of a valid game breeder license or valid dated receipt that establishes lawful acquisition or ownership must accompany any transportation of wild animals.

~~(i) A receipted invoice, bill of lading, or other satisfactory evidence of lawful acquisition shall be presented~~ **A license holder under this section must present at least one (1) of the following for inspection upon the request of a conservation officer for each animal possessed:**

- (1) A receipt.**
- (2) An invoice.**
- (3) Other satisfactory evidence of lawful acquisition, including documentation of natural birth.**

~~Game or furbearing mammals or game birds, other than wild turkeys, lawfully taken in season may be retained alive after the close of the season. Any person wishing to import:~~

- (1) any live animal under this license; or
- (2) the eggs of birds covered under this license;

AGENDA ITEM #9

~~must secure a certificate of veterinary inspection from an accredited veterinarian in the state of origin before the animal is shipped into Indiana. Documentation in the form of a copy of a valid game breeder license or valid dated receipt that establishes lawful acquisition or ownership must accompany any transportation of wild animals.~~

~~(e)~~ **(j) For ring-necked pheasants, bobwhite quail, furbearing mammals, eastern cottontail rabbits, fox squirrels and gray squirrels, the following requirements apply:**

~~(1) A wild animal must be confined in a cage or other enclosure that makes escape of the animal unlikely and prevents the entrance of a free-roaming animal of the same species.~~

~~(2) The cage or enclosure shall be large enough to provide~~ **allow the wild animal with ample space for exercise and to avoid overcrowding to turn about freely and make normal postural adjustments.**

~~(3) All chainlink or welded wire edges shall be smoothly secured to prevent injury to the animals and be kept properly repaired. The enclosure for white tailed deer must have a perimeter fence consisting of at least a single eight (8) foot fence.~~

~~(4) Night quarters, holding pens, and nesting boxes may not be used as primary housing.~~

~~(5) The following shall be provided as required for the comfort of the particular species of animal:~~

~~(1) (A) Fresh water.~~

~~(2) (B) Rainproof dens.~~

~~(3) (C) Nest boxes.~~

~~(4) (D) Windbreaks.~~

~~(5) (E) Shelters.~~

~~(6) (F) Shade.~~

~~(7) (G) Bedding.~~

~~(6) Each animal shall be handled, housed, and transported in a sanitary and humane manner.~~

~~(7) An enclosure must be provided with sufficient drainage to prevent standing water from accumulating.~~

~~(8) The cages or other enclosures must be made available upon request for inspection by a conservation officer.~~

(k) For white-tailed deer, the following enclosure requirements apply:

(1) The enclosure must have a perimeter fence with a height of at least eight (8) feet from the ground to the top of the fence at all parts of the structure to make the escape of an animal unlikely and to prevent the entrance of a free-roaming animal of the same species.

(2) Fence bottoms shall be installed at or near the ground level but not more than six (6) inches above ground level.

(3) If topographic, natural or other conditions exist that would enable an animal to pass through, over or under the fence, the permit holder must supplement the fence as necessary to prevent egress.

(4) Perimeter fencing materials shall be of a fencing strength, weave and construction that prevents the escape of an animal into the wild and may include, but are not limited to, high tensile game fence that is at least fourteen and a half (14 ½) gauge, chain link fence of at least nine (9) gauge, welded wire fence of at least twelve and a-half (12 ½) gauge, wood fence or farm buildings.

(5) All chain link or welded wire fence edges shall be smoothly secured to prevent injury to the animals and be kept properly repaired.

(6) The license holder under this section or their designees must maintain the perimeter fencing in good condition at all times.

(7) The license holder under this section or their designees must maintain a log of perimeter fence inspections that records the following:

(A) the inspection date,

- (B) the inspection time,
- (C) the individual(s) performing the inspection, and
- (D) any noted deficiencies or repairs made.

(8) A license holder under this section must report the escape of any white-tailed deer possessed under this section to a conservation officer within twenty-four (24) hours after knowledge of escape or knowledge of potential escape. Knowledge of potential escape shall include, but not be limited to, significant damage to the perimeter fence which is likely to allow escape and/or the license holder is unable to account for all of the animals possessed under this license.

