



October 2, 2023

To: Legislative Committee on Administrative Rules

Re: Department of Fish and Wildlife/Rulemaking 10 V.S.A. Appendix § 44,
Furbearing Species

Dear Honorable Committee Members:

I am writing on behalf of Protect Our Wildlife's 3,000+ Vermont subscribers, as well as our 30,000 social media followers concerning rule 23-P15: Vermont Fish & Wildlife Department's (Department) proposed rules pertaining to trapping and the hunting of coyotes with hounds resulting from Act 159 and 165, respectively.

Working with the Department and Vermont Fish & Wildlife Board (Board) has regrettably been a futile endeavor, resulting in no meaningful changes for wildlife and the public. Despite almost two years of working on these rules, the Board recently weakened what were already inadequate recommendations to begin with. The Board would have likely further weakened the Department's recommendations if not cautioned by a sole voice on the Board (and former Vermont House Representative), who reminded the Board of the intent of Acts 159 and Act 165.

This process has illuminated the fact that the values held by the Department with respect to wildlife are very different from the public's values. The only way that

the public, who largely opposes these activities, will see any meaningful changes for animals is through the legislature where democracy is possible. At every turn of this process, the Department eroded the trust and confidence of their constituents for whom they are to serve as trustee over our shared wildlife.

Background

Intent of the Acts are animal welfare and public safety.

I'd like to briefly provide some background on Acts 159 and 165 that hopefully offers insight as to how we got to where we are today. There were two bills in 2022: S.201, *a ban on leghold traps*, and S.281, *a ban on coyote hounding*. Both had tremendous support from the public, but they were not supported by the Department. The Senate Committee on Natural Resources amended these bills to instead require that the Department promulgate rules to address, in part: animal welfare; reduce non-targeted animals getting trapped; violation of landowner rights by packs of hounds traversing posted land; public safety; and other matters.

The Department convened working groups and hearings that were biased and hostile.

While we had our doubts that this process would yield the intended results, we participated in working group meetings, Board meetings, and public hearings in good faith to make meaningful changes for animals. From the beginning, the Department showed its bias by trying to exclude Protect Our Wildlife from the working groups. Protect Our Wildlife is the largest Vermont-based organization working on wildlife protection efforts since 2015. Only after Senators from **Senate Natural Resources pushed the Department were we invited. Our colleagues had already been invited.**

The Department convened working groups in which wildlife advocates were outnumbered (see appendix A) and allowed hostile public hearings in which wildlife advocates were disparaged and even threatened. I was personally told to “be quiet” by Mark Scott, former Director of the Vermont Fish & Wildlife Department, in front of an audience of people at a public hearing in Montpelier.

The Department failed to foster middle ground between the sporting community and animal advocates.

This law and working groups were a unique opportunity for the Department and Board to find a middle ground with wildlife advocates and the public. Instead, they squandered this chance to work together, by fighting every step to fulfill the intents of these Acts.

The Department did not incorporate a single one of the recommendations from the three wildlife protection groups that participated in the working groups. (See [Protect Our Wildlife's original recommendations.](#))

In addition to these concerns, the Department (see appendices B-G):

- underrepresented data on non-targeted animals that were trapped
- misrepresented data to the legislature
- misrepresented our position in the minutes and on their website

The reason these things are important to mention is that the public will never see any positive changes for animals by working with either the Department or the Board. Until the management of the Department and Board is restructured to reflect current demographics and the actual values of the Vermont public, the legislature will be the body that will be called upon to make regulations that represent the will of the people.

Below are highlights of the legislative mandates that the Department did not meet. This is not an exhaustive list.

Act 159, An act relating to trapping

The Department fails its mandate and attempts to exploit the process to enshrine trapping in the Constitution.

The impetus for Act 159 was to improve animal welfare and reduce non-target animals from being trapped. We recently learned that the Department used Act 159 as a vehicle to make a substantial change—defining trapping as hunting—without ever discussing this change with the public. That maneuver is emblematic of the Department’s opaque process. We believe that alone is grounds for LCAR to reject the rule because that rule is beyond the authority of the agency. If the Department wishes to make such a controversial change with far-reaching ramifications, it should be done in a transparent, democratic fashion, not attached to Act 159 without proper deliberation.

[Legislative mandate: “Trapping techniques, including the appropriate size and type of a trap for target animals, use of lures or other attractants, trap safety, and methods to avoid non-target animals...” \(From Act 159\)](#)

Both leghold and body-crushing kill traps are inherently non-selective. Any animal unlucky enough to trigger the trap will find themselves trapped. Both targeted and non-targeted animals are maimed, injured, and killed every year, including protected species like red-tailed hawks, ravens, ducks, and even black bears. The Department’s recommendations before you will not reduce this risk due to the indiscriminate nature of traps.

Wildlife advocates asked for body-crushing kill traps, like the one that killed two dogs last year, to be restricted to underwater use only. This was probably the easiest thing that the Department could’ve compromised on. Instead, the

Department will still allow kill traps to be set on land, including our shared public lands with no warning.

