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Agency of Natural Resources

November 30, 2023

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Legislative Committee on Administrative Rules
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: 23-P15 10 V.S.A. Appendix § 44, Furbearing Species Rules

Dear LCAR members,

The Department of Fish and Wildlife is writing on behalf of the Vermont Fish and Wildlife Board in response to the November 16, 2023, LCAR objections. The response to each objection was discussed and voted on by the Board at a meeting earlier today and is outlined below.

Section 3.6 and 4.20 – control of dogs

LCAR objects to sections 3.6 and 4.20 of the final proposed rules entitled 10 V.S.A. Appendix § 44, Furbearing Species Rules approved by the Board, and asserts that these sections of the rules are contrary to the intent of the General Assembly and the legislative intent of Act 165, Sec. 3(b)(4). This objection is contrary to the plain language of Act 165 and as such, contradicts the legislative intent of the statute. The statutory language of Act 165, Section 3(b)(4) requires the Board to fashion a rule that includes the following:

- (4) 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;

In addition, Section 3(a) states that the “General Assembly through the rules required under this section intends to reduce conflicts between landowners and persons pursuing coyote with the aid of dogs by reducing the frequency that dogs or persons pursuing coyote enter onto land that is posted against hunting or land where pursuit of coyote with dogs is not authorized.”

The Vermont Supreme Court has set forth a consistent approach to determining the legislative intent of a statute. The Court first looks at the plain language of the statute. The primary goal of the Court is to effectuate legislative intent and in doing so, the Court presumes “that the Legislature intended the plain meaning of the statute.” *Cyr v. McDermott's, Inc.*, 187 Vt. 392, 401(2010); citing *In re Ambassador Ins. Co.*, 2008 VT 105, ¶ 18, 184 Vt. 408, 965 A.2d 486. The court will also examine the entire statute and legislative history if the language is vague or “ambiguous or does not provide sufficient guidance to ascertain intent.” *State v. Rajda*, 208 Vt. 324, 330-331 (2018) (citing *State v. Reed*, 2017 VT 28, ¶ 20, 204 Vt. 399, 169 A.3d 1278).

Here, the language of Act 165 clearly specifies that the rules must **reduce** conflicts with landowners and minimize the risk that dogs pursuing coyotes will enter land where they are not welcome; or will harass, harm or otherwise cause damage to people, domestic animals or private property. While conflicts between landowners and hunters who hunt with the aid of dogs are extremely rare and there have only been a handful of incidents over the last decade, the Board approved rules that include several provisions that are designed to significantly increase control of dogs and **reduce** the risk of such incidents. Specifically, hunters must register their dogs with the Department, relaying or replacing dogs with new or fresh dogs is prohibited, hunters are required to have control over their dogs and must be able to remotely locate and recall dogs at any time during training or hunting coyote, and training and hunting seasons are imposed by the rule and can only occur during daylight hours. In addition, all dogs on a hunt must have a GPS and training/control collar and, the hunter must maintain a GPS track log for each dog.

Hunting coyote with dogs is not currently regulated in Vermont and the proposed Board rules impose requirements on coyote hunters, that are likely the most stringent in the country short of a ban. Key portions of the Board’s final proposed rules are set forth below and sections are highlighted for emphasis.

3.6 “Control of dogs(s)” means that when transporting, loading, or unloading of dogs from vehicle(s); and handling, catching, restraining, following or releasing of dogs at all times during the training and taking of coyote with the aid of dogs; the permittee **shall be able to locate and remotely recall the dogs. Collar(s) with GPS functions, track log capability, and training/control features in the collar(s) shall be required to locate and track dogs at all times while taking coyote with the aid of dogs.** At no time shall dogs be in pursuit of coyote without a GPS track log being maintained by the permit holder.

3.19 “Training/control” collar is any family of collars that deliver electrical stimulation of varying intensity and duration to the neck of a dog via a radio-controlled electronic device incorporated into the collar.

4.20.3 d) (1) *A person shall not take coyote with the aid of dogs unless the person is in control of the dog(s).*

4.20.3 d) (3) A person taking coyote with the aid of dogs shall attach a collar or collars with GPS capabilities and training/control functions *for remote recall*, and shall attach a Department Registration Dog-Tag and a metal identification name plate with the person's name, address and telephone number to each dog's collar.

4.20.3 d) (4) A person taking coyote with the aid of dogs shall maintain a GPS location log of each dog taking coyote and shall retain the log for at least 30 days after the close of the season.

The October 26, 2023, LCAR Memorandum asserts that the definition of control does not meet legislative intent and suggests that only leashes, voice control, or keeping hunting dogs within sight will do so. Hunting coyote with dogs entails chasing a coyote through fields and forests in locations where people cannot follow with a motorized vehicle or a horse. Requiring a hunter to maintain sight or voice distance from the dogs would eliminate any possibility of a successful hunt. In other words, these requirements would be a de facto ban on hunting with dogs.

The plain language of Act 165 does not require the rules to eliminate risk and it does not require that the Board fashion rules that mandate that hunting dogs must be within sight or voice distance or on a leash. Hunting coyotes with dogs is currently unregulated in Vermont. The rules impose significant new requirements for this low-risk activity that are not applicable to other forms of hunting with dogs. In addition, the failure to follow any of the new requirements will be a violation of the rules, subject to penalties.

The language of the proposed final rules approved by the Board is set forth in its entirety in Attachment A. These requirements are consistent with the statutory requirement in Act 165 that the Board develop rules that **reduce** and **minimize the risk** that dogs hunting coyotes will enter posted land and potentially cause harm to people, pets, livestock or property. Imposing requirements that result in **preventing** dogs hunting coyotes from entering posted land or causing any kind of harm is not consistent with Act 165. If the legislature intended to prevent rather than minimize risk, it could clearly have done so. *See, State v. Turner*, 214 Vt. 464 at paragraph 9 (2021).

Here, even though the language is not vague or unclear, it is also instructive to examine the legislative history. The legislative history clearly shows that Act 165 was S281 when it was first introduced in the Senate Natural Resources and Energy Committee. S281 originally called for a ban of hunting coyote with dogs and that ban was replaced with language requiring the Board to promulgate rules for hunting coyote with dogs. The Department negotiated in good faith on behalf of the Board, and proposed the language of Act 165, including the statutory provisions that provide for penalties for allowing dogs to enter posted property or property where any person in the hunting group has been informed that hunting dogs are not welcome. The Department proposed these provisions based on a similar statutory provision in Maine, which has reduced conflicts between hunters and landowners. Key legislators, including the Chairs of the Senate Natural Resources and Energy, and House Environment and Energy were invited to

participate in the 2022 stakeholder process before the initiation of the rulemaking process. Prior to filing with LCAR, no legislator ever communicated the definition of control asserted in the LCAR Memorandum received on October 26, 2023.

In conclusion, the LCAR objection is inconsistent with the plain language and stated intent of Act 165 because it directs the Board to impose a ban on hunting coyotes with dogs. In contrast, Act 165 clearly contemplates the continuation of hunting with hounds, so long as the rule reduces risks associated with hound hunting for landowners, people, pets, livestock and property. The Board has proposed rules that will undoubtedly minimize the risks associated with hunting coyotes with dogs. If a ban were intended, the General Assembly would have done so and certainly would not have amended S281 to direct the Department and Board to expend considerable time and resources working on this rule.

The Board does not support a definition of control for hunting dogs that requires dogs to be within sight or hearing distance of a hunter. The Board approved the following clarification to the definition of training/control collars:

3.19 “Training/control” collar is any family of collars that deliver audible tones and electrical stimulation of varying intensity and duration to the neck of a dog via a radio-controlled electronic device incorporated into the collar.

In addition, the Board has approved language that encourages hunters to seek landowner permission to hunt coyote with dogs, as follows.

4.20.7 A person hunting coyotes with dogs shall not release the dogs on land posted in accordance with Title 10 V.S.A. § 5201, without the written permission of the landowner. In addition, a person hunting coyotes with the aid of dogs is encouraged to seek landowner permission before releasing dogs or entering land that is not posted in accordance with Title 10 V.S.A. § 5201. Hunter education shall include the recommendation that persons hunting coyotes with dogs seek landowner permission prior to pursuing coyotes with dogs.

While we are open to suggestions that improve the rule and are consistent with legislative intent, the Board and the Department cannot support rule provisions that are a de facto ban on hunting coyotes with dogs and go beyond the clear intent of Act 165.

Definition of Public Trails

LCAR has asserted that the definition of public trails in Section 3.14(b) of the proposed final Board rules are inconsistent with Act No. 159 2022 Section 1(a)(4) because it does not include “all trails where persons may reasonably be expected to recreate.” The language of Section 1(a)(4) provides that the rules must include:

requirements for the location of traps, including the placing of traps for purposes other than nuisance trapping at a safe distance, from public trails, class 4 roads, playgrounds, parks, and other public locations where persons may reasonably be expected to recreate;

The LCAR objection does not include or acknowledge the plain language of Act 159 which

specifically requires setbacks from “*public* trails” and “other *public* locations where persons may reasonably be expected to recreate.” (emphasis added). As noted above, legislative intent is first determined by examining the plain language of a statute. See *Cyr v. McDermott's, Inc.*, 187 Vt. 392, 401(2010); *In re Ambassador Ins. Co.*, 2008 VT 105, ¶ 18, 184 Vt. 408, 965 A.2d 486; *State v. Rajda*, 208 Vt. 324, 330-331 (2018). Here, the plain language of the statute requires setbacks from public trails but does not require setbacks on all trails or roads in the state of Vermont. See *Vermont Golf Ass'n, Inc. v. Department of Taxes*, 192 Vt. 224, 229-230 (2012) (finding that the plain language of Title 32 V.S.A. § 9817(a) allows an aggrieved taxpayer to appeal to the superior court, only if a security approved by the Commissioner is provided to cover any remaining taxes).

The use of the term public in Act 159 is significant and accordingly, the Board previously approved the following definition of unmapped public trails¹ under Section 3.14 b):

3.14 “Public Trail” for the purposes of this rule, means:

b) a path or corridor open to the public, commonly used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities; that is designated, managed, maintained and clearly marked on the ground with blazes, tags, or signage on municipal lands, on Vermont state-owned land, or on federal land, within the state of Vermont; or

The Board also previously approved public trail definitions that include any trail that is mapped or designated on public land, as well as the major trail networks located on both public and private land in Vermont, specifically the Long Trail, the Appalachian Trail and the Vermont Rail Trail. In addition, the Board provided that setbacks would be applicable to municipal trails designated by municipalities in accordance with Title 19 Chapter 3 and public highways. These legal trails and roads are mapped on town highway maps issued by the Vermont Agency of Transportation. In combination, these definitions incorporate public roads and trails that are open to the public and located on private lands; and any trail located on public land that would be recognized by a reasonable person to be a public trail. In its October 26, 2023 Memorandum, LCAR acknowledged “the need to have a Furbearing Species Rule that can be uniformly understood and enforced.” And yet, LCAR is seeking to impose an overly broad definition of “trail” that will impose setbacks to trails on private lands and corridors or “paths” that are not maintained or clearly marked. This definition of a trail will not be easily understood by the public or trappers and will be largely unenforceable.

