

Request for preliminary adoption to add 312 IAC 9-1-5.2, 312 IAC 9-1-11.2, and 312 IAC 9-2-17 and to amend 312 IAC 9-10-9 governing sick, orphaned, and injured white-tailed deer and wild animal rehabilitation permits to address Chronic Wasting Disease (CWD); Administrative Cause No. 24-FW-012

In April 2024, the first case of chronic wasting disease (CWD) was detected in an Indiana deer. As a result, the department is proposing to reduce the movement of deer that may be infected with and carry this disease to another location in the state.

CWD is a fatal neurological disease that affects white-tailed deer. It is a member of a group of diseases called transmissible spongiform encephalopathies, or prion diseases. Other similar prion diseases in this group include mad cow disease and scrapie in sheep. CWD is spread through bodily fluids like feces, saliva, blood, or urine and is transmitted through direct contact or indirect contact through environmental contamination of soil, plants, food, or water. CWD can infect captive-bred deer and elk as well as wild deer. There is no cure for CWD and no known treatment exists to prevent deer from getting or spreading CWD. The only test to confirm whether a deer is infected with CWD requires samples from the deer's adrenal glands after the deer is killed. It is not currently possible to test live deer.

A fawn can be infected by the fawn's mother, either through direct transmission before birth or soon after birth through the normal feeding and caring for the fawn. Fawns do not test positive until the fawn is alive and infected for at least six (6) months. Therefore, it is not possible to determine if a fawn is infected with CWD at birth. A fawn that is infected with CWD that is raised with other fawns can infect the other fawns, and, if released into an area where CWD is not present, can then infect other deer for up to two and one half (2 ½) years after becoming infected, which spreads the disease to a new area.

Currently, Indiana Administrative Code prohibits the possession of fawns without a wild animal rehabilitation permit under 312 IAC 9-10-9. The department is proposing to limit the movement of fawns to individuals who hold wild animal rehabilitation permits in the areas where there are positive cases of CWD, as well as restrict the area where an individual who holds a wild animal rehabilitation permit may release a deer. The intent of the proposed change is to reduce human assisted movement of CWD prions out of the infected area in potentially infected deer. Moving a fawn from an infected area to a rehabilitation facility outside of the CWD positive area could lead to the introduction of CWD to a new area of the state, which would cause more deer to die from CWD. Due to the desire to avoid the suffering of injured or abandoned fawns, fawns may continue to be rehabilitated if they are not moved outside of the CWD positive

Proposed in the rule package is a new rule defining a "chronic wasting disease positive area" in 312 IAC 9-1-5.2. Since it is likely that CWD may spread to other areas, the division wants to ensure that the CWD positive area includes not only a location where it has been confirmed, but also where it may likely occur based on the model. The CWD positive area is currently in LaGrange, Steuben, Dekalb, and Noble counties.

Also proposed is a definition of "non-releasable" in 312 IAC 9-1-11.2. This definition has been moved from 312 IAC 9-10-9 governing wild animal rehabilitation permits to the definitions section.

A new rule is proposed to be added in 312 IAC 9-2-17 to require sick, injured, or orphaned deer found in a CWD positive area to be given only to a permitted wildlife rehabilitator in that same county or to a wildlife rehabilitator in a CWD positive area.

Amendments have also been proposed to 312 IAC 9-10-9(q)(5) governing the wild animal rehabilitation permit to require that rehabilitators release deer obtained from a CWD positive area in a CWD positive area and if they reside in a CWD positive area, to release it within a CWD positive area. Additional technical and confirming changes have been made to the rule to meet the Indiana Rule Drafting Manual and conform to current practice and department administration needs. First, the proposed rule changes specify the requirements for the application in rule, including providing a copy of the applicant's driver's license or identification card, name and address, and the address where wild animals will be housed for rehabilitation, if the address is different from the applicant's address. The changes also clarify the exam requirements for those who have held a wild animal rehabilitation permit for more than ten (10) years and have taken care of more than twelve (12) wild animals. Additionally, the proposed rule adds a statement that provides the department with the ability to limit the number of wild animals a permit holder can possess if they do not meet the requirements set forth in the rule language. Finally, while the proposed rule was changed due to an outbreak of CWD, the department wishes to use the permanent rulemaking process to update the rule according to the current practices of the department as well as incorporate technical and drafting changes.

312 Natural Resources Commission

Proposed Rule

DIGEST

Adds 312 IAC 9-1-5.2 to define a “chronic wasting disease positive area”. Adds 312 IAC 9-1-11.2 to define “nonreleasable”. Adds 312 IAC 9-2-17 regarding when an individual surrenders a deer to a wild animal rehabilitator located in: (1) the county in which the deer is found; or (2) a county that is declared a chronic wasting disease positive area. Amends 312 IAC 9-10-9 regarding release of a deer by a wild animal rehabilitator if the deer has a confirmed case of chronic wasting disease. Amends 312 IAC 9-10-9 to make technical and conforming changes under the Administrative Rules Drafting Manual. Effective 30 days after accepted for filing by the publisher.