The Department downplayed the dangers that kill traps present to animals in their rulemaking to LCAR. The reality is that non-targeted animals suffer severe injuries from these traps. The raccoon presented in appendix H was trapped by the face this year in Island Pond. A cat in appendix I who had to have his leg amputated after being caught in a kill trap in Fairfax. These traps slam shut with tremendous force—some close with 90 pounds of pressure per square inch.

Allowing kill traps to remain on land and in shallow water with the meaningless requirements offered by the Department, fail to protect non-target animals and the public.

And it's not just wildlife advocates making this claim about kill traps. The following quote is from the website TrappingToday:

"What is the disadvantage to using conibear or body grip traps?

Because they are designed to be a quick killing trap, the disadvantage to using these devices is that you can't release a nontarget animal alive. A pet or nontarget caught in a bodygrip trap is likely to be killed in it if not released quickly." (emphasis added) (TrappingToday, 2023)

In addition, we had recommended that all bait be covered to reduce the risk of protected birds of prey from becoming trapped, as other states require. The Department is only requiring meat-based bait be covered, which doesn't match the standards of states like Maine that require various kinds of bait (e.g. feathers, bones etc.) be covered. The Department is also allowing trappers to use

snow to cover bait, but snow melts and then the bait becomes exposed, thereby endangering birds of prey.

The Department failed to provide definitive guidance on release or methods of killing trapped animals.

Legislative mandate: “Criteria for how live, captured animals should be released or dispatched” (From Act 159)

Despite multiple attempts at obtaining clarification from the Department, there are no criteria for the release of captured animals. A trapper released an injured raven (non-targeted animal) with a broken leg from a leghold trap last season. The trapper should have had to consult with a wildlife rehabber or state veterinarian. We asked the Department to consider requiring trappers to enlist the expertise of a warden or wildlife rehabilitator if they catch a non-targeted animal, including endangered species like pine marten to assess the animal’s injuries before releasing it, yet they refused (see appendix J). Again, this shows how little the Department is willing to address these issues.

Currently, trapped animals are killed by being bludgeoned (like beaten with a bat), choked out, stomped on (known as “chest compression”) and drowned. Wildlife advocates asked for gunshot only, which offers the quickest death. After a year and a half of pleading with the Department, their rule before you has a huge loophole. They’re able to change the method of killing when the Association of Fish & Wildlife Agencies release their recommendation. AFWA is a private organization with sporting organizations as their main [contributing members](#). AFWA currently recommends gruesome killing methods like bludgeoning trapped animals.

Legislative mandate: “The BMPs shall include recommended: (1) trapping devices and components of trapping devices that are more humane than currently authorized devices and are designed to minimize injury to a captured animal...”
(From Act 159)

The subsequent image on page 8 is an example of a “padded” BMP-approved trap with a severed paw that was found by one of our members in woods behind her property. This is the exact type of a leghold trap that the Department claims is humane.



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Animal advocates are not the only ones leery of so-called “BMPs.” A Vermont trapper education instructor told the Department that these trap modifications will make no difference at all (see appendix K).

What’s most alarming is that BMPs are inhumane by Association of Fish and Wildlife Agencies’ (AFWA) own standards. **AFWA’s scales of injury that the BMP uses for its criteria allow for extreme suffering: 30% of animals trapped are allowed to have amputations; compound fractures and even death and still meet the BMP criteria.** (See appendix L).

One of the many, and often unreported, cases of non-targeted animals being trapped is documented in a warden’s report from November 2021. A young black bear was trapped in a Best Management Practice (BMP)-approved offset leghold trap (see appendix M). Trapping bears is illegal in Vermont, but a baited trap set for a coyote, as in this case, will just as easily trap a bear regardless of whether or not the trap is BMP-approved.

Lastly, AFWA’s BMPs are species specific, whereas the Department’s recommendations are broad, not species specific, and unenforceable. A BMP trap set for a coyote can cause even more serious injuries to a raccoon, for example. This concern was raised with the Department, but it went unanswered (see appendix N). Protect Our Wildlife wrote a [white paper on trapping BMPs](#) in July 2022 that addresses the shortcomings of BMPs.

The Department's setback recommendations only cover a small part of Vermont and are not far enough to be reasonably effective.

Legislative mandate: "Requirements for the location of traps including the placing of traps at a safe distance from public trails, class 4 roads, playgrounds, parks and other public locations where persons may reasonably be expected to recreate..." (From Act 159)

Vermonters and visitors recreate outdoors with their dogs. Trap setbacks (the distance a trap is from a trail, trailhead or place where people recreate) are long overdue. In fact, in 2019 Protect Our Wildlife petitioned the Board to require traps be set back from trails and trailheads. The Board met the request with hostility and denied [the petition](#).

Historically, the Department has not required trappers to report any non-target animals that are trapped, including domestic animals. They only made this a requirement when they were required to by the legislature in 2022 and 2019, respectively. The Department has limited knowledge of what occurs in the field, especially due to the secretive nature of trapping. Yet, the Department routinely downplays the number of pets caught in traps set for wildlife. We know that at least 12 dogs were *reported* trapped just last year. Two of the trapped dogs died.

During the initial discussions with trappers in the working group, their meager recommendation was that they would not set traps on trails. This shows a clear lack of commitment to the legislative mandate that has driven the year and half process. The Department's final rule of 50 feet, including for of kill traps on land, is not nearly enough to protect the public and their pets. There is little chance of releasing a dog or cat from a kill trap. Our recommendation was 500 feet.

Equally concerning is the relatively small amount of land covered under the Department's proposals. They are just a sliver of the lands where people recreate, which is contrary to what Act 159 required.

Additionally, kill traps can be set in culverts. This presents a tremendous threat to dogs. With the Department's rules as currently written, this hazard will still be allowed.

Act 165, An act relating to the hunting of coyotes with dogs

Concerns over landowner rights being violated has been a common theme in discussions pertaining to hounding, as well as concerns over the inherent cruelty of allowing a pack of well-muscled, tenacious hounds to run down and maul a lone coyote.

There's also concern over both the public, our pets, and non-target animals being pursued, attacked and even killed by hounds. A woman was bicycling with her dog in Fairlee in 2021 when four hounds appeared out of the woods and proceeded to attack her dog for two miles. The hounder was nowhere to be found, which is common with hounding (see Appendix O).

Hounds often run miles away from the hounder and also run in different directions, making any attempt to control the dogs impossible.

Legislative intent: "General Assembly intends that the rules required under this section support the humane taking of coyote, the management of the population in concert with sound ecological principles, and the development of reasonable and effective means of control." (From Act 165)

The Department's recommendations of GPS and shock collars for controlling hounds is illogical and increases cruelty to hounds.

Legislative mandate: "A definition of control to minimize the risk that dogs pursuing coyote:

- (A) enter onto land that is posted against hunting;
- (B) enter onto land where pursuit of coyote with dogs is not authorized;
- (C) harass or harm people or domestic animals; and
- (D) cause other unintentional damages to people or property;"

Wildlife advocates who were members of the coyote hounding working group submitted recommendations to the Department. None of the recommendations were adopted (see appendix P). Wildlife advocates recommended that hounds be in visual and verbal command of the hounder. The Department inaccurately excluded that recommendation in their responsiveness summary to LCAR. They only mentioned that wildlife advocates wanted dogs to be leashed.

GPS collars have not kept hounds from attacking people, pets and wildlife. Shocking hounds that are out of sight is cruel.

The Department recommends the status quo (GPS collars) with the addition of shock collars (training collars or e-collars). These recommendations are illogical. These collars have not stopped any of the previous incidents where people and animals were attacked, and property rights were violated. There is no control of a pack of hounds that is running out of eyesight of the hounder. Hounds can run a mile or more away from the hounder making control impossible.

How does a collar tell a hounder if their hounds are pursuing someone's dog or a coyote?

How would a hounder know when to inflict a shock correction to their hound if the hounder can't see what the hound is doing?

Further, what is proposed, the use of "training" or shock collars, legitimizes a controversial practice with no guidelines and which can cause harm to the dogs. Remotely shocking a dog is ineffective and cruel.

Four hounds on one coyote is not fair or "humane taking".

Legislative mandate: "A limit on the number of dogs that may be used to pursue coyote..." (From Act 165)

The Department recommends 4 hounds for one hounder. Allowing 4 well-muscled, powerful hounds to pursue one coyote is an unfair pursuit. It also makes controlling the hounds more difficult when you have multiple hounds running at large and in different directions. Our recommendation was one hound.

The subsequent photo on page 14, taken in Vermont, shows the reality of what happens when a pack of hounds are allowed to run down and maul a coyote. Notice the blood on the snow.



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The Department offered and then rescinded prohibition on bait.

Legislative Mandate: "The Board shall consider whether to include within the rule required by this section provisions related to seasonal restrictions and baiting." (From Act 165)

Our recommendation was to ban baiting outright. Baiting wildlife may create conflicts between humans and coyotes by habituating coyotes near roads, farms and residential areas.

During the summer working group, the Department proposed the following language: *No person shall place bait to attract a coyote for the purposes of training a dog to catch/strike the scent of a coyote.*

Yet, after the working group concluded, the Department rescinded their restriction on bait. They did this unilaterally without notifying or discussing it with all working group members. The Department's proposal to LCAR allows all forms of baiting. Baiting is an unfair way to hunt and is ecologically unsound.

Additionally, the season that the Department is proposing is exactly the time of year when hounders hunt coyotes with hounds, so there will be no relief from the status quo.

Closing

We ask the Committee members to reject The Department of Fish & Wildlife's rules before you because the proposed rule is:

- beyond the authority of the agency and;
- is contrary to the intent of the Legislature

The will of the people has not and will not be addressed by the Vermont Fish & Wildlife Department or Board as history has shown. These matters must be taken up by the legislature where democracy is possible. It is also our hope that the Committee will send a memo to the House and Senate Committees of jurisdiction outlining the many deficiencies in the Department's rule.

Respectfully,



Brenna Galdenzi
President & Co-founder