

# **TITLE 312 NATURAL RESOURCES COMMISSION**

## **Notice of Second Public Comment Period**

LSA Document #24-86

### **RIVER OTTER TRAPPING AMENDMENTS**

#### **PURPOSE OF NOTICE**

The Natural Resources Commission (commission) is soliciting public comment on amendments to rules at 312 IAC 9-3-18.2 to regulate the statewide quota for river otter trapping season. The commission seeks comment on the affected citations listed and any other provisions of Title 312 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 312 IAC 9-3-18.2

**AUTHORITY:** IC 14-10-2-4; IC 14-22-2-6

#### **OVERVIEW**

##### **Basic Purpose and Background**

The proposed amendments allow an individual to trap a river otter anywhere in the state, and establish statewide quotas for the river otter trapping season.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Linnea Petercheff  
Licensing and Permits Supervisor  
Division of Fish and Wildlife Department of Natural Resources  
Indiana Government Center South  
402 West Washington Street, Room W273  
Indianapolis, IN 46204  
(317) 233-6527  
lpetercheff@dnr.in.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 650-0126  
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or

policy administered by a state agency, either as a party to a proceeding or as a mediator.

## **SUMMARY/RESPONSE TO COMMENTS**

The Natural Resources Commission requested public comment from March 6 through April 11, 2024 and during the public hearing on April 11, 2024. The comments received by the comment period deadline, and the responses to the comments from the department, are summarized below.

The agency received a number of comments that stated they were supportive of all of the proposed rule amendments. Additional comments were received that were opposed to the proposed amendments as follows:

### ***Comments on the statewide quota being too low.***

**Response:** The most recent river otter population estimate (2021) was eight thousand one hundred ninety-seven (8,197). A statewide quota of seven hundred fifty (750) river otters for the trapping season was implemented during the 2021-2022 river otter trapping season. A statewide quota of seven hundred fifty (750) river otters was selected to keep the quota under ten percent (10%) harvest mortality of the total river otter population size to continue to allow river otters to expand and thrive in Indiana. River otters had a low reproduction year in 2021, so it is in the best interest of river otter management to maintain seven hundred fifty (750) river otters as the statewide quota. This will allow the department to gather more years of data and continue to monitor the river otter population using the population model. When 2022 data was added to the population analysis for river otters, populations were stable. Currently, there is no data to support an increase. Department staff will continue to regularly review the population model and other data to assess whether a change to the bag limit or statewide quota are required in the future.

### ***Comments opposed to expanding the season statewide: Comments were received in opposition to expanding the season statewide.***

**Response:** The department values river otters and recognizes the public values them as well; therefore, only incremental changes have been made to the river otter trapping season over the years. The department has slowly added counties to the open list for limited trapping since the river otter trapping season began in 2015. The change from adding counties individually or in small groups to a statewide open season represents a small proportion of counties in the state. Opening the remaining counties will allow opportunities for licensed trappers in new areas and will allow some emerging river otter damage issues to be addressed during the season without a permit from the department. This will allow the river otter to be used by the trapper instead of requiring disposal after being removed on a permit after a conflict. By establishing a statewide quota, closing the season when the quota is met, and maintaining a two (2) river otter trapping season individual bag limit, the department does not anticipate negative impacts on the river otter population. Additionally, other limitations are in place to ensure that the river otter population continues to thrive and expand. Allowing river otters to be trapped statewide will also simplify the rule.

### ***Comments to change the trapping methods to only allowing water traps to minimize incidental captures of nontarget species.***

**Response:** The department did not propose changes to the trapping methods and is unable to do

so in this rule. Trapping methods are set under 312 IAC 9-3-18.

### **REQUEST FOR PUBLIC COMMENTS**

At this time, the commission is soliciting public comments on the proposed rule. Comments may be submitted in one of the following ways:

(1) By the commission's rulemaking docket at <https://www.in.gov/nrc/rules/rulemaking-docket/>.

(2) By mail or common carrier to the following address:

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Aaron Bonar

Natural Resources Commission, Division of Hearings

Indiana Government Center North

100 North Senate Avenue, Room N103

Indianapolis, IN 46204-2273

(3) By electronic mail to [abonar@nrc.in.gov](mailto:abonar@nrc.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Attend scheduled public hearing.