The LCAR objection to the definition of public trails directs the Board to create a vague and arbitrary definition for a public trail that will be subject to setbacks. A violator could be charged with a criminal violation. The Vermont Supreme Court has held that a criminal statute must be construed to implement “a coherent structure of offense and penalty consistent with ordinary standards of interpretation possessed by any reasonable person.” *State v. Berard*, 211 Vt. 39, 44-45 (2019)(reversing a conviction for impeding a police officer where the defendant refused to

¹ The October 26, 2023, LCAR Memorandum requested that the Board include a catchall definition of a public trail that includes unmapped trails “commonly used as a passageway by [individuals] or domestic animals.” The Memorandum referred to New Hampshire setbacks which similar to those in Kentucky and Massachusetts prohibit the setting of traps on “paths” that are “commonly used” by people or domestic animals. The Board responded by adding an additional category of unmapped public trails in Section 3.14 b).

produce her license, registration and proof of insurance upon request); See also, *State v. Cantrell*, 151 Vt. 130, 133, 558 A.2d 639, 641 (1989) (affirming that criminal statutes must “define a criminal offense with sufficient certainty so as to inform a person of ordinary intelligence of conduct which is proscribed, and such that arbitrary and discriminatory enforcement is not encouraged.” The Supreme Court resolves any ambiguity in favor of a defendant when applying a criminal statute. *Berard*, 211 Vt at 48 (quoting *State v. Goodhue*, 2003 VT 85, ¶ 21, 175 Vt. 457, 833 A.2d 861.

Although both Act 165 and Act 159 impose rulemaking requirements for hunting furbearers, LCAR appears to be applying differing standards to these activities with respect to property rights. Act 165 is focused, in large part, on reducing risks to property owners related to potential conflicts with landowners, people and their pets. Such conflicts are very rare, and similar to trapping, they present an extremely small risk. Note that hunters have also been attacked and harmed by members of the public.² Unlike other forms of hunting in Vermont which are allowed on any land not properly posted in accordance with 10 V.S.A § 5201, trappers must notify landowners of the intent and location of traps. All property owners, including private landowners and municipalities, have the absolute right to prohibit and control trapping on their land. In spite of the plain language of Act 159, which requires setbacks in public locations and on public land, LCAR has opined that setbacks must extend broadly to “all trails commonly used by people.”

The rules that have been approved by the Board are likely the most comprehensive and detailed trapping rules in the country. Vermont will be the first state to adopt best management practices if the rules are adopted, which further reduces any risk associated with trapping to the public and pets. The provisions regarding trapping and setbacks comprehensively apply to all nonmotorized recreational trails on public lands, as well as Vermont Rail Trails, the Long Trail, the Appalachian Trail, most highways, and “legal” trails that have been designated by municipalities.

The Board approved the following language regarding public trails that are not necessarily mapped:

3.14 “Public Trail” for the purposes of this rule, means:

b) a path or corridor on municipal lands, on Vermont state-owned land, or on federal land; open to the public, commonly used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities that is designated, managed, maintained and clearly marked as a trail on the ground with blazes, tags, or signage; or

This language is slightly broader than the previous language in that it does not specify a method for marking a trail. The Board is not willing to recommend a definition of a public trail that is overly broad or arbitrary and applies to all private trails in addition to public trails. Such language would be inconsistent with the plain language of Act 159 and the legislative intent, would be extremely difficult to administer and enforce, and more importantly, would not be

² There have been two recent incidents where hound hunters were on public roads and confrontations occurred that were initiated by someone else. In one incident hunters including a minor, were sprayed with bear spray, and in another the air was let out of a hunter’s tires and a hunting dog was injured by another dog.

understood by a reasonable person to constitute a public trail.

Setback Exemption for Traps in the Water or Under Ice

LCAR has objected to the exemption of traps set under the water or ice from setbacks asserting that it is contrary to the legislative intent of Act 159 Section 1(a)(4). This section requires rules that provide for the location of traps at a safe distance from public trails and “public locations where people may reasonably be expected to recreate.”

Trapping poses very low risk to public safety. The Department has no information that indicates that any member of the public has ever been caught or injured by a trap in Vermont. We are only aware of one recent op-ed by a person who stated that he was caught in a trap as a child and that op-ed provides no information regarding the circumstances, location, or the date of the event. There are also no known incidents related to traps located under the ice. In fact, members of the public and their pets would have little or no access to any trap placed under ice, unless they specifically reached or jumped into the ice hole, which is usually brushed over or frozen. The exemption for traps under ice does not constitute a safety issue with respect to recreation and is therefore, not arbitrary or inconsistent with legislative intent.

Of the two incidents of dogs caught and injured in traps that were known to be placed in the water, one resulted in minor injuries. Both incidents, one being the 2023 trapping incident in Castleton where a German Shepherd was injured, were nuisance trapping situations and occurred outside of the trapping season³. Regulated trapping seasons on land run from the last Saturday in October to December 31st and aquatic trapping is from the last Saturday in October to March 31st. The greatest risks to pets are associated with trapping violations and nuisance trapping that occur outside of the regulated seasons; where the trapper is attempting to address a threat to public infrastructure, private property, people, pets, or livestock.

As noted in prior filings, the Department originally recommended that traps in the water or under ice be exempted from setbacks because of the low risk associated with such traps, and concerns that eliminating the exemptions will shift some aquatic trapping to nuisance trapping. This shift will likely result in increased nuisance complaints, the waste of fur resources (i.e., discarding beaver taken as a nuisance when pelts aren't prime) and more importantly, increased costs to Vermonters who are seeking to resolve threats to public infrastructure, private property, people, pets or livestock.⁴ In addition, it is not unreasonable or arbitrary for the Board to consider that people are not “reasonably expected” to recreate in the water or under ice between the last weekend in October and March of the next year. Accordingly, the Board did not vote to remove the exemptions.

Section 3.20 – the definition of trapping

The Board strongly disagrees that defining trapping as a form of hunting is in any way contrary

³ Castleton University hired someone to remove the beavers that were blocking the outlet of a dam.

⁴ See Appendix C of the October 16, 2023 letter from the Department of Fish and Wildlife on behalf of the Board, outlining the Massachusetts experience related to banning trapping and beaver control.

to the intent of Act 159, Section 1(d), Title 10 Part 4, or the Vermont Constitution. Subsection (d) states:

“As used in this section, “trapping” means to take or attempt to take furbearing animals with traps, including the dispatching of lawfully trapped furbearing animals.”

The definition set forth in the final proposed rule submitted for LCAR consideration is:

"Trapping" means to hunt, take or attempt to take fur-bearing animals with traps including the dispatching of such lawfully trapped fur-bearing animals.

The definition of trapping in section 3.20 is based on the historical use of trapping as a hunting method, the historical context of the language of the Constitution, and legal precedent in Vermont caselaw. The definition is consistent with the language and statutory construction of Title 10 part 4 and is informed by the subject matter expertise of the Board and the Department. The definition does not in any way undermine the intent of Act 159, conflict with or undermine the legislative intent that the directives in Act 159 apply to taking furbearers with traps or limit the Legislature from imposing “proper” regulations relating to hunting, including trapping. It is also entirely consistent with the public comments from individual trappers and other sportspersons who are most knowledgeable regarding this activity.

Trapping is likely one of the oldest forms of hunting in the world, certainly used before the invention of firearms. Taking wildlife with a gun, muzzle loader, archery equipment, crossbow, or trapping are all forms of capturing, harvesting, and utilizing wildlife. The idea that trapping is a form of hunting is consistent with the history of trapping, the Department’s long-term position on the issue, and the language of several Vermont Supreme Court cases.

Article 67 of the Vermont Constitution states as follows:

§ 67. [Hunting; fowling and fishing]

The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed, and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be made and provided by the General Assembly.

There are several Vermont Supreme Court cases that discuss trapping in the context of Article 67 of the Vermont Constitution. For example, it is well established that the Legislature has the authority to delegate rulemaking to the Vermont Fish and Wildlife Board. *Elliott v. State Fish & Game Commission*, 117 Vt. 61, 69 (1951). The Vermont Supreme Court has specifically rejected the claim that Article 67 of the Vermont Constitution does not authorize the General Assembly to delegate rules regarding hunting, fishing, or trapping. *Id.*

Similarly, the Court in *Cabot v. Thomas*, 147 Vt. 207 (1986) noted that the Constitution distinguishes between fishing and hunting and fowling. Specifically, fishing is allowed on all boatable waters that are not private. In contrast, hunting and fowling is allowed on private land that is not “inclosed.” As such the Supreme Court held that the lower court properly found that hunters could not hunt, fowl, or trap on lands that were “inclosed,” and that land that was

properly posted in accordance with 10 V.S.A. § 5201 was “inclosed” under the Article 67. *Id.* pages 212-214. See also, *Hunters, Anglers and Trappers Ass'n of Vermont, Inc. v. Winooski Park District*, 181 Vt. 12, 23-24 (2006) (finding that a municipal district in Chittenden County that was authorized by statute, to purchase and own property did not violate Article 67 when it banned the discharge of firearms, and hunting and trapping). When examining the matter, the Court explicitly stated that “Section 67 vests the Legislature with the power to regulate hunting and trapping” *Id.* page 16. The Court found that the district (and any municipality) has the right to allow or prohibit hunting and trapping on its property. *Id.* at pages 23-24.

There are numerous states across the United States that specifically define trapping as a form of hunting, as well as several states like Vermont that define “taking” wildlife to include all forms of hunting, including trapping. At least 26 states define hunting to specifically include trapping. In contrast, very few states specifically exclude trapping from the definition of hunting. These are definitions that have been formulated by other state agencies with fish and wildlife expertise. In summary, the Board and Department position that trapping is a form of hunting is entirely consistent with the purpose of trapping, the history of trapping, the language of Vermont court decisions, and the definitions of hunting in most states.

In addition, the application of the principles of ascertaining statutory intent and statutory construction set forth above support the conclusion that the definition of trapping approved by the Board is not arbitrary or inconsistent with the intent of Act 159. The addition of the word hunt in the definition of trapping has no effect on the substance of the rule and is simply a statement of fact.

When the Board initiates a rule making process, the Board examines, updates and makes changes to the entire rule, in an effort to take advantage of administrative efficiencies. In this case, the Board included provisions that were not mentioned in Act 159 or 165, including applying the rules to any method of taking furbearers, applying certain best management provisions to nuisance trapping, updating the Canada lynx section of the rule, prohibiting explosives for taking furbearers and providing for a lottery when eligible permit applications exceed 100. None of these provisions conflict with the intent of the legislation.