PROPOSED PERMANENT RULE

SECTION 1. 312 IAC 9-1-5.2 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-5.2 “Chronic wasting disease positive area” defined

Authority: IC 4-22-2-37.1; IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 5.2. A “chronic wasting disease positive area” means a county designated by the department

where:

- (1) there is a confirmed case of chronic wasting disease by a laboratory in the national animal health laboratory network; or**
- (2) the scientific model used by the department predicts the spread of chronic wasting disease in Indiana based on the:**
 - (A) location of positive cases;**
 - (B) knowledge of disease transmission in the Midwest; and**
 - (C) landscape characteristics of Indiana.**

(Natural Resources Commission; 312 IAC 9-1-5.2)

SECTION 2. 312 IAC 9-1-11.2 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-11.2 “Nonreleasable” defined

Authority: IC 4-22-2-37.1; IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 11.2. "Nonreleasable" means a determination based upon a licensed veterinarian's examination and statement that a wild animal may not be released from an individual holding a wild animal rehabilitation permit under this section because the wild animal:

- (1) cannot obtain food without assistance in the wild;**
- (2) does not exhibit locomotive skills needed to survive;**
- (3) does not possess adequate vision to find or catch food or to maneuver in a normal manner; or**
- (3) cannot otherwise fend for itself without medical care due to disease or injury.**

(Natural Resources Commission; 312 IAC 9-1-11.2)

SECTION 3. 312 IAC 9-2-17 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-2-17 Surrendering deer; wild animal rehabilitator

Authority: IC 4-22-2-37.1; IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 17. An individual who finds an orphaned, sick, or injured deer in a chronic wasting disease positive area may only surrender the deer to a wild animal rehabilitator under 312 IAC 9-10-9 located in:

- (1) the county in which the deer is found; or**
- (2) a county that is a documented chronic wasting disease positive area.**

(Natural Resources Commission; 312 IAC 9-2-17)

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

312 IAC 9-10-9 Wild animal rehabilitation permit

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

Affected: IC 4-21.5; IC 14-22

Sec. 9. (a) This section governs applies to a permit to possess a wild animal for rehabilitation.

(b) An individual must obtain a wild animal rehabilitation permit from the department: is:

~~(1) required to temporarily possess any a wild animal that is:~~

- ~~(A) (1) a mammal;~~
- ~~(B) (2) a bird;~~
- ~~(C) (3) a reptile; or~~
- ~~(D) (4) an amphibian;~~

~~for rehabilitation. Purposes; and~~

~~(2) available only to an individual who is a resident of Indiana.~~

(b) (c) Not later than twenty-four (24) hours after taking possession of a sick, injured, or orphaned wild animal under this subsection or 312 IAC 9-2-17, an individual may without a permit, take possession of possess a sick, injured, or orphaned wild animal and who does not hold a wild animal rehabilitation permit shall transport it the wild animal to an individual with a valid holding a wild animal rehabilitation permit under this section. within twenty four (24) hours.

(d) Not later than twenty-four (24) hours after an individual under subsection (c) receiving the sick, injured, or orphaned wild animal under subsection (c), the individual holding a wild animal rehabilitation permit that is not applicable to the wild animal received shall transport the wild animal to an individual holding an applicable wild animal rehabilitation permit.

~~(e) (e) An application individual shall apply for a wild animal rehabilitation permit under this section shall be completed on in a departmental form and must provide manner prescribed by the department that includes the following:~~

~~(1) Documentary evidence the applicant has at least one (1) year of experience with one (1) of the following types of facilities that works with the species to be rehabilitated: rehabilitates wild animals:~~

- ~~(A) A licensed veterinarian. who has a wild animal rehabilitation permit.~~
- ~~(B) A zoological park.~~
- ~~(C) A university animal clinic.~~
- ~~(D) An licensed individual holding a wild animal rehabilitator rehabilitation who has had a permit for at least three (3) years.~~

~~Documentation of the experience with a licensed veterinarian, university animal clinic, zoological park, or licensed wild animal rehabilitator must be submitted with the application.~~

~~(2) The name and address of a licensed veterinarian willing to assist the applicant with the rehabilitation of rehabilitating wild animals. The licensed veterinarian shall must sign the application and attest to having that the veterinarian has experience in the care of the species of wild animals to be rehabilitated. If the applicant for the wild animal rehabilitation permit is a licensed veterinarian, the signature of another veterinarian is not required.~~

~~(3) A listing list of the wildlife rehabilitation reference books in possession of the applicant possesses. The individual applicant must have at least one (1) reference book that:~~

- (A) includes information ~~pertaining to~~ **regarding** each species listed on the application ~~form~~; **for a wild animal rehabilitation permit**; and
- (B) is on the list approved by the department.