### **COMMENT PERIOD DEADLINE**

All comments must be postmarked or time stamped not later than June 25, 2024.

Copies of the rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (*if applicable*) are on file at the Natural Resources Commission, Indiana Government Center North, 100 North Senate Avenue, Room N103, Indianapolis, IN 46204-2273 and are available for public inspection.

This notice is the second of two (2) thirty (30) day periods in which the public may comment on the proposed rule. Following this second public comment period, The Natural Resources Commission may adopt a version of the proposed rule that is the same as or does not substantially differ from the text of the proposed rule published during the second public comment period.

### **ADDITIONAL DOCUMENTS**

Regulatory Analysis: No changes were made to the Regulatory Analysis for this proposed rule. [*publisher will add link to the most recent document*]

**Notice of Public Hearing** [*publisher will add link to list of related documents on Register website.*]

## EXPLANATION OF DIFFERENCES IN PROPOSED RULE

No substantive changes were made to the rule in response to the comments received during the first public comment period. All changes made to the proposed rule published during the first public comment period are technical and conforming changes.

## PROPOSED RULE

SECTION 1. 312 IAC 9-3-18.2 IS AMENDED TO READ AS FOLLOWS:

### 312 IAC 9-3-18.2 River otters

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

**Affected:** IC 14-22-11-1; IC 14-22-11-10; IC 14-22-12-1

Sec. 18.2. (a) An individual may trap a river otter (~~Lutra~~ (**Lontra canadensis**) ~~from~~ **beginning** November 15 ~~through and ending either:~~

**(1) March 15 of the following calendar year; or**

**(2) the date on which the statewide quota set forth in subsection (f) is reached;**

**whichever is earlier.** An individual who sets a trap for a river otter must be at least ten (10) years ~~old, of age,~~ unless the individual ~~has~~ passed a state certified trapper education course.

~~(b) In order to trap a river otter,~~ **Except as provided under IC 14-22-11-1,** an individual ~~must possess~~ **may not trap a river otter unless the individual possesses at least one (1) of the following valid Indiana trapping licenses: or be exempt from needing a license as authorized in IC 14-22-11-1:**

**(1) A resident yearly trapping license under IC 14-22-12-1(a)(4).**

**(2) A nonresident yearly trapping license under IC 14-22-12-1(a)(7).**

**(3) A resident youth consolidated hunting, trapping, and fishing license under IC 14-22-12-1(a)(24) or IC 14-22-11-10(b).**

**(4) A nonresident youth yearly trapping license under IC 14-22-12-1(a)(26).**

**(5) A lifetime basic trapping license under IC 14-22-12-7(a)(6) before its repeal.**

~~(c) An individual must~~ **may not take more than two (2) river otters per in a river otter trapping season.** An individual ~~that who~~ **sets the a trap that caught the captures a river otter must shall** count the river otter toward ~~his or her~~ **the bag limit for the river otter trapping season.** ~~limit.~~

~~(d) An individual that kills a river otter:~~

~~(1) during the season after the individual's bag limit has been reached;~~

~~(2) after the statewide quota has been reached;~~

~~(3) in a county where the season is not open; or~~

~~(4) outside the season;~~

~~must notify the department within forty-eight (48) hours of killing the otter and make arrangements to give that river otter to the department.~~

**(d)** An individual who traps a river otter alive and does not include it in ~~that the~~ individual's bag limit ~~must shall~~ release the river otter into the wild in the location ~~in which it was~~ **where the river otter is** captured immediately ~~upon discovery or notification~~ **after discovering** that a river otter ~~has been~~ **is** caught in the trap.