(9) A license holder under this section shall secure and install pad locks on all remote perimeter gates.

(10) Upon a request by a conservation officer, any enclosure must be made available for inspection.

(l) To provide for the comfort and overall health of each white-tailed deer possessed under this section, the license holder shall provide the following:

(1) Fresh water must be provided as follows:

- (A) Available at all times.
- (B) May be provided by public water utilities, wells, cisterns, ponds or streams.

(2) Feed must be provided as follows.

- (A) Where adequate pasture or natural vegetation is available to meet the nutritional needs of each animal, supplemental feeding is not necessary.
- (B) Where adequate pasture or natural vegetation is not available to meet the nutritional needs of each animal, supplemental feed or a complete feed ration must be made available to prevent malnutrition, poor body condition, debility, stress, illness or disease.

(3) Windbreaks, Shelters and Shade must be provided as follows:

- (A) Protection of each animal from the extreme elements of heat, cold or wind must be provided at all times and in all enclosures where animals are housed.
- (B) Protection from the elements may include, but shall not be limited to, one or more of the following: barns, shelters, manmade or natural windbreaks, tarps, shade cloth, trees, hedge rows, tall grass and weeds.

(4) Bedding must be provided as follows:

- (A) Each enclosure must provide high ground, shelters or bedding areas that prevent the animal from lying or standing in mud or water that is ankle-deep for more than ten (10) consecutive days.
- (B) Each enclosure used to house white-tailed deer must be provided with sufficient drainage to prevent stagnant water or deep mud throughout the enclosure such that the animals in the enclosure can turn about freely and obtain food and water without standing in stagnant water or deep mud.

(5) Enclosures must be provided as follows:

- (A) Each enclosure shall be large enough to allow the animal to turn about freely and make normal postural adjustments.
- (B) Periodic crowding of animals of less than four (4) months may be necessary for:
 - (i) wintering of animals and pasture preservation.
 - (ii) breeding.
 - (iii) medicating and/or vaccinating.
 - (iv) tuberculosis and brucellosis testing to maintain herd status.
 - (v) handling and tranquilization.

(6) Each white-tailed deer shall be handled, housed, and transported in a sanitary and humane manner.

AGENDA ITEM #9

(m) An animal possessed under this section may be administered a pharmaceutical product in accordance with state and federal laws that has been approved by a state or federal agency for the purpose of prevention or treatment of any of the following:

- (1) Malnutrition.**
- (2) Illness.**
- (3) Disease.**
- (4) Injury.**
- (5) Stress.**

A licensed veterinarian may administer to an animal an immobilizing agent, tranquilizer, or drug for euthanasia in compliance with all state and federal laws. A license holder under this section or authorized handler may use an immobilizing agent or tranquilizer, as directed by a licensed veterinarian, to assist in the safe handling and transportation of white-tailed deer.

(n) Each white-tailed deer possessed under this section must be individually and uniquely identified in accordance with 345 IAC 2-7 prior to leaving the license holder's premises.

(o) A license holder under this section that possesses white-tailed deer must:

- (1) Register with the state veterinarian each location where white-tailed deer are being kept and acquire a premise identification pursuant to 345 IAC 2-7.**
- (2) Register with the state veterinarian and enroll in the chronic wasting disease (CWD) program pursuant to 345 IAC 2-7.**
- (3) Adhere to Indiana cervidae importation requirements as designated by the state veterinarian. Prior to importation, a permit from the state veterinarian must be acquired pursuant to 345 IAC 2-7.**
- (4) Handle all deaths of cervidae older than twelve (12) months of age as follows in accordance with 345 IAC 2-7:**
 - (A) Report each incident to the state veterinarian.**
 - (B) Test each disease-susceptible cervid for CWD if suitable for testing.**
 - (C) Follow CWD sample submission protocol that is designated by the state veterinarian.**
- (5) Allow for an annual herd inspection by the Indiana Board of Animal Health and provide records pursuant to 345 IAC 2-7 for:**
 - (A) Official cervid identifications**
 - (B) Additions and removals from herd that include dates, names, addresses or contact information.**
 - (C) Post-mortem reports**