Similarly, the definition of trapping in section 3.20 is based on the historical use of trapping as a hunting method, the historical context of the language of the Constitution, and legal precedent in Vermont caselaw. The definition is consistent with the language and statutory construction of Title 10 part 4 and is informed by the subject matter expertise of the Board and the Department. The definition does not in any way undermine the intent of Act 159 or, limit the Legislature from imposing “proper” regulations relating to hunting, including trapping. As such, the definition is not arbitrary or inconsistent with the intent of Act 159 and the Board did not approve the removal of the word “hunt” from the definition of trapping.

Thank you for the opportunity to respond to the LCAR objections and for your attention to this matter. A mark-up of the Board approved rule and the clean version are attached for your convenience.

Please do not hesitate to contact me at 802-595-3331 or catherine.gjessing@vermont.gov with

any questions or concerns you may have.

Sincerely,

/s/ Catherine Gjessing

Catherine Gjessing
General Counsel

Cc: Vermont Secretary of State
Brad Ferland, Chair, Vermont Fish and Wildlife Board,
Christopher Herrick, Commissioner, Department of Fish and Wildlife
John Austin, Director Wildlife Division

§ 44. Furbearing species

1.0 Authority

1.1 This rule is promulgated pursuant to 10 V.S.A. §§ 4081, 4082, 4084, 4828, and 4861. In promulgating this rule, the Fish and Wildlife Board is following the policy established by the General Assembly that the protection, propagation, control, management, and conservation of fish, wildlife, and fur-bearing animals in this State is in the interest of the public welfare and that the safeguarding of these valuable resources for the people of the State requires a constant and continual vigilance.

1.2 In accordance with 10 V.S.A. §§ 4082 and 4084, this rule is designed to maintain the best health, population, and utilization levels of the regulated species.

1.3 This rule shall apply to all persons who take or attempt to take fur-bearing animals by ~~trapping or hunting any method.~~

2.0 Purpose

The purpose of this rule is to regulate the taking of fur-bearing animals.

3.0 Definitions

3.1 “Accompany” for the purpose of pursuing coyote with the aid of dogs means that:

- a) Any person engaged in the control, handling, transporting, or intercepting of dogs used for taking coyote with the aid of dogs shall be under the direct supervision of the permit holder and shall be considered a “Sub-permittee”, and
- b) A Sub-permittee who is in any way involved in the use or handling of taking coyotes with the aid of dogs shall be under the direct control and supervision of the coyote dog permit holder.

3.2 “Bait” means any animal, vegetable, fruit, mineral matter, or any other substance capable of luring or attracting coyotes or any other wildlife.

3.3 "Board" means the Vermont Fish and Wildlife Board.

3.4 “Commissioner” shall mean the Commissioner of the Vermont Department of Fish and Wildlife.

3.5 “Compensation” shall mean money.

3.6 “Control of dogs(s)” means that when transporting, loading, or unloading dogs from vehicle(s); and handling, catching, restraining, releasing, or following dogs at all times during training dogs and taking of coyote with the aid of dogs; the permittee shall be able to locate and remotely recall the dogs. Collar(s) with GPS functions, track log capability, and training/control

features in the collar(s) shall be required to locate and track dogs at all times while taking coyote with the aid of dogs. At no time shall dogs be in pursuit of coyote without a GPS track log being maintained by the permit holder.

3.7 “Coyote Dog Permit” means a permit issued by the Commissioner to a person who wishes to hunt, pursue or take coyote with the aid of dogs.

3.8 "Department" means the Vermont Department of Fish and Wildlife.

3.9 “Department Registered Dog” means a dog bearing a numbered identification dog-tag (Department Registration Dog-Tag) approved or issued by the Vermont Fish and Wildlife Department, with the permit holder's coyote dog permit number and a number one through four.

3.10 "Fur-bearing animal" means beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat or as amended pursuant to 10 V.S.A. § 4001.

3.11 “Legal Trail” shall mean a public right of way designated as a trail by a municipality as defined in Title 19 V.S.A § 301(8), that is not a highway but is shown on the highway maps of the respective towns made by the Agency of Transportation and:

- a) was previously a designated town highway; or
- b) is a new public right of way laid out as a trail by the selectboard for the purpose of providing recreational use or access to abutting properties.

3.12 “Pack of Dogs” means one to four dogs, acting as a unit during taking coyote with the aid of dogs.

3.13 “Public Highway” for the purposes of this rule, means town, state, and United States roads, shown on the highway maps of the respective towns, made by the Agency of Transportation.

3.14 “Public Trail” for the purposes of this rule, means:

- a) a path or corridor open to the public, used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities; that is designated and mapped by a municipality on municipal lands, the managing agency or department on Vermont state owned land, or a federal agency on federal land; within the state of Vermont;
- b) a path or corridor open to the public, commonly used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities; that is designated, managed, maintained and clearly marked as a trail on municipal lands, on Vermont state-owned land, or on federal land, within the state of Vermont; or
- c) Vermont Rail Trails designated and mapped by the Vermont Agency of Transportation, the Appalachian Trail designated, mapped and managed by the National Park Service, and the Long Trail designated, mapped and managed by the Green Mountain Club.

3.15 “Relaying packs and dogs” means the removal and replacement of one or more dogs,

during taking coyote with the aid of dogs, to the original pack of dogs once the pursuit has begun.

3.16 “Sub-Permittee” means any person with a valid Vermont hunting license designated by the coyote dog permit holder to assist or take coyote with the aid of dogs, in accordance with the permit issued by the Commissioner.

3.17 “Taking Coyote with the aid of dogs” for the purposes of this rule means that one or more dog(s) with Department Registration Dog-Tags are on the ground whether in pursuit of a coyote or not.

3.18 A "tanned" pelt is one that has been treated to turn the skin into leather.

3.19 “Training/control” collar is any family of collars that deliver audible tones and electrical stimulation of varying intensity and duration to the neck of a dog via a radio-controlled electronic device incorporated into the collar.

3.20 "Trapping" means to hunt, take or attempt to take fur-bearing animals with traps including the dispatching of such lawfully trapped fur-bearing animals.

3.21 A "trap" means a mechanical device used to capture, kill and/or restrain fur-bearing animals excluding firearms, muzzleloaders and archery equipment.

3.22 “Unregistered dog” means a dog that does not have a valid numbered Department Registration Dog Tag as described in 3.9.

4.0 Restrictions

4.1 A person trapping for fur-bearing animals under this rule shall visit their his/her traps at least once every calendar day, except as provided in paragraph 4.2, and dispatch or release any animal caught therein.

4.2 A person who sets body gripping traps in the water or under the ice, colony/cage traps underwater or foothold traps under the ice shall visit their his/her traps at least once every three calendar days and remove any animal caught therein.

4.3 A person shall not set a trap on lands other than their his/her own which does not have their his/her name and address permanently and legibly stamped or engraved thereon, or on a tag of rustless material securely attached thereto.

4.4 All traps under ice will be marked with a tag visible above the ice.

4.5 All foothold traps set on land must:

- a) Have base plates that feature a center chain mount with swivel, with free moving chain and at least two additional swivels that allow mobility for a captured animal;

- b) Be anchored with a minimum of 12” chain and a maximum of 18” chain between the base plate and the start of the anchoring system. Extra swivel and/or shock springs can be added to the chaining system, but the additions cannot cause the chain to exceed the 18” length;
- c) Be padded, offset, laminated, or have a minimum jaw thickness of 5/16th of an inch, or fully encapsulate the foot; Have a spread of no more than 6 ¼ inches measured inside the widest expanse of the jaws; and
- d) If a foothold trap is triggered by downward pressure, it must be adjustable for pan tension.

4.6 No body-gripping trap shall be set on land unless:

- a) it is under 40 square inches, without the use of bait, or
- b) it is over 40 square inches and less than 60 square inches and is set 5’ or more above the ground, or
- c) it is over 40 square inches and less than 60 square inches and is in an anchored enclosure with openings no greater than 60 square inches and with a trap trigger that is recessed at least 12” from all openings.
- d) Any body-gripping traps over 60 square inches shall only be set in the water.

~~4.5 A person shall not set a body gripping trap with a jaw spread over eight inches measured inside the jaws unless the trap is set five feet or more above the ground, or in the water.~~

4.7 All meat-based bait shall be covered at the time that a trap is set. Covering shall include, but are not limited to, brush, branches, leaves, soil, snow, water, or enclosures constructed of wood, metal, wire, plastic, or natural materials.

4.8 A person shall not use toothed foothold traps or snares when trapping under this section.

4.9 A person shall not set a trap between December 31 and the following fourth Saturday in October unless the trap is in the water, under the ice, or on a float in the water.

4.10 A person shall not possess a living fur-bearing animal, except as provided by rules of the board or 10 V.S.A. part 4.

4.11 A person shall not possess a fur-bearing animal trapped outside of its legal season without the written authorization of the Department, not to include animals taken pursuant to 10 V.S.A. § 4828.

4.12 A person shall not possess fur or skin of a fur-bearing animal unlawfully taken.

4.13 A person shall not take a fur-bearing animal by use of any explosives or, chemical or poisonous mixture, with the exception of a carbon dioxide chamber used in accordance with the recommendations of the American Veterinary Medical Association.

4.14 A person shall not take a fur-bearing animal from dens by cutting, digging, smoking, by the use of ~~chemicals, or by the use of~~ mechanical devices other than a legal trap set in accordance with these rules.

4.15 Trapping Set-backs:

- a) No foothold traps or body-gripping traps shall be set on or within 50' of the travelled portion of a legal trail, public trail or public highway, unless set in the water or under ice. Setbacks shall not apply to public trails on Wildlife Management Areas except those public trails the Department specifically designates as requiring a setback. The Department shall post signage on Wildlife Management Areas advising the public of hunting seasons and locations where setbacks apply.
- b) No foothold traps or body-gripping traps, unless set in the water or under ice, shall be set on or within 100 feet of the buildings, parking lots, and maintained (cleared, continuously maintained or landscaped) portions of designated wildlife viewing areas, visitor centers, parks, playgrounds, picnic areas, shelters, pavilions, schools, camps or campgrounds, and recreational facilities such as ball fields or tennis courts; owned and managed by municipal, state or federal entities except that trapping may occur with the explicit permission of schools, camps or campgrounds.

4.16 Dispatch of Trapped Animals: Upon discovery, a trapper shall immediately dispatch a live trapped furbearer with a muzzleloader or gun fired at arm's length; or a bow and arrow, or crossbow; or a carbon dioxide chamber in compliance with the American Veterinary Medical Association guidelines. This subsection shall not be interpreted to prevent a trapper from releasing an unharmed captured animal, or a domestic pet.

4.17 **Beaver Muskrat**

- a) When trapping muskrat between March 1 and March 31, body gripping traps are restricted to 5 inches or less.
- b) A person shall not disturb or destroy a beaver or muskrat house or den or place a trap therein, thereon, or in the entrance thereof.
- c) ~~A person may set a trap within 10 feet of the nearest point, above the water, of a beaver house or dam only from the 4th Saturday in October through the last day of February, all dates inclusive. A person shall not set a trap within 10 feet of the nearest point, above the water, of a beaver house or dam during the month of March.~~
- d) ~~Except for the setting of traps as provided under 4.183b and 4.18c, a~~A person shall not interfere in any manner with dams, dens, or houses of beaver except upon prior written approval from the Commissioner.

4.18 **Bobcat; Otter; Fisher.**

- ~~(a) From December 17 to December 31, both dates inclusive, in order to minimize incidental bobcat harvest during the remainder of the fisher season, a person shall not set a body gripping trap with a jaw spread over 6 inches measured inside the jaws unless the trap is set 5 or more feet above the ground, or in the water.~~

- a) The skins of bobcat, otter, and fisher legally taken may be possessed, transported, bought and sold only when tagged and marked as hereinafter provided.
- b) A person who takes bobcats, otter, or fisher during these seasons shall notify authorized Department staff within 48 hours of the close of the season. Pelts shall be presented to authorized Department staff for tagging. Such tags shall remain affixed to the pelts until tanned. Carcasses shall be surrendered to authorized Department staff at the time of tagging.
- c) A person who legally takes bobcat, otter, or fisher may keep the edible meat prior to submitting the carcass to the Department.
- d) No bobcat, otter, or fisher pelts or carcasses taken during these seasons shall be transported out of the State of Vermont prior to being tagged by authorized Department staff.
- e) A person who takes bobcat, fisher, and otter pursuant to 10 V.S.A. § 4828 and who desires to keep the pelt shall notify authorized Department staff with 84 hours of the taking. Pelts shall be presented to authorized Department staff for tagging. Such tags shall remain affixed to the pelts until tanned. Carcasses shall be surrendered to authorized Department staff at the time of tagging.

4.19 Raccoons

- a) A person shooting raccoons during the raccoon hunting season shall use a 0.22 caliber rimfire firearm or a shotgun with #2 shot or smaller.
- b) A light may be used to illuminate and shoot a raccoon once treed by a dog(s), ~~or dogs~~, during the raccoon hunting season. A light may also be used to illuminate a raccoon once treed by a dog(s), ~~or dogs~~, during the training season.

4.20 Taking Coyote with the Aid of Dogs

4.20.1 Authority - In accordance with 10 V.S.A. § 5008 and § 5009 (b), this rule establishes a process and standards for the issuance of a permit to take coyote with the aid of dogs, either for the training of dogs or for the taking of coyote.

4.20.2 Purpose - The purpose of this subsection is to establish a process and standards for the issuance of permits to pursue coyote with dogs, establish training and hunting seasons for the taking of coyote with the aid of dogs, and to define legal methods of take.

4.20.3 The Taking of Coyote with Aid of Dogs.

- a) Licenses and permits.

- (1) Any person who intends to train, hunt, pursue, harvest, or in any manner take a coyote with the aid of dogs shall apply for a permit from the Commissioner on an application form provided by the Commissioner.
 - (2) Only applications received by the Department's central office during the official application period will be considered. Applications must be received prior to the deadline established by the Commissioner.
 - (3) The Commissioner will consider only complete applications. For an application to be complete it must be legible, must contain all the information requested by the Department, must bear the applicant's original signature, or, in the case of electronic or facsimile applications, attestation under the pains and penalties of perjury. To be considered complete the form must be accompanied by any required application fee, or means of payment, such as a valid credit card payment.
 - (4) The Commissioner may deny any person a permit in their sole discretion.
 - (5) Any person training, hunting, pursuing, harvesting, or in any manner involved in the taking of a coyote with the aid of dogs must hold a valid Coyote Dog Permit issued by the Department, or accompany a Coyote Dog Permit holder. The Permit shall be carried at all times by the permittee while taking coyote with the aid of dogs, and exhibited to a game warden, landowner, or law enforcement officer upon demand.
 - (6) Any person hunting, pursuing, harvesting, or in any manner involved in the taking of a coyote with the aid of dogs must hold a valid Vermont Hunting License, and use only Department Registered Dogs.
 - (7) In any given year, the number of permits available to non- resident hunters shall not exceed ten (10) percent of the total number of permits issued to resident hunters the previous year. If more than ten (10) percent of non-resident permit applications are received, the Department will award up to ten (10) non-resident permits on a first come, first serve basis, provided that the number of permits to be issued does not exceed 100.
- b) Lottery –In the event that more than 100 permit applications are received, all those who have submitted completed eligible applications and who wish to be entered into the lottery will be entered into the lottery. The Department will hold, or cause to be held, a transparent, random drawing to select 100 permits and to ensure that not more than 10% of permits issued by the Department are issued to non-residents.
- c) Legal Methods
- (1) A person shall not take a coyote into their possession except by killing the coyote by

legal means or methods. Legal means includes utilizing a muzzleloader or gun fired at arm's length; or bow and arrow, or crossbow.

(2) A person taking coyote with the use of a bow and arrow or crossbow shall, upon demand of a game warden or other law enforcement personnel, show proof of having a prior archery license, or of having passed a bow hunter education course in Vermont, another state or a province of Canada approved by the Commissioner.

d) Dogs and Packs

(1) A person shall not take coyote with the aid of dogs unless the person is in control of the dog(s).

(2) No person shall take a coyote with the aid of dogs by using any Unregistered Dog. No person shall have an Unregistered Dog in their possession (including in a vehicle) while hunting, pursuing, or taking a coyote.

(3) A person hunting with dogs, pursuing, and taking coyote with the aid of dogs shall attach a collar or collars with GPS functions, tracklog capability, and training/control features for remote recall; and shall attach a Department Registration Dog-Tag and a metal identification name plate with the person's name, address and telephone number to the dog's collar.

(4) A person taking a coyote with the aid of dogs shall maintain a GPS location log of each dog taking coyote and shall maintain the log for at least 30 days after the close of the season.

(5) A person taking a coyote with the aid of dogs shall only take a coyote with a Pack of Dogs as defined in this rule. No person shall pursue, hunt, or take coyote by Relaying any Dog or Pack of Dogs.

(6) Two or more permit holders may hunt together and combine Department Registered Dog(s) to form a Pack of Dogs. The combined Coyote Dog Permit holders shall not take coyote with the aid of more than four dogs combined forming a single pack of dogs. The combined Coyote Dog Permit holders shall not possess any Unregistered Dogs while hunting, pursuing, or taking coyote with the aid of their dogs.

4.20.4 Seasons and Shooting Hours for Taking Coyote with the Aid of Dogs.

a) Coyote Dog Training Season: For Vermont Resident and Nonresident Permit Holder: June 1 through September 15, all dates inclusive, except that a nonresident may train dogs to pursue coyote only while the training season is in effect in the nonresident's

home state and subject to the requirements of these rules.

- b) Coyote Dog Hunting Season December 15 through March 31, all dates inclusive.
- c) Legal hours for taking coyote with the aid of dogs: One half hour before sunrise until one half hour after sunset.

4.20.5 Prohibitions applicable to Taking Coyote with the Aid of Dogs

- a) A person shall not advertise, barter, exchange goods or services, or otherwise sell the use of a dog(s) for the purpose of taking coyote with the aid of dogs.
- b) While taking coyote with the aid of dogs, no person shall have in their possession an Unregistered Dog while possessing Department Registered Dogs.
- c) It shall be a violation for a Vermont resident to apply for a coyote dog permit for the purpose of allowing a nonresident coyote dog owner to take coyote in Vermont with the aid of dogs.

4.20.6 Reporting - A person taking coyote with the aid of dogs shall, no later than 48 hours after the close of season, report the taking of all coyotes during the season in a manner required by the Commissioner.

4.20.7 A person hunting coyotes with dogs shall not release the dogs on land posted in accordance with Title 10 V.S.A. § 5201, without the written permission of the landowner. In addition, a person hunting coyotes with the aid of dogs is encouraged to seek landowner permission before releasing dogs or entering land that is not posted in accordance with Title 10 V.S.A. § 5201. Hunter education shall include the recommendation that persons hunting coyotes with dogs seek landowner permission prior to pursuing coyotes with dogs.

4.21 Taking Coyote by Bow and Arrow and Crossbow: No person shall take coyote with or without the aid of dogs, with a bow and arrow or crossbow if the arrow or bolt has an arrowhead that measures less than seven-eighths of an inch at its widest point or that has less than two sharp cutting edges.

4.22 Lynx

- ~~a) This subsection shall be effective on January 1, 2014.~~
- a) Any person who incidentally captures a lynx shall notify the Department immediately.
- b) The following regulations on traps and trapping shall apply within the Wildlife Management Unit E.

(1) ~~Foothold traps set on land must be anchored using a chain or cable no longer than 18" that is center-mounted to the trap using a swivel connection and must have at least one in-line swivel along the chain or cable.~~ From the fourth Saturday in October to December 31, both dates inclusive, all body gripping traps must be set:

- i. In the water, or;
- ii. Within a Canada lynx exclusion device as described below and as depicted in Diagram 1:
 - a. the trap jaws shall be completely within the device;
 - b. the trap springs may extend outside of device through openings no larger than 7.5" wide by 1.5" high;
 - c. the device shall not have an opening greater than 6" by 8";
 - d. the opening shall not be directly in front of the trap but shall instead be either on the top or side of the device;
 - e. the trap set within the device shall be a minimum of 18" from the closest edge of the opening to the trap;
 - f. there shall be at least two attachment points for each side of the device where there is a joint or where panels come together;
 - g. the device shall be constructed of wood or of wire mesh of 16 gauge or less wire (.05" diameter wire or greater) and having a mesh size with openings no greater than 1.5" X 1.5" or 1" X 2"; and,
 - h. the trap shall be anchored outside of the device; or
- iii. Off the ground as described below and as depicted in Diagram 2:
 - a. at least 5' above the ground or if snow is on the ground at least 5 feet above snow level with the exception of the 24-hour period immediately following a snowstorm;
 - b. affixed to a standing tree which is free of branches below the trap or to a leaning section of pole that has not been planed or otherwise altered except for the removal of branches and is less than 4" in diameter at the trap and is angled at least 45° along its entire length from the ground to the trap; and
 - c. in an area that is free of any object within 4' of the trap.

(3) ~~From the fourth Saturday in October to December 31, both dates inclusive, body-gripping traps no larger than a typical 160 (inside jaw spread up to 6.5") may also be set on~~

the ground if placed:

~~i. Under overhanging stream banks, or;~~

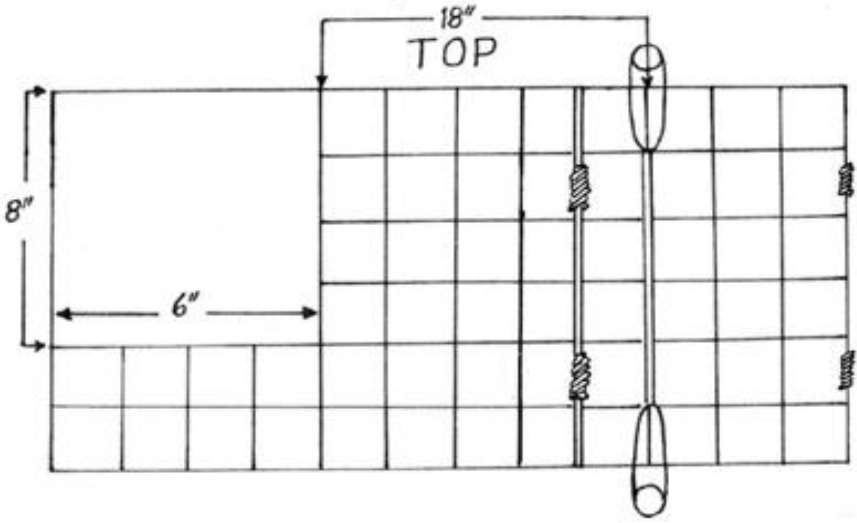
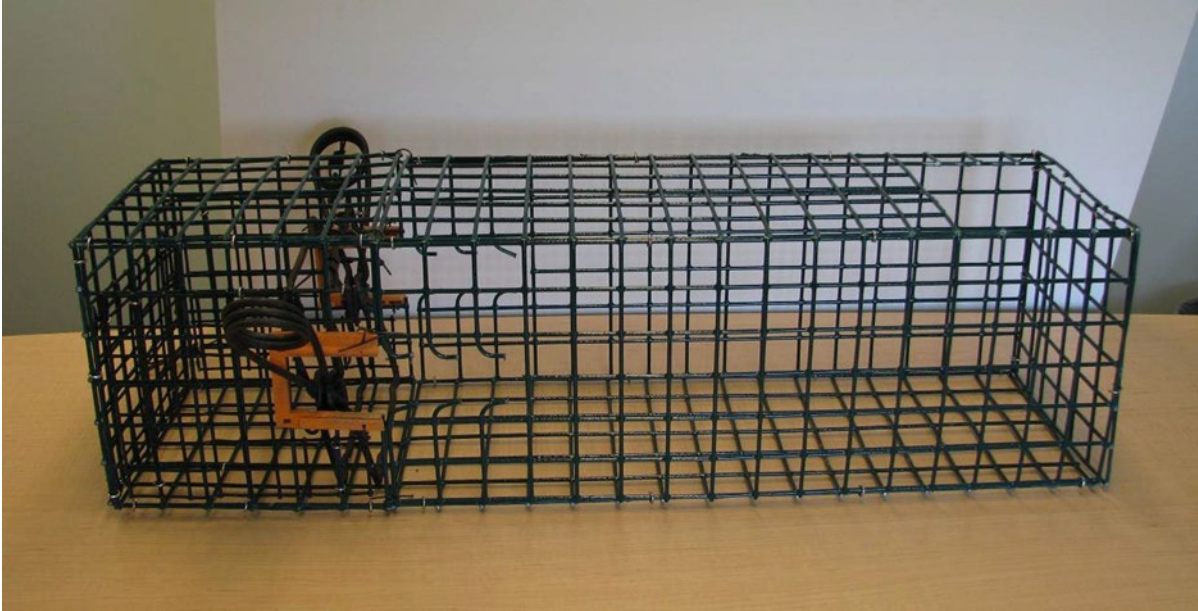
~~ii. In blind sets without the aid of bait, lure or visual attractants, or;~~

~~iii. Within a cubby constructed of artificial materials with the trap inserted at least 7" from the front and with an opening no greater than 50 square inches as depicted in Diagram 3.~~

~~c) The establishment of a ten-year "Lynx Study Period" shall commence on the effective date of this subsection. The Department will assess the status of lynx in Vermont, identify and evaluate additional techniques and devices for avoiding incidental capture of lynx, and develop revisions to these rules in accordance with the findings of such studies and all current information. The rules set forth in this subsection 4.22 shall expire on January 1, 2027 2024 unless such rules are either extended or amended by the Fish and Wildlife Board. The decision to extend or amend these rules shall be based on an evaluation of the following key criteria:~~

- ~~(1) Reliable evidence of the presence or absence of a resident, breeding population of Canada lynx;~~
- ~~(2) The availability of more effective and/or practical alternatives for avoiding the incidental capture of lynx; and~~
- ~~(3) The outcome of Maine's Incidental Take Permit application process.~~

Diagram 1. Canada lynx exclusion device for body gripping traps.



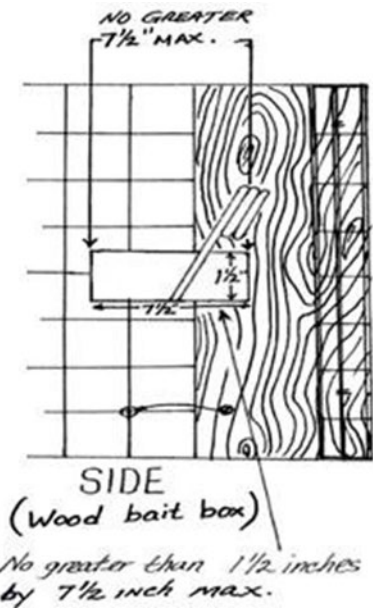


Diagram 2. Off the ground sets for body gripping traps.

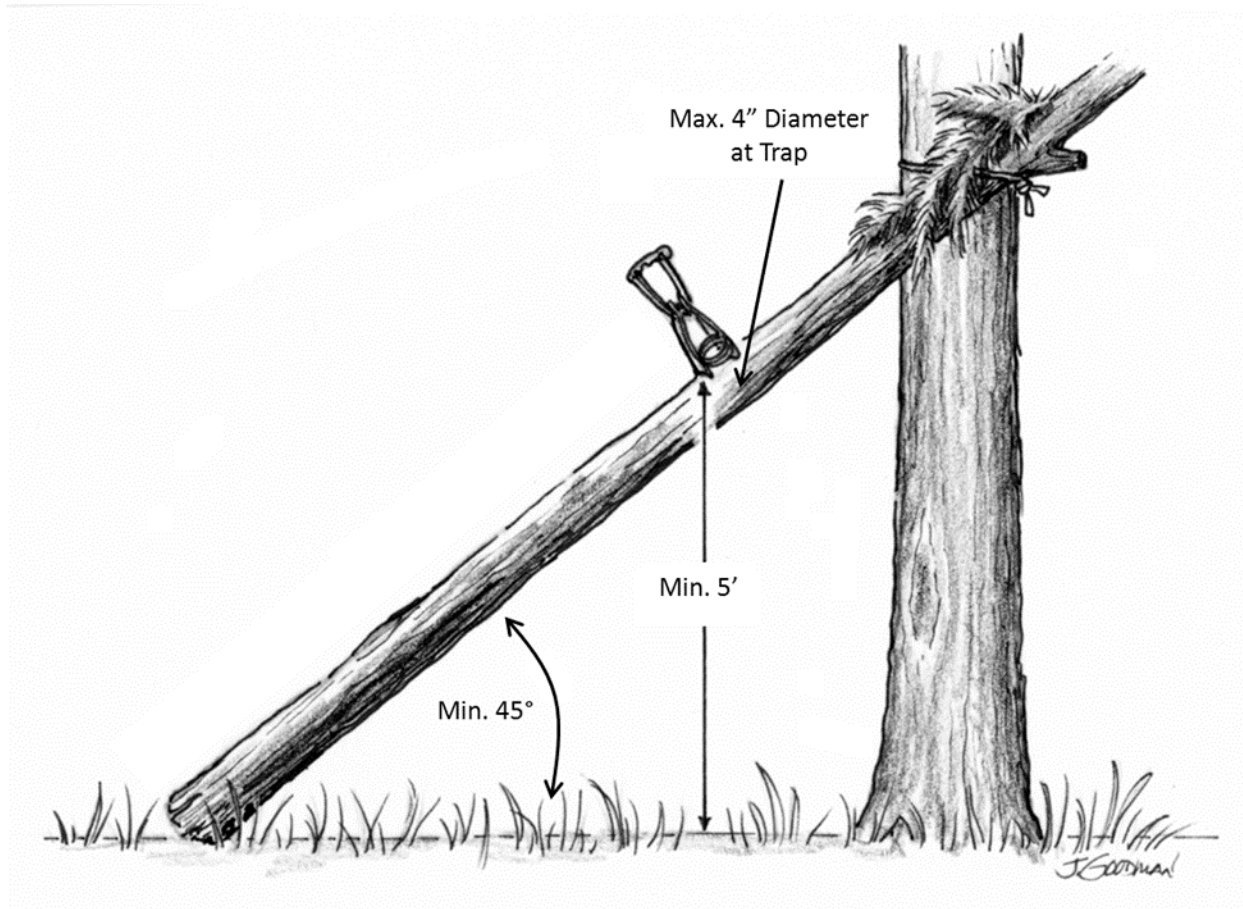
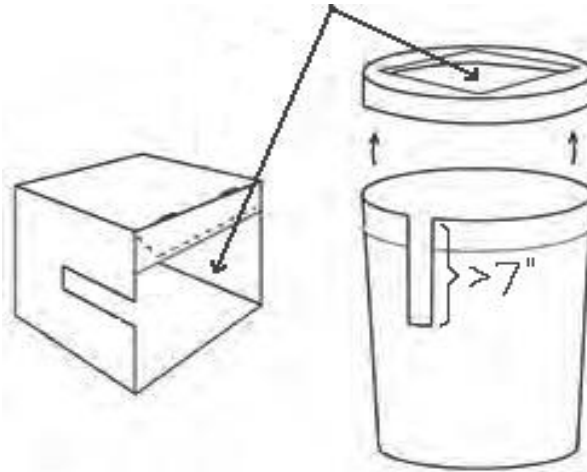


Diagram 3. Cubby sets for body gripping traps no larger than a typical 160.

Opening not to exceed 50 square inches



4.23 Biological Collection

- a) ~~A~~ Except for persons exempt from the rules under section 4828 of title 10, any person who traps any animal obtains a trapping license and traps for furbearers shall complete and submit an annual biological collection trapper survey, including the reporting of taking of incidental wild animals, for the license season to the Department, within the timeline specified by the Commissioner.
- b) Any person who traps furbearers and traps a dog or cat shall report the taking to a warden within 24 hours of discovery.
- c) The failure to complete and submit a biological collection survey to the Department shall be a nonpoint violation under 10 V.S.A. § 4502.

5.0 Seasons, Bag Limits

The following seasons, methods and bag limits are hereby established for the species listed. All hunting seasons will be with or without dogs, except as otherwise provided. Below is the exclusive, exhaustive list of seasons and means of take of fur-bearing animals. The taking of fur-bearing animals at other times or by other means, except where otherwise provided by law, is prohibited. All dates are inclusive.

Seasons	Dates	Bag Limit
5.20 Beaver		
By trapping	Fourth Sat. in Oct. through March 31	No Limit
By hunting	No open season	Zero
5.21 Otter		
By trapping	Fourth Sat. in Oct.- last day of March	No limit
By hunting	No open season	Zero
5.22 Marten	No open season	Zero
5.23 Mink		
By trapping	Fourth Sat in Oct.-Dec. 31	No limit
By hunting	No open season	Zero
5.24 Raccoon		
By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
By hunting	Second Sat. in Oct.-Dec. 31	No limit
5.25 Bobcat		
By trapping	December 1-December 16	No limit
By hunting	January 10-February 7	No limit
5.26 Fox (red or grey)		
By trapping	Fourth Sat. in Oct.-Dec. 31	No limit

	By hunting	Fourth Sat. in Oct. through the second Sun. in Feb.	No limit
5.27	Skunk		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed Season	No limit
5.28	Muskrat		
	By trapping	Fourth Sat. in Oct.-March 31	No limit
	By hunting	March 20-April 19	No limit
5.29	Coyote		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	<u>Hunting/Taking Coyote without the Aid of Dogs</u>	No closed season	No limit
	<u>Hunting/Taking with the Aid of Dogs</u>	December 15 through March 31	No limit
5.14	Fisher		
	By trapping	December 1-December 31	No limit
	By hunting	No open season	Zero
5.15	Weasel		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed season	No limit
5.16	Opossum		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed season	No limit
5.17	Wolf	No open season	Zero
5.18	Lynx	No open season	Zero

5.20 With the exception of state and federally listed threatened and endangered species, seasons shall not be applicable to any person, who takes a furbearing animal in defense of persons or property for compensation, in accordance with 10 V.S.A. § 4828.

6.0 Trapping Rabbits and Furbearers in Defense of Property for a Fee

In accordance with Sec. 11 of Act 170 from the 2017-2018 Adj Session, the following sections and subsections of Board rules set forth in Title 10, Appendix § 44 are applicable to trapping rabbits and fur-bearing animals in defense of property for compensation: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.10 (however, possession is allowed for the purpose of moving the animal to a more appropriate place for dispatch), 4.10, 4.11, 4.12, 4.13, (unless the animal has already been trapped),

4.14 e), 4.18 e), 4.22 a), and 4.23. 4.16 b),
4.17 a) and b).

§ 44. Furbearing species

1.0 Authority

1.1 This rule is promulgated pursuant to 10 V.S.A. §§ 4081, 4082, 4084, 4828, and 4861. In promulgating this rule, the Fish and Wildlife Board is following the policy established by the General Assembly that the protection, propagation, control, management, and conservation of fish, wildlife, and fur-bearing animals in this State is in the interest of the public welfare and that the safeguarding of these valuable resources for the people of the State requires a constant and continual vigilance.

1.2 In accordance with 10 V.S.A. §§ 4082 and 4084, this rule is designed to maintain the best health, population, and utilization levels of the regulated species.

1.3 This rule shall apply to all persons who take or attempt to take fur-bearing animals by any method.

2.0 Purpose

The purpose of this rule is to regulate the taking of fur-bearing animals.

3.0 Definitions

3.1 “Accompany” for the purpose of pursuing coyote with the aid of dogs means that:

- a) Any person engaged in the control, handling, transporting, or intercepting of dogs used for taking coyote with the aid of dogs shall be under the direct supervision of the permit holder and shall be considered a “Sub-permittee”, and
- b) A Sub-permittee who is in any way involved in the use or handling of taking coyotes with the aid of dogs shall be under the direct control and supervision of the coyote dog permit holder.

3.2 “Bait” means any animal, vegetable, fruit, mineral matter, or any other substance capable of luring or attracting coyotes or any other wildlife.

3.3 "Board" means the Vermont Fish and Wildlife Board.

3.4 “Commissioner” shall mean the Commissioner of the Vermont Department of Fish and Wildlife.

3.5 “Compensation” shall mean money.

3.6 “Control of dogs(s)” means that when transporting, loading, or unloading dogs from vehicle(s); and handling, catching, restraining, releasing, or following dogs at all times during training dogs and taking of coyote with the aid of dogs; the permittee shall be able to locate and remotely recall the dogs. Collar(s) with GPS functions, track log capability, and training/control

features in the collar(s) shall be required to locate and track dogs at all times while taking coyote with the aid of dogs. At no time shall dogs be in pursuit of coyote without a GPS track log being maintained by the permit holder.

3.7 “Coyote Dog Permit” means a permit issued by the Commissioner to a person who wishes to hunt, pursue or take coyote with the aid of dogs.

3.8 "Department" means the Vermont Department of Fish and Wildlife.

3.9 “Department Registered Dog” means a dog bearing a numbered identification dog-tag (Department Registration Dog-Tag) approved or issued by the Vermont Fish and Wildlife Department, with the permit holder's coyote dog permit number and a number one through four.

3.10 "Fur-bearing animal" means beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat or as amended pursuant to 10 V.S.A. § 4001.

3.11 “Legal Trail” shall mean a public right of way designated as a trail by a municipality as defined in Title 19 V.S.A § 301(8), that is not a highway but is shown on the highway maps of the respective towns made by the Agency of Transportation and:

- a) was previously a designated town highway; or
- b) is a new public right of way laid out as a trail by the selectboard for the purpose of providing recreational use or access to abutting properties.

3.12 “Pack of Dogs” means one to four dogs, acting as a unit during taking coyote with the aid of dogs.

3.13 “Public Highway” for the purposes of this rule, means town, state, and United States roads, shown on the highway maps of the respective towns, made by the Agency of Transportation.

3.14 “Public Trail” for the purposes of this rule, means:

- a) a path or corridor open to the public, used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities; that is designated and mapped by a municipality on municipal lands, the managing agency or department on Vermont state owned land, or a federal agency on federal land; within the state of Vermont;
- b) a path or corridor open to the public, commonly used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities; that is designated, managed, maintained and clearly marked as a trail on municipal lands, on Vermont state-owned land, or on federal land, within the state of Vermont; or
- c) Vermont Rail Trails designated and mapped by the Vermont Agency of Transportation, the Appalachian Trail designated, mapped and managed by the National Park Service, and the Long Trail designated, mapped and managed by the Green Mountain Club.

3.15 “Relaying packs and dogs” means the removal and replacement of one or more dogs,

during taking coyote with the aid of dogs, to the original pack of dogs once the pursuit has begun.

3.16 "Sub-Permittee" means any person with a valid Vermont hunting license designated by the coyote dog permit holder to assist or take coyote with the aid of dogs, in accordance with the permit issued by the Commissioner.

3.17 "Taking Coyote with the aid of dogs" for the purposes of this rule means that one or more dog(s) with Department Registration Dog-Tags are on the ground whether in pursuit of a coyote or not.

3.18 A "tanned" pelt is one that has been treated to turn the skin into leather.

3.19 "Training/control" collar is any family of collars that deliver audible tones and electrical stimulation of varying intensity and duration to the neck of a dog via a radio-controlled electronic device incorporated into the collar.

3.20 "Trapping" means to hunt, take or attempt to take fur-bearing animals with traps including the dispatching of such lawfully trapped fur-bearing animals.

3.21 A "trap" means a mechanical device used to capture, kill and/or restrain fur-bearing animals excluding firearms, muzzleloaders and archery equipment.

3.22 "Unregistered dog" means a dog that does not have a valid numbered Department Registration Dog Tag as described in 3.9.

4.0 Restrictions

4.1 A person trapping for fur-bearing animals under this rule shall visit their traps at least once every calendar day, except as provided in paragraph 4.2, and dispatch or release any animal caught therein.

4.2 A person who sets body gripping traps in the water or under the ice, colony/cage traps underwater or foothold traps under the ice shall visit their traps at least once every three calendar days and remove any animal caught therein.

4.3 A person shall not set a trap on lands other than their own which does not have their name and address permanently and legibly stamped or engraved thereon, or on a tag of rustless material securely attached thereto.

4.4 All traps under ice will be marked with a tag visible above the ice.

4.5 All foothold traps set on land must:

- a) Have base plates that feature a center chain mount with swivel, with free moving chain and at least two additional swivels that allow mobility for a captured animal;

- b) Be anchored with a minimum of 12” chain and a maximum of 18” chain between the base plate and the start of the anchoring system. Extra swivel and/or shock springs can be added to the chaining system, but the additions cannot cause the chain to exceed the 18” length;
- c) Be padded, offset, laminated or have a minimum jaw thickness of 5/16th of an inch, or fully encapsulate the foot;
- d) Have a spread of no more than 6 ¼ inches measured inside the widest expanse of the jaws; and
- e) If a foothold trap is triggered by downward pressure, it must be adjustable for pan tension.

4.6 No body-gripping trap shall be set on land unless:

- a) it is under 40 square inches, without the use of bait, or
- b) it is over 40 square inches and less than 60 square inches and is set 5’ or more above the ground, or
- c) it is over 40 square inches and less than 60 square inches and is in an anchored enclosure with openings no greater than 60 square inches and with a trap trigger that is recessed at least 12” from all openings.
- d) Any body-gripping traps over 60 square inches shall only be set in the water.

4.7 All meat-based bait shall be covered at the time that a trap is set. Covering shall include, but are not limited to, brush, branches, leaves, soil, snow, water, or enclosures constructed of wood, metal, wire, plastic, or natural materials.

4.8 A person shall not use toothed foothold traps or snares when trapping under this section.

4.9 A person shall not set a trap between December 31 and the following fourth Saturday in October unless the trap is in the water, under the ice, or on a float in the water.

4.10 A person shall not possess a living fur-bearing animal, except as provided by rules of the board or 10 V.S.A. part 4.

4.11 A person shall not possess a fur-bearing animal trapped outside of its legal season without the written authorization of the Department, not to include animals taken pursuant to 10 V.S.A. § 4828.

4.12 A person shall not possess fur or skin of a fur-bearing animal unlawfully taken.

4.13 A person shall not take a fur-bearing animal by use of any explosives or, chemical or poisonous mixture, with the exception of a carbon dioxide chamber used in accordance with the recommendations of the American Veterinary Medical Association.

4.14 A person shall not take a fur-bearing animal from dens by cutting, digging, smoking, by the use of mechanical devices other than a legal trap set in accordance with these rules.

4.15 Trapping Set-backs:

- a) No foothold traps or body-gripping traps shall be set on or within 50' of the travelled portion of a legal trail, public trail or public highway, unless set in the water or under ice. Setbacks shall not apply to public trails on Wildlife Management Areas except those public trails the Department specifically designates as requiring a setback. The Department shall post signage on Wildlife Management Areas advising the public of hunting seasons and locations where setbacks apply.
- b) No foothold traps or body-gripping traps, unless set in the water or under the ice, shall be set on or within 100 feet of the buildings, parking lots, and maintained (cleared, continuously maintained or landscaped) portions of designated wildlife viewing areas, visitor centers, parks, playgrounds, picnic areas, shelters, pavilions, schools, camps or campgrounds, and recreational facilities such as ball fields or tennis courts; owned and managed by municipal, state or federal entities except that trapping may occur with the explicit permission of schools, camps or campgrounds.

4.16 Dispatch of Trapped Animals: Upon discovery, a trapper shall immediately dispatch a live trapped furbearer with a muzzleloader or gun fired at arm's length; or a bow and arrow, or crossbow; or a carbon dioxide chamber in compliance with the American Veterinary Medical Association guidelines. This subsection shall not be interpreted to prevent a trapper from releasing an unharmed captured animal, or a domestic pet.

4.17 Beaver Muskrat

- a) When trapping muskrat between March 1 and March 31, body gripping traps are restricted to 5 inches or less.
- b) A person shall not disturb or destroy a beaver or muskrat house or den or place a trap therein, thereon, or in the entrance thereof.
- c) A person shall not set a trap within 10 feet of the nearest point, above the water, of a beaver house or dam during the month of March.
- d) A person shall not interfere in any manner with dams, dens, or houses of beaver except upon prior written approval from the Commissioner.

4.18 Bobcat; Otter; Fisher.

- a) The skins of bobcat, otter, and fisher legally taken may be possessed, transported, bought and sold only when tagged and marked as hereinafter provided.
- b) A person who takes bobcats, otter, or fisher during these seasons shall notify authorized Department staff within 48 hours of the close of the season. Pelts shall be presented to authorized Department staff for tagging. Such tags shall remain affixed to the pelts until tanned. Carcasses shall be surrendered to authorized Department staff at the time of tagging.

- c) A person who legally takes bobcat, otter, or fisher may keep the edible meat prior to submitting the carcass to the Department.
- d) No bobcat, otter, or fisher pelts or carcasses taken during these seasons shall be transported out of the State of Vermont prior to being tagged by authorized Department staff.
- e) A person who takes bobcat, fisher, and otter pursuant to 10 V.S.A. § 4828 and who desires to keep the pelt shall notify authorized Department staff with 84 hours of the taking. Pelts shall be presented to authorized Department staff for tagging. Such tags shall remain affixed to the pelts until tanned. Carcasses shall be surrendered to authorized Department staff at the time of tagging.

4.19 Raccoons

- a) A person shooting raccoons during the raccoon hunting season shall use a 0.22 caliber rimfire firearm or a shotgun with #2 shot or smaller.
- b) A light may be used to illuminate and shoot a raccoon once treed by a dog(s) during the raccoon hunting season. A light may also be used to illuminate a raccoon once treed by a dog(s) during the training season.

4.20 Taking Coyote with the Aid of Dogs

4.20.1 Authority - In accordance with 10 V.S.A. § 5008 and § 5009 (b), this rule establishes a process and standards for the issuance of a permit to take coyote with the aid of dogs, either for the training of dogs or for the taking of coyote.

4.20.2 Purpose - The purpose of this subsection is to establish a process and standards for the issuance of permits to pursue coyote with dogs, establish training and hunting seasons for the taking of coyote with the aid of dogs, and to define legal methods of take.

4.20.3 The Taking of Coyote with Aid of Dogs.

- a) Licenses and permits.
 - (1) Any person who intends to train, hunt, pursue, harvest, or in any manner take a coyote with the aid of dogs shall apply for a permit from the Commissioner on an application form provided by the Commissioner.
 - (2) Only applications received by the Department's central office during the official application period will be considered. Applications must be received prior to the deadline established by the Commissioner.
 - (3) The Commissioner will consider only complete applications. For an application to be

complete it must be legible, must contain all the information requested by the Department, must bear the applicant's original signature, or, in the case of electronic or facsimile applications, attestation under the pains and penalties of perjury. To be considered complete the form must be accompanied by any required application fee, or means of payment, such as a valid credit card payment.

- (4) The Commissioner may deny any person a permit in their sole discretion.
 - (5) Any person training, hunting, pursuing, harvesting, or in any manner involved in the taking of a coyote with the aid of dogs must hold a valid Coyote Dog Permit issued by the Department, or accompany a Coyote Dog Permit holder. The Permit shall be carried at all times by the permittee while taking coyote with the aid of dogs, and exhibited to a game warden, landowner, or law enforcement officer upon demand.
 - (6) Any person hunting, pursuing, harvesting, or in any manner involved in the taking of a coyote with the aid of dogs must hold a valid Vermont Hunting License, and use only Department Registered Dogs.
 - (7) In any given year, the number of permits available to non- resident hunters shall not exceed ten (10) percent of the total number of permits issued to resident hunters the previous year. If more than ten (10) percent of non-resident permit applications are received, the Department will award up to ten (10) non-resident permits on a first come, first serve basis, provided that the number of permits to be issued does not exceed 100.
- b) Lottery –In the event that more than 100 permit applications are received, all those who have submitted completed eligible applications and who wish to be entered into the lottery will be entered into the lottery. The Department will hold, or cause to be held, a transparent, random drawing to select 100 permits and to ensure that not more than 10% of permits issued by the Department are issued to non-residents.
- c) Legal Methods
- (1) A person shall not take a coyote into their possession except by killing the coyote by legal means or methods. Legal means includes utilizing a muzzleloader or gun fired at arm's length; or bow and arrow, or crossbow.
 - (2) A person taking coyote with the use of a bow and arrow or crossbow shall, upon demand of a game warden or other law enforcement personnel, show proof of having a prior archery license, or of having passed a bow hunter education course in Vermont, another state or a province of Canada approved by the Commissioner.
- d) Dogs and Packs

- (1) A person shall not take coyote with the aid of dogs unless the person is in control of the dog(s).
- (2) No person shall take a coyote with the aid of dogs by using any Unregistered Dog. No person shall have an Unregistered Dog in their possession (including in a vehicle) while hunting, pursuing, or taking a coyote.
- (3) A person hunting with dogs, pursuing, and taking coyote with the aid of dogs shall attach a collar or collars with GPS functions, tracklog capability, and training/control features for remote recall; and shall attach a Department Registration Dog-Tag and a metal identification name plate with the person's name, address and telephone number to the dog's collar.
- (4) A person taking a coyote with the aid of dogs shall maintain a GPS location log of each dog taking coyote and shall maintain the log for at least 30 days after the close of the season.
- (5) A person taking a coyote with the aid of dogs shall only take a coyote with a Pack of Dogs as defined in this rule. No person shall pursue, hunt, or take coyote by Relaying any Dog or Pack of Dogs.
- (6) Two or more permit holders may hunt together and combine Department Registered Dog(s) to form a Pack of Dogs. The combined Coyote Dog Permit holders shall not take coyote with the aid of more than four dogs combined forming a single pack of dogs. The combined Coyote Dog Permit holders shall not possess any Unregistered Dogs while hunting, pursuing, or taking coyote with the aid of their dogs.

4.20.4 Seasons and Shooting Hours for Taking Coyote with the Aid of Dogs.

- a) Coyote Dog Training Season: For Vermont Resident and Nonresident Permit Holder: June 1 through September 15, all dates inclusive, except that a nonresident may train dogs to pursue coyote only while the training season is in effect in the nonresident's home state and subject to the requirements of these rules.
- b) Coyote Dog Hunting Season December 15 through March 31, all dates inclusive.
- c) Legal hours for taking coyote with the aid of dogs: One half hour before sunrise until one half hour after sunset.

4.20.5 Prohibitions applicable to Taking Coyote with the Aid of Dogs

- a) A person shall not advertise, barter, exchange goods or services, or otherwise sell the use of a dog(s) for the purpose of taking coyote with the aid of dogs.
- b) While taking coyote with the aid of dogs, no person shall have in their possession an Unregistered Dog while possessing Department Registered Dogs.
- c) It shall be a violation for a Vermont resident to apply for a coyote dog permit for the purpose of allowing a nonresident coyote dog owner to take coyote in Vermont with the aid of dogs.

4.20.6 Reporting - A person taking coyote with the aid of dogs shall, no later than 48 hours after the close of season, report the taking of all coyotes during the season in a manner required by the Commissioner.

4.20.7 A person hunting coyotes with dogs shall not release the dogs on land posted in accordance with Title 10 V.S.A. § 5201, without the written permission of the landowner. In addition, a person hunting coyotes with the aid of dogs is encouraged to seek landowner permission before releasing dogs or entering land that is not posted in accordance with Title 10 V.S.A. § 5201. Hunter education shall include the recommendation that persons hunting coyotes with dogs seek landowner permission prior to pursuing coyotes with dogs.

4.21 Taking Coyote by Bow and Arrow and Crossbow: No person shall take coyote with or without the aid of dogs, with a bow and arrow or crossbow if the arrow or bolt has an arrowhead that measures less than seven-eighths of an inch at its widest point or that has less than two sharp cutting edges.

4.22 Lynx

- a) Any person who incidentally captures a lynx shall notify the Department immediately.
- b) The following regulations on traps and trapping shall apply within the Wildlife Management Unit E.

(1) From the fourth Saturday in October to December 31, both dates inclusive, all body gripping traps must be set:

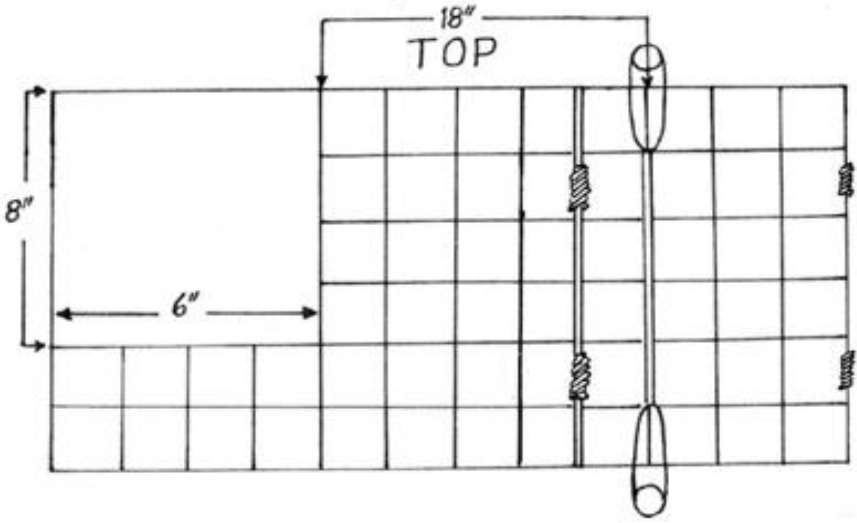
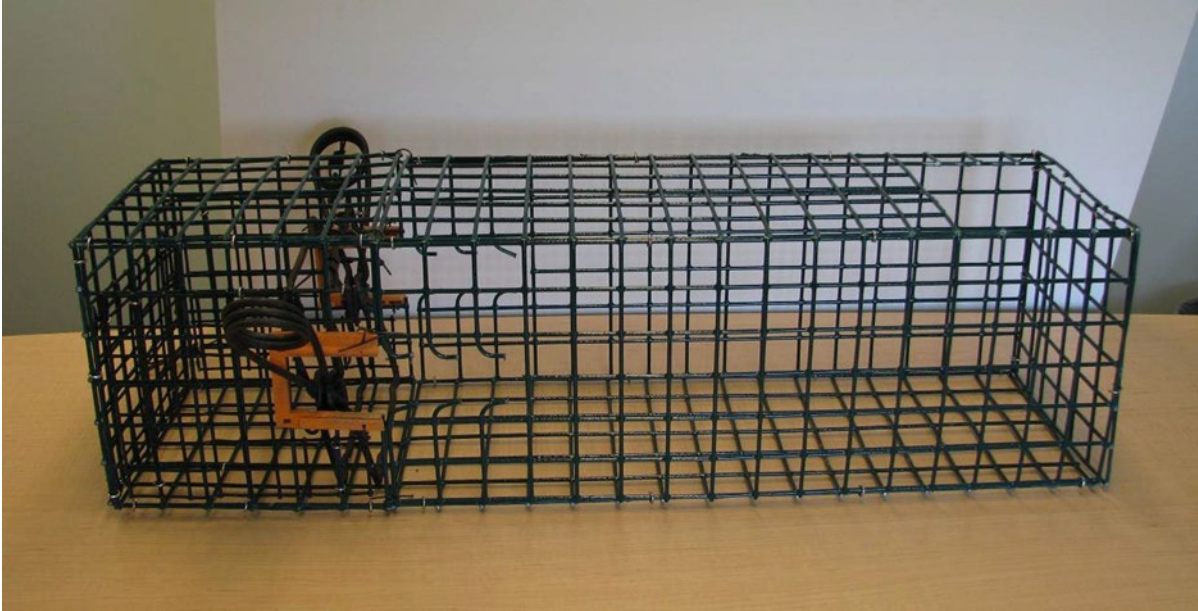
- i. In the water, or;
- ii. Within a Canada lynx exclusion device as described below and as depicted in Diagram 1:
 - a. the trap jaws shall be completely within the device;
 - b. the trap springs may extend outside of device through openings no larger than 7.5” wide by 1.5” high;

- c. the device shall not have an opening greater than 6" by 8";
 - d. the opening shall not be directly in front of the trap but shall instead be either on the top or side of the device;
 - e. the trap set within the device shall be a minimum of 18" from the closest edge of the opening to the trap;
 - f. there shall be at least two attachment points for each side of the device where there is a joint or where panels come together;
 - g. the device shall be constructed of wood or of wire mesh of 16 gauge or less wire (.05" diameter wire or greater) and having a mesh size with openings no greater than 1.5" X 1.5" or 1" X 2"; and,
 - h. the trap shall be anchored outside of the device; or
- iii. Off the ground as described below and as depicted in Diagram 2:
- a. at least 5' above the ground or if snow is on the ground at least 5 feet above snow level with the exception of the 24-hour period immediately following a snowstorm;
 - b. affixed to a standing tree which is free of branches below the trap or to a leaning section of pole that has not been planed or otherwise altered except for the removal of branches and is less than 4" in diameter at the trap and is angled at least 45° along its entire length from the ground to the trap; and
 - c. in an area that is free of any object within 4' of the trap.

c)The rules set forth in this subsection 4.22 shall expire on January 1, 2027 unless such rules are either extended or amended by the Fish and Wildlife Board. The decision to extend or amend these rules shall be based on an evaluation of the following key criteria:

- (1) Reliable evidence of the presence or absence of a resident, breeding population of Canada lynx;
- (2) The availability of more effective and/or practical alternatives for avoiding the incidental capture of lynx; and
- (3) The outcome of Maine's Incidental Take Permit application process.

Diagram 1. Canada lynx exclusion device for body gripping traps.



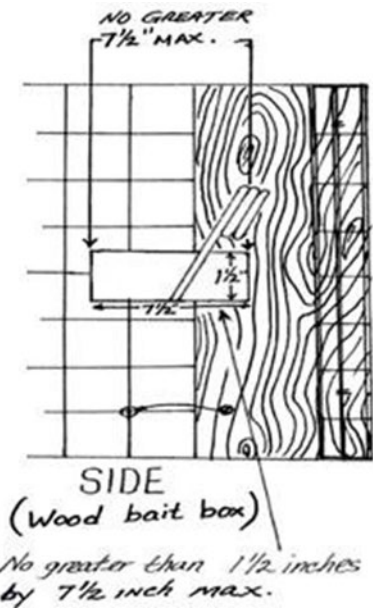
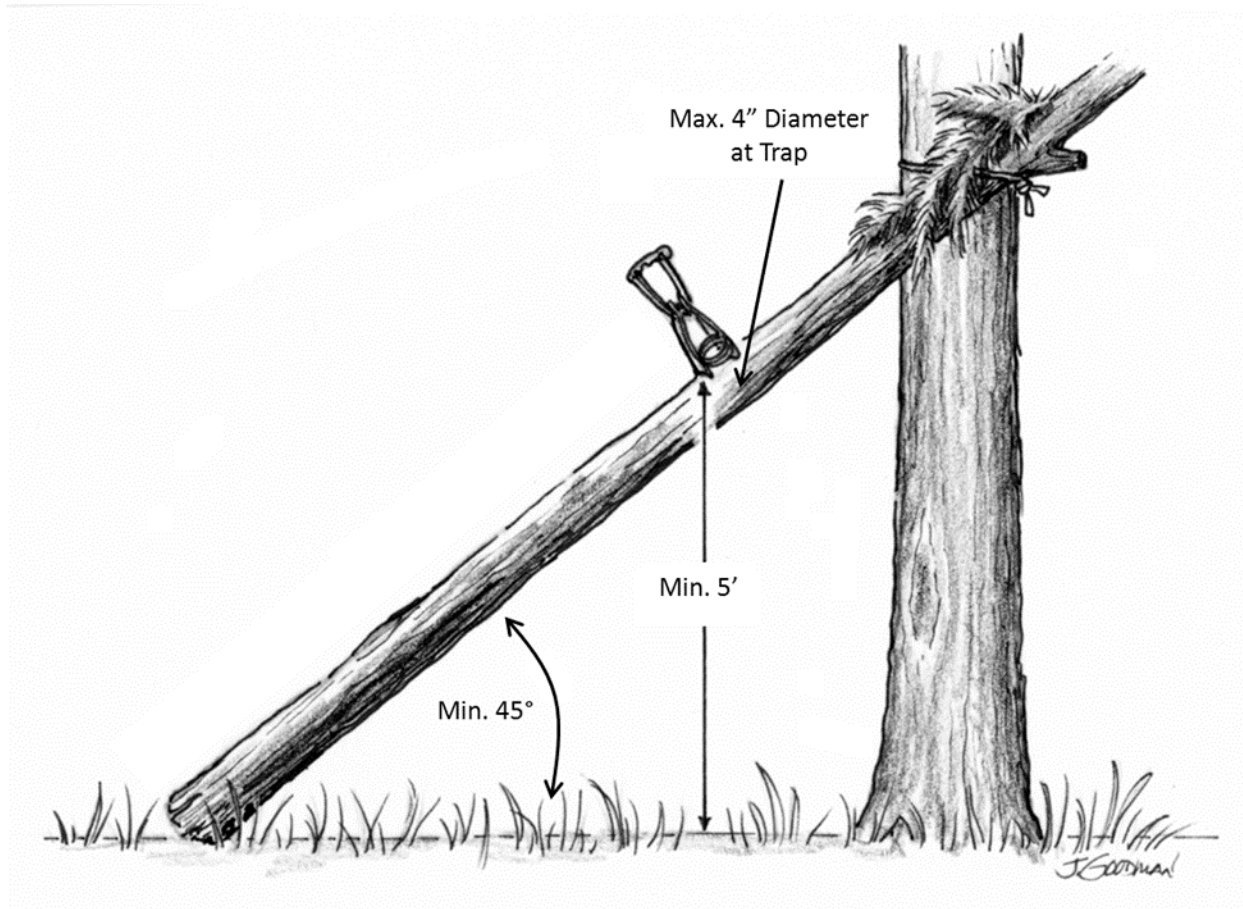


Diagram 2. Off the ground sets for body gripping traps.



4.23 Biological Collection

- a) Except for persons exempt from the rules under section 4828 of title 10, any person who traps any animal obtains a trapping license and traps for furbearers shall complete and submit an annual biological collection trapper survey, including the reporting of taking of incidental wild animals, for the license season to the Department, within the timeline specified by the Commissioner.
- b) Any person who traps furbearers and traps a dog or cat shall report the taking to a warden within 24 hours of discovery.
- c) The failure to complete and submit a biological collection survey to the Department shall be a nonpoint violation under 10 V.S.A. § 4502.

5.0 Seasons, Bag Limits

The following seasons, methods and bag limits are hereby established for the species listed. All hunting seasons will be with or without dogs, except as otherwise provided. Below is the exclusive, exhaustive list of seasons and means of take of fur-bearing animals. The taking of fur-bearing animals at other times or by other means, except where otherwise provided by law, is prohibited. All dates are inclusive.

Seasons	Dates	Bag Limit
5.20 Beaver		
By trapping	Fourth Sat. in Oct. through March 31	No Limit
By hunting	No open season	Zero
5.21 Otter		
By trapping	Fourth Sat. in Oct.- last day of March	No limit
By hunting	No open season	Zero
5.22 Marten	No open season	Zero
5.23 Mink		
By trapping	Fourth Sat in Oct.-Dec. 31	No limit
By hunting	No open season	Zero
5.24 Raccoon		
By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
By hunting	Second Sat. in Oct.-Dec. 31	No limit
5.25 Bobcat		
By trapping	December 1-December 16	No limit
By hunting	January 10-February 7	No limit
5.26 Fox (red or grey)		
By trapping	Fourth Sat. in Oct.-Dec. 31	No limit

	By hunting	Fourth Sat. in Oct. through the second Sun. in Feb