(4) The names, addresses, and telephone numbers of any other individuals who will assist the applicant.

(5) The species ~~or type of~~ **wild** animals that will be accepted for rehabilitation.

(6) A description of the rehabilitation facilities, equipment, and supplies **of the applicant**. The description ~~shall~~ **must** include the following:

- (A) Cages, **including the internal dimensions and the materials used for the floors, walls, and perches**.
- (B) Intensive care units.
- (C) Aviaries.
- (D) Medical supplies.
- (E) **Any** other items to be ~~utilized in the rehabilitation process~~. **used to rehabilitate wild animals under the wild animal rehabilitation permit**.

~~A cage description shall provide its internal dimensions and shall specify the materials used for flooring, walls, and perches.~~

(7) ~~The applicant is at least eighteen (18) years of age.~~ **A copy of the applicant's Indiana:**

- (A) driver's license; or**
- (B) identification card.**

(8) The applicant's name and address.

(9) The address where wild animals are housed for rehabilitation, if the address is different than the applicant's address.

~~(d) Before a permit may be issued, the~~ **(f) The first time an applicant applies for a wild animal rehabilitation permit, the applicant** must correctly answer at least eighty percent (80%) of the questions on a written examination supervised and administered by the department covering basic biology, care of wild animals, and the laws relating to wild animal rehabilitation. ~~as follows:~~

~~(+)(g) An individual who fails to correctly answer at least eighty percent (80%) of the questions on the examination~~ **under subsection (f)** may retake the examination not more than two (2) ~~additional~~ times ~~within not more than ninety (90) days after taking the first examination. but not again within~~ **Not less than one hundred eighty (180) days after failing to correctly answer at least eighty percent (80%) of the questions on the third failure. examination, an individual under this subsection may retake the examination for a fourth time.**

~~(2) Exempted from this subsection is an individual who has had a permit under this section for ten (10) years and taken in at least twelve (12) wild animals each year for rehabilitation.~~

~~(e) (h) Except an individual holding a wild animal rehabilitation permit under this section for at least ten (10) years who has taken in at least twelve (12) wild animals for rehabilitation, an permit holder must, every three (3) years after being issued a permit, either:~~ **individual holding a wild animal rehabilitation permit shall:**

- (1) satisfy the ~~same~~ requirements ~~as are set forth in~~ **under subsection (d) (f)** on another examination; or
- (2) complete **at least eight (8) hours** of continuing education ~~as approved by the division, including courses that will be sponsored by the department, National Wildlife Rehabilitator's Association, or International Wildlife Rehabilitation Council;~~

every three (3) years. A permit holder who is exempt under subsection ~~(d)(2) (f)~~ **(f)** is also exempt from the requirements under this subsection.

~~(f) (i) A conservation officer must inspect the cages and any other enclosures where a wild animals animal will be housed before the department issues a wild animal rehabilitation permit may be issued to a new applicant. A conservation officer may inspect the enclosures, wild animals, and any records relative to an~~ **regarding a wild animal rehabilitation permit issued under this section at any a reasonable hour. time.**

~~(g) (j) An individual shall amended application or written request must be filed with~~ **notify** the division **in writing** if there is a change to the:

- (1) address of the applicant; the**
- (2) name of the assisting licensed veterinarian; the**

- ~~(3) identity of assistants; individuals listed on the application as assistants for the applicant; or the addition of~~
(3) identity of assistants; individuals listed on the application as assistants for the applicant; or the addition of
~~(4) species of wild animals that was provided in listed under the original application.~~
(4) species of wild animals that was provided in listed under the original application.

~~(h) The~~ **(k) An individual holding a wild animal rehabilitation permit holder must shall** file an application ~~by not later than January 31 of each year in order to renew the wild animal rehabilitation permit. An individual must include the annual report required under subsection (m) (o) must accompany with the renewal application. The signature of a licensed veterinarian is not required for on a renewal application.~~

~~(i) The issuance of~~ **(l) An individual holding a wild animal rehabilitation permit under this section does not relieve an individual from shall comply with** any requirement ~~for of a federal permit. If the terms of a federal permit and the wild animal rehabilitation permit issued under this section differ, the individual shall comply with the more restrictive terms prevail-permit.~~

~~(j) Public exhibition~~ **(m) An individual holding a wild animal rehabilitation permit may not publicly exhibit or display of any a wild animal possessed pursuant to under a wild animal rehabilitation permit. issued under this section is prohibited. Only assistants and other individuals dropping off an Except for:**

- (1) an individual authorized in writing by the department;**
 - (2) an assistant of the wild animal rehabilitator; or**
 - (3) an individual surrendering a wild animal to an individual holding a wild animal rehabilitation permit for rehabilitation at to the permit holder's wild animal rehabilitation facility;**
- ~~an individual may not view or have contact with the a wild animal. unless specifically authorized in writing by the department. Electronic viewing and photographs of the wild animal are allowed-permitted.~~