**(e)** An individual ~~must not may~~ trap a river otters ~~except in a county the director designates on an annual basis by temporary rule~~ **otter in any county in the state.**

**(f)** ~~Annually, the director shall establish by temporary rule~~ The statewide quota for **trapping a river otters otter** ~~that may be taken~~ during a **river otter trapping** season ~~The director may close the season established under subsection (a) by temporary rule upon a determination that the allowable harvest of river otters for the year has been reached.~~ **is seven hundred fifty (750). The department shall track the statewide quota for river otters on the department's website.**

**(g) An individual shall not trap a river otter after the:**  
**(1) individual's bag limit is reached; or**  
**(2) river otter trapping season ends.**

~~(g)~~ **(h)** An individual who takes a river otter ~~must shall~~ report the take or ~~cause the reporting of~~ **ensure** the take **is reported** by providing the information required ~~on~~ **by** the department's electronic harvest reporting system ~~within~~ **not later than** twenty-four (24) hours ~~of the~~ **after** taking of the river otter. ~~The An individual who reports the reporting a take on the department's electronic harvest reporting system must~~ **under this subsection shall** provide true and accurate information **to the department. An individual shall keep** the confirmation number provided by the **department's** electronic harvest reporting system ~~must be maintained~~ with the river otter until the river otter is checked in with a designated department employee or at an official river otter checking station.

~~(h)~~ **(i)** An individual who takes a river otter during the **river otter** trapping season ~~must shall~~ retain possession of the river otter and ~~cause ensure~~ delivery of the skinned hide and carcass, including the head, of the river otter to a designated department employee or official river otter checking station ~~within~~ **not later than** fifteen (15) days after the month ~~of harvest.~~ **the river otter is harvested.** The department employee ~~must:~~ **shall:**

- (1) issue a tag and attach it to each hide ~~in accordance with~~ **under** 50 CFR 23.69; and
- (2) ~~maintain~~ **retain** possession of the skinned river otter carcass. ~~(not the hide).~~

~~(i)~~ **(j)** A river otter, including the hide and any other part ~~or portion~~ **of the river otter**, taken during the **river otter** trapping season ~~must may~~ not be:

- (1) sold;
- (2) traded;
- (3) bartered;
- (4) gifted;
- (5) transferred to a taxidermist or any other person; or
- (6) shipped;

until **the river otter is** registered through the department's electronic registration system and issued

a tag by a department employee ~~in accordance with~~ **under** subsection ~~(h)~~ **(i)**.

~~(j)~~ **(k)** After registering the river otter and obtaining the tag from the department ~~in accordance with~~ **under** this section, an individual who takes a river otter may:

- (1) sell;
- (2) trade;
- (3) barter;
- (4) ship; or
- (5) otherwise transfer;

the hide of ~~a~~ **the** river otter ~~in accordance with~~ **under** this section and 50 CFR 23.69.

~~(k)~~ **(l)** An individual may possess the untanned hide of a river otter ~~that was~~ lawfully obtained at any time of **the** year.

~~(l)~~ **(m)** An individual ~~must~~ **may** not possess a live river otter except as follows:

- (1) With a wild animal rehabilitation permit under 312 IAC 9-10-9.
- (2) With a scientific purposes license under 312 IAC 9-10-6.
- (3) With a nuisance wild animal control permit under 312 IAC 9-10-11.
- (4) ~~By~~ **With** a registered or licensed educational or scientific institution with the United States Department of Agriculture ~~in accordance with~~ **under** 9 CFR, Chapter 1, Subchapter A, Parts I through IV.
- (5) ~~By~~ **With** a breeder, dealer, or exhibitor license issued by the United States Department of Agriculture under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.

~~(m)~~ **(n)** An individual ~~must~~ **may** not sell a live river otter unless ~~that person~~ **the individual** has a breeder, dealer, or exhibitor license issued by the United States Department of Agriculture under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.

**(o) An individual who takes a river otter with a trap that captures and immediately kills the river otter:**

- (1) during the river otter trapping season after the individual's bag limit is met; or**
- (2) outside the river otter trapping season;**

**shall notify the department not later than forty-eight (48) hours after taking the river otter. The individual shall make arrangements to turn the river otter over to the department.**

*(Natural Resources Commission; 312 IAC 9-3-18.2; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-312050214FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Mar 12, 2010, 1:28 p.m.: 20100407-IR-312090479FRA; readopted filed May 20, 2014, 9:43 a.m.: 20140618-IR-312140017RFA; filed Feb 26, 2015, 2:01 p.m.: 20150325-IR-312140341FRA; filed Jun 21, 2018, 1:45 p.m.: 20180718-IR-312170436FRA; readopted filed Sep 18, 2019, 1:16 p.m.: 20191016-IR-312190325RFA)*