~~**(p) A license holder under this section shall not release any wild animals possessed under this section**~~ **(p) A license holder under this section shall not release any wild animals possessed under this section except for bobwhite quail and ring-necked pheasants. A license holder under this section shall not release any known diseased bobwhite quail and ring-necked pheasants.** ~~A license holder must report the escape of any white-tailed deer to a conservation officer within twenty-four (24) hours.~~

~~**(q) A known diseased wild animal possessed under this section shall not be sold.**~~ **(q) A license holder under this section must not sell a wild animal possessed under this section if the animal is known to be diseased.**

(r) White-tailed deer and their products may be sold in Indiana in accordance with IC 14-22-20 or out-of-state for any legal purpose.

AGENDA ITEM #9

~~(h)~~ (s) A license holder **under this section** must comply with all applicable state, local, or other federal laws **that govern that possession and sale of the animals possessed under this section.**

~~(i)~~ (t) A license holder **under this section** shall do the following:

(1) **Maintain an inventory of all wild animals possessed under this section.**

(2) Record all additions and deletions to the inventory for every wild animal that is:

(A) born or has died;

(B) sold;

(C) traded;

(D) loaned;

(E) bartered; or

(F) given to another person;

on a **signed** departmental form or computerized record **with a signature that is either electronic or in ink. If recorded on a departmental form, the person must complete the form in ink.**

~~(2)~~ (3) Keep a copy of the **complete and accurate** inventory on the premises of the game breeder, ~~and~~

(4) Provide a copy of the inventory ~~must be provided~~ to a conservation officer upon request.

~~(3)~~ (5) Issue a valid, dated receipt **prepared in ink** for all animals **or their products that are sold,** traded, bartered, or gifted and include the following information:

(A) Game breeder license number.

(B) Buyer and seller name and address.

(C) Number of animals **or products** sold.

(D) Species of animal sold.

A copy of all of the receipts issued must be on the premises of the game breeder for at least ~~two (2)~~ **five (5)** years after the year of the transaction.

~~(j)~~ (u) A license expires on December 31 of the year the license is issued. The license holder must file an application with the division by February 15 of each year in order to renew the license. The annual report must accompany the renewal application and shall include for each species possessed under this license the number:

(1) bought;

(2) sold;

(3) born;

(4) traded;

(5) gifted;

(6) of deaths; and

(7) on hand.

~~(k)~~ (v) A conservation officer may enter the premises of the license holder at all reasonable hours to ~~inspect~~ **conduct an inspection** ~~those premises and any records relative to the license~~ **in accordance with subsections (w) and (x).**

(w) During an inspection, the license holder or the license holder's designee shall comply with both of the following:

(1) meet the conservation officer at the time of inspection to provide access to all enclosures where animals possessed under a license issued under this section are housed.

(2) provide access to all records relative to the license issued under this section.

(x) While conducting an inspection but prior to entering the enclosure where animals are housed, the

AGENDA ITEM #9

conservation officer must comply with the following:

(1) upon request of the license holder or the license holder's designee, follow appropriate sanitation practices to prevent the spread of disease if the license holder provides sanitation supplies or protective equipment

(2) give due consideration to the safety and welfare of the animals.

(3) notify the license holder if the inspection reveals ~~that the wild animals are being kept under unsanitary or inhumane conditions~~ a violation of this section or IC 14-22-20. The conservation officer may make a second inspection after ~~no sooner than ten (10)~~ **fifteen (15) days after the reported violation(s) unless critical conditions exist as determined at the reasonable discretion of the conservation officer, and the:**

(1) license may be suspended or revoked under IC 4-21.5; and

(2) wild animals may be confiscated;

if the license holder fails to ~~comply with a provision of the license~~ correct the violation(s) of the license requirements.

~~(y)~~ **(y)** 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 14-22-20.

(3) All applicable state, local, or other federal laws. (*Natural Resources Commission; 312 IAC 9-10-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2728; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Jan 26, 2004, 10:45 a.m.: 27 IR 1789; filed Jan 8, 2007, 9:11 a.m.: 20070207-IR-312060193FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA*)