~~(k) (n) An individual holding a wild animal rehabilitation permit holder must shall~~ maintain facilities ~~for while the retention of individual possesses a wild animal possessed under this section in a sanitary condition as follows and conform comply with any other conditions specified by the permit following:~~

- ~~(1) Clean cages must be cleaned daily at least one (1) time each day using nonirritating methods, unless medical treatment necessitates otherwise.~~
- ~~(2) The permit holder and any assistants listed on the permit must Observe and provide care for wild animals at least once daily one (1) time each day unless otherwise specified by the permit.~~
- ~~(3) Keep wild animals must be kept in enclosures and in an environment that minimizes human contact at all times to prevent imprinting and bonding to with humans. The individual issued a wild animal rehabilitation permit holder or designated assistants should assistant of an individual issued the wild animal rehabilitation permit may interact with the a wild animal only to the extent necessary to provide adequate care and treatment.~~
- ~~(4) Limit contact of the wild animals must not be allowed to come into contact with: any individuals other than:~~

- (A) a **wild animal rehabilitation** permit holder;
- (B) an **individual listed as an** assistant ~~listed on~~ **under a wild animal** rehabilitation permit;
- (C) a licensed veterinarian;
- (D) an animal control officer;
- (E) a law enforcement officer; or
- (F) an authorized ~~department~~ **employee of the department.**

Contact with a person not listed under this subsection is prohibited.

~~(5) House wild animals must not be housed in a cage that would allow to prevent physical contact of the wild animals undergoing rehabilitation with:~~

- ~~(A) domestic or animals;~~
- ~~(B) companion animals; or~~
- ~~(C) animals kept under any other license or permit unless authorized in writing by the department.~~

~~(6) If suspected of having an infectious disease, quarantine wild animals must be quarantined in areas designated for that purpose.~~

~~(7) Separate wild animals must be kept separated from human living quarters and activities unless intensive care is required. but Unweaned wild animals may be housed in human living quarters that are away from human activities.~~

~~(8) House wild animals must be housed in enclosures that:~~

- (A) are structurally sound;
 - (B) are of sufficient strength for the species; ~~involved;~~
 - (C) are maintained in good repair to prevent escape or injury to wild animals being rehabilitated;
 - (D) are constructed to allow sufficient space for individual posture and social movements, unless medical treatment necessitates restricted mobility;
 - (E) are secured when unattended;
 - (F) have protective devices at entrances and exits:
 - (i) to prevent escapes; ~~if kept outdoors~~ and
 - (ii) if needed to prevent injuries to human; or
 - (iii) **if needed for the wild animal's health;**
 - (G) have ambient temperatures that are appropriate for the species ~~located within~~ **in** the enclosure;
 - (H) have adequate ventilation by: ~~means of:~~
 - (i) windows;
 - (ii) doors;
 - (iii) vents;
 - (iv) fans; or
 - (v) air conditioning;
- to protect wild animal health and to minimize drafts, odors, and condensation;
- (I) ~~maintain~~ **have** adequate lighting by artificial or natural means that is cycled for appropriate photoperiod, if necessary for the species; ~~in possession;~~ and
 - (J) provide adequate shade, weatherproof shelters, nest boxes, perches, and dens to protect wild animals from inclement weather and direct sun if kept outdoors.

(9) ~~No~~ **Have enclosures which do not contain:**

- (A) exposed sharp objects;
- (B) ponds with steeply sloped banks;
- (C) toxic paints or sealants; or
- (D) poisonous vegetation. ~~may be used in the construction of enclosures.~~

(10) **Provide visual barriers for the enclosures** ~~shall have either visual barriers or be separated~~ **separate the enclosures** by distance to restrict a wild animal's view of humans and other species being rehabilitated to reduce inappropriate imprinting, socialization, habituation, or stress, unless a view of humans and other wild animals will not affect the **wild animal's ability to survive in the wild when released.**

(11) **Feed the wild animals** ~~must be fed~~ as follows:

- (A) ~~Appropriately and adequately~~ **With food that is appropriate and adequate** to meet nutritional needs **of the wild animal**, unless medical treatment necessitates restricted food intake.
- (B) With food that is palatable, free of contamination, and of sufficient quantity and nutritive value for the ~~species involved,~~ **wild animal**, including the use of supplemental vitamins and minerals when necessary for recovery.
- (C) With food receptacles that are appropriately sized, easily accessible, and kept sanitary and safe.

(12) **Provide water to the wild animals** ~~must be given water~~ as follows:

- (A) **Provide** fresh clean water for drinking ~~shall be provided~~ throughout the day unless medical treatment necessitates restricted water intake.
- (B) **Provide** additional water ~~shall be provided~~ for species requiring bathing, swimming, or misting unless medical treatment necessitates restricted water exposure.
- (C) ~~With~~ **Use** water receptacles that are appropriately sized, easily accessible, kept sanitary as much as possible, and safe.

(13) ~~Removal and disposal~~ **Remove and dispose of** wild animal food wastes, feces and urine, and bedding from ~~the an~~ enclosure and premises ~~shall be performed daily~~ **at least one (1) time each day** to maintain sanitary conditions and **to** protect wild animal and human health. Trash, garbage, debris, and carcasses must be removed **and appropriately disposed of** from the enclosure as soon as they are observed. ~~and appropriately disposed of.~~

(14) Cages, rooms, hard surfaced pens, kennels, runs, equipment, and food and water receptacles ~~shall~~ **must** be sanitized between each adult wild animal use and between litters to prevent disease transmission.

The department may further limit the number or species of wild animals a wild animal rehabilitator may possess if the rehabilitator does not satisfy the standards under this subsection.

~~(h)~~ **(o)** An **individual holding a wild animal rehabilitation** permit holder ~~must~~ **shall** maintain current records for each wild animal ~~to include with~~ the following **information:**

- (1) The species and condition of the **wild** animal.
- (2) The name, address, and telephone number of the donor or other source of the **wild** animal.
- (3) The date of receipt by the **individual holding a wild animal rehabilitation** permit holder.
- (4) The treatment provided to the **wild** animal while in captivity, including the identification of and date of ~~administration of any~~ a pharmaceutical product or other chemical **is administered** to a mammal, **amphibian**, or reptile.
- (5) The method and date of disposition of the wild animal.

All records must be maintained at the facility of the **individual holding a wild animal rehabilitation** permit holder for ~~a minimum of~~ **at least** three (3) years.

~~(i)~~ **(p)** The **individual holding a wild animal rehabilitation** permit holder shall provide a signed annual report to the division ~~by~~ **not later than** January 31 ~~of~~ each year. The report shall list the following:

- (1) The species and condition of each animal.
- (2) The date the animal was received.
- (3) The name and county of the donor or other source.
- (4) The method, location, and date of disposition of the animal.

The report may be a computerized record signed by the **individual holding the wild animal rehabilitation** permit holder under oath or affirmation to be a true and accurate account of all wild animals taken in for rehabilitation during ~~that the previous calendar year or on~~ in a form ~~provided~~ **and manner prescribed** by the department and must be maintained at the facility of the **individual holding the wild animal rehabilitation** permit holder for a ~~minimum of~~ **at least** three (3) years.

~~(j)~~ **(q)** As soon as a wild animal is capable of fending for itself, the **individual holding the wild animal rehabilitation** permit ~~must be released~~ **release the wild animal** into the wild as follows:

- (1) The wild animal ~~must may~~ be released on land only with permission of the landowner.
- (2) Mammals must be tagged or marked as ~~directed~~ **required** by the department if given a pharmaceutical product or other chemical for the purpose of tranquilizing or anesthetizing the mammal unless the product administered is labeled as safe for human consumption and the mammal is released after the clearance period.
- (3) A bird must be released in the county from which it was originally found ~~except unless the bird meets any of the following conditions:~~
 - (A) ~~a~~ **The bird that** is being released outside the breeding season for that species.
 - (B) ~~a~~ **The bird that** has been in a rehabilitation facility for **at least** ninety (90) calendar days. ~~or more;~~
 - (C) ~~a~~ **The bird that** is not in the order Anseriformes, Charadriiformes, Columbiformes, Falconiformes, Galliformes, Gruiformes, or Strigiformes. ~~or~~
 - (D) ~~a~~ **The bird that** is a juvenile.

A bird under clauses (A) through (C) may be released in an appropriate habitat in any county that is within that species' normal range in Indiana.

(4) A reptile or amphibian ~~must may~~ be released at the site where **the reptile or amphibian was found**, unless the origin **of the reptile or amphibian** is unknown. If the origin is unknown, the reptile or amphibian may be released in an appropriate habitat in the ~~permit holder's~~ county of residence **for the individual holding the wild animal rehabilitation permit.**

(5) ~~For mammals,~~ The following apply **to the release of a mammal:**

- (A) A mammal must be released in the county from which it was originally found or obtained, unless the origin is unknown or the mammal is a juvenile.
- (B) If the mammal's origin is unknown, the mammal may be released in an appropriate habitat in the ~~permit holder's~~ county of residence **of the individual holding the wild animal rehabilitation permit.**
- (C) If the mammal is a juvenile and ~~was is~~ housed ~~together~~ with other **wild** animals of the same species, the group **of wild animals** may be released in **an** appropriate habitat in a county where at least one (1) member of the group **of wild animals** originated.
- (D) In addition to the requirements in subdivisions (1) and (2) and clauses (A) through (C), raccoons, Virginia opossums, striped skunks, coyotes, and foxes must be released ~~only~~ as follows:

~~or be euthanized:~~

- (i) The release site must consist of at least two (2) contiguous acres.
- (ii) Not more than eight (8) animals per species may be released per two (2) acres of any site per calendar year.

(E) In addition to the requirements in subdivisions (1) and (2) and clauses (A) through (C), white-tailed deer must be released ~~only~~ as follows or be euthanized:

- (i) The release site must consist of at least five (5) contiguous acres.
- (ii) The release site must be outside city limits.
- (iii) Not more than ten (10) ~~white-tailed~~ deer may be released per site per calendar year.
- (iv) If obtained from a chronic wasting disease positive area, the release site must be in a chronic wasting disease positive area.**
- (v) If the permit holder resides in a chronic wasting disease positive area, the release site must be in a chronic wasting disease positive area.**

~~(r)~~ **(r) A wild animal possessed lawfully prior to July 1, 2010, is exempt from the requirements under this subsection. An individual holding a wild animal rehabilitation permit holder** may keep a nonreleasable wild animal, other than a ~~white-tailed~~ deer, ~~only~~ if approved by the division of fish and wildlife as follows:

(1) For educational purposes under a special purpose educational permit under section 9.5 of this rule as follows:

(A) ~~For mammals~~ **Possess a mammal** other than ~~white-tailed~~ a deer, as follows:

- (i) ~~With~~ **With** a wild animal possession permit ~~must be obtained~~ under 312 IAC 9-11.
- (ii) ~~Possess~~ **Possess** not more than three (3) mammals per species and six (6) mammals total ~~may be possessed~~ if **not more than** twelve (12) ~~or fewer total~~ mammal programs are presented to the public each calendar year.
- (iii) ~~Possess~~ **Possess** not more than five (5) mammals per species and not more than twenty (20) mammals total ~~may be possessed~~ if **at least** thirteen (13) ~~or more~~ total mammal programs are presented to the public each calendar year.
- (iv) ~~Exceptions to these numbers~~ **The division may be granted upon grant possession of more than the permitted number of mammals, other than a deer, under this subsection with** prior written approval ~~from the division~~ based on the number of educational programs presented to the public in the previous **calendar** year.

(B) ~~For birds,~~ **Possess a bird** as follows:

- (i) ~~With~~ **With** a special purpose educational permit ~~must be obtained~~ under section 9.5 of this rule.
- (ii) ~~Possess~~ **Possess** not more than three (3) birds per species ~~may be possessed~~ and six (6) birds total if **not more than** twelve (12) ~~or fewer~~ programs with each bird are presented to the public each calendar year.
- (iii) ~~Possess~~ **Possess** not more than five (5) birds per species ~~may be possessed~~ and not more than twenty (20) birds total **at least** if thirteen (13) ~~or more~~ bird programs with each bird are presented to the public each calendar year.
- (iv) ~~Exceptions to these numbers~~ **The division may be granted upon grant possession of more than the permitted number of birds under this subsection with** prior written approval ~~from the division~~ based on the number of educational programs presented to the public in the previous **calendar** year.

(C) ~~For reptiles,~~ **To possess a reptile** as follows:

- (i) ~~With~~ **With** a turtle possession permit ~~must be obtained~~ under 312 IAC 9-5-11 to possess an eastern box turtle ~~and or~~ **endangered species of turtle.**
- (ii) ~~With~~ **With** a wild animal possession permit ~~must be obtained~~ under 312 IAC 9-11 to possess an endangered species of reptile.
- (ii) ~~Possess~~ **Possess** not more than three (3) reptiles per species and six (6) reptiles total ~~may be possessed~~ if **not more than** twelve (12) ~~or fewer~~ total reptile programs are presented to the public each calendar year.
- (iii) ~~Possess~~ **Possess** not more than four (4) reptiles per species and not more than twenty (20) reptiles total ~~may be possessed~~ if **at least** thirteen (13) ~~or more~~ total reptile programs are presented to the public each calendar year.
- (iv) ~~Exceptions to these numbers~~ **The division may be granted upon grant possession of**

more than the permitted number of reptiles under this subsection with prior written approval ~~from the division~~ based on the number of educational programs presented to the public in the previous **calendar** year.

~~(2) For fostering other~~ **To foster another** wild ~~animals~~ **animal** only if five (5) mammals or birds of the same species ~~have been~~ **were** reported in at least the two (2) previous **calendar** years.

~~(3) A wild animals that have been~~ **animal:**

~~(A) used in for an educational programs~~ **program;** or

~~(B) used as a foster parents~~ **parent;**

~~and are that is~~ no longer capable of being used ~~in that capacity for that purpose~~ due to age or health may be kept with written permission from the division. ~~of fish and wildlife.~~

~~(4) Wild animals possessed lawfully prior to July 1, 2010, are exempt from the requirements in this subsection.~~

~~(5)~~ **(4) A** nonreleasable wild ~~animals~~ **animal** may be transferred:

~~(A) to an individual with~~ **holding a wild animal rehabilitation** permit under this section **to:**

(i) foster the wild animal; or

(ii) use the wild animal in an educational program;

under this subsection;

~~(B) to an individual with~~ **a person holding** a special purpose educational permit under section 9.5 of this rule;

~~(C) if the wild animal is a raptor, to an individual with~~ **holding** a falconry license under section 13.1 of this rule that has ~~had a permit~~ **held the falconry license** for at least three (3) consecutive years;

~~(D) if the wild animal is a migratory bird, to an individual with~~ **holding a wild animal rehabilitation** permit or **obtains** authorization from the United States Fish and Wildlife Service to possess the **migratory** bird; or

~~(E) to a zoo accredited by the Association of Zoos and Aquariums and licensed or registered with the United States Department of Agriculture.~~

~~for use in fostering or educational programs in accordance with this subsection.~~

~~(6) A determination that a wild animal is nonreleasable must be based upon a licensed veterinarian's examination and statement.~~

~~(7) As used in this subsection, "nonreleasable" means a wild animal that:~~

~~(A) cannot obtain food on its own in the wild;~~

~~(B) does not exhibit locomotive skills necessary for that species to survive;~~

~~(C) does not possess adequate vision to find or catch, or both, food and maneuver in a normal manner; or~~

~~(D) cannot otherwise fend for itself without medical care due to disease or extensive injuries.~~

~~(p)~~ **(s)** An individual who ~~does is not hold~~ **holding a wild animal rehabilitation** permit under this section **but may assist a wild animal rehabilitator if the following conditions are met:**

(1) The individual is listed as an assistant on a **wild animal rehabilitation** permit issued under this section. ~~may assist an permit holder, but only if~~

(2) The individual holding a wild animal rehabilitation permit ~~holder~~ supervises the individual **who does not hold a wild animal rehabilitation permit.** ~~as follows:~~

~~(1) An assistant must be~~ **(3) The individual is** at least sixteen (16) years of age. ~~to provide assistance at the permit holder's facility.~~

~~(2) An assistant under~~ **(4) If the individual is less than** eighteen (18) years of age, ~~must be the individual is~~ under the direct and on-site supervision of the **individual holding a wild animal rehabilitation** permit. ~~holder.~~

~~(3) An assistant of~~ **(5) If the individual is at least** eighteen (18) years of age, ~~or older the individual~~ may provide assistance:

(A) at the permit holder's **wild animal rehabilitation** facility; or

(B) as follows:

~~(A)~~ **(i)** With written authorization **from the division,** an ~~assistant~~ **individual** listed as an **assistant** on the **wild animal rehabilitation** permit may possess a wild animal under this section at a location not authorized on the **wild animal rehabilitation** permit for not more than thirty (30) consecutive days, unless **otherwise** authorized by the department.

~~(B)~~ **(ii)** The **individual holding a wild animal rehabilitation** permit holder maintains responsibility for the care of the wild animal.

~~(C)~~ **(iii)** The **individual holding a wild animal rehabilitation** permit holder ~~provides supervision~~ **supervises the individual listed on the wild animal rehabilitation permit as an assistant** with written instructions and is available for phone contact with the **individual listed as an assistant** at all times.

~~(D)~~ **(iv)** The facilities of the **individual listed as an assistant** meet the same facility standards as the **individual holding a wild animal rehabilitation** permit holder.

~~(E)~~ **(v)** The wild animal possessed by an **individual listed as an assistant on the wild animal rehabilitation permit** is returned to the **individual holding a wild animal rehabilitation** permit holder at the time of weaning or release **of the wild animal, whichever comes first, is earlier.**

~~(F)~~ **(t)** **Except as otherwise provided under this subsection, an individual holding a wild animal rehabilitation** permit holder may possess a wild animal for rehabilitation under this section for one hundred eighty (180) days except as follows:

- (1) ~~Exceptions may be approved~~ **If authorized** by the department. ~~but~~ Additional time will not be authorized for the sole purpose of releasing the wild animal outside the hunting season for that species.
- (2) Migratory birds may ~~only~~ be possessed in accordance with the ~~permit holder's~~ federal migratory bird permit **of the individual holding a wild animal rehabilitation permit.**
- (3) Turtles with shell fractures may be possessed for ~~up to~~ **not more than** two (2) years if housed separately from all other turtles.

~~(G)~~ **(u)** ~~All white-tailed~~ A deer ~~that are~~ taken in for rehabilitation ~~and that is~~ determined to be nonreleasable must be euthanized.

~~(H)~~ **(v)** A mammal, nonmigratory bird, reptile, or amphibian taken in for rehabilitation that is:

- (1) diseased;
- (2) severely injured, unless determined by a licensed veterinarian to be treatable and released ~~within~~ **not later than** one hundred eighty (180) days ~~from~~ **after** the date obtained by the ~~licensed~~ **individual holding a wild animal rehabilitation; rehabilitation permit;** or
- (3) a turtle with a shell fracture, unless determined by a licensed veterinarian to be treatable and released ~~within~~ **not later than** two (2) years **after the date obtained;**

must be euthanized.

~~(I)~~ **(w)** Euthanasia must be carried out with the:

- (1) safest;
- (2) quickest; and
- (3) most painless;

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

~~(J)~~ **(x)** Carcasses of wild animals that are euthanized or otherwise die while in the care of an **individual holding a wild animal rehabilitation** permit holder ~~must~~ **may** be:

- (1) buried;
- (2) incinerated on private property with prior permission of the landowner;
- (3) given to a veterinarian or landfill for proper disposal;
- (4) put in the trash if double-bagged;
- (5) if euthanized with chemicals, disposed of only according to the chemical label;
- (6) kept for educational purposes only if the **individual who is issued a wild animal rehabilitation** permit holder ~~also has~~ **holds** a special purpose salvage permit issued under section 13.5 of this rule;
- (7) donated to a properly licensed university or other educational or scientific institution that has a special purpose salvage permit issued under section 13.5 of this rule; or
- (8) donated to a person with a permit from the United States Fish and Wildlife Service for Native American religious purposes.

~~(K)~~ **(y)** An **individual holding a wild animal rehabilitation** permit holder ~~must~~ **shall** not:

- (1) commercially advertise rehabilitation services or solicit for rehabilitation of a wild animal that is subject to this section;
- (2) have a wild animal spayed or neutered, or in any way have its **wild animal's** reproductive function altered; or
- (3) mark or tag the wild animals in any way, such as with a collar or ear tag, except as required ~~in~~ **under** subsection ~~(n)(2)~~ **(q)(2)** ~~or as authorized~~ in writing ~~from~~ **by** the department.

~~(w)~~ **(z)** An **individual holding a wild animal rehabilitation** permit holder ~~must~~ **shall** notify the department ~~within not later than~~ twenty-four (24) hours ~~of~~ **after** acquiring an endangered species, or a bald or golden eagle whether live or dead, and the location and date of acquisition.

~~(x)~~ **(aa)** An **individual holding a wild animal rehabilitation** permit holder ~~must~~ notify the department ~~within not later than~~ twenty-four (24) hours ~~if the permit holder has reason to believe~~ **of a suspicion** that a wild animal ~~has been~~ **was** subjected to criminal activity.

~~(y)~~ **(bb)** Wild animals, including their carcasses and parts, possessed under this section ~~must~~ **may** not be sold, bartered, or transferred to another individual or to an **individual holding a permit holder's** game breeder license except:

- (1) for carcasses and parts, as authorized ~~in~~ **under** subsection ~~(u)~~ **(x)**;
- (2) for a live wild animal that is in need of continued rehabilitation, the wild animal may be transferred to another individual:
 - (A) ~~with~~ **who is issued a wild animal rehabilitation** permit under this section; or
 - (B) if a raptor, to an individual with a falconry license under section 13.1 of this rule; or
- (3) for nonreleasable wild animals, ~~as authorized in~~ **under the requirements of** subsection ~~(v)~~ **(r)**.

~~(z)~~ **(cc)** An **individual shall possess** a copy of the **wild animal rehabilitation** permit issued under this section ~~must be possessed by the permit holder~~ when transporting a wild animal possessed under this section to another location and be available and on-site **at a wild animal rehabilitation facility** when possessing and caring for wild animals authorized under this section.

~~(aa)~~ **(dd)** A **wild animal rehabilitation** permit may be suspended, denied, or revoked under IC 4-21.5 if the **individual who is issued the wild animal rehabilitation** permit holder fails to comply with any of the following:

- (1) A **wild animal rehabilitation** permit issued under this section.
- (2) This article or IC 14-22.

(Natural Resources Commission; 312 IAC 9-10-9; filed May 12, 1997, 10:00 a.m.: 20 IR 2730; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 550; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Feb 9, 2011, 10:30 a.m.: 20110309-IR-312100418FRA; readopted filed May 20, 2014, 9:43 a.m.: 20140618-IR312140017RFA; filed Sep 23, 2015, 9:57 a.m.: 20151021-IR-312140477FRA; readopted filed Sep 18, 2019, 1:16 p.m.: 20191016-IR-312190325RFA)

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Notice of First Public Comment Period: [DIN]

Public Hearing Held: [date]

Notice of Second Public Comment Period: [DIN] [if applicable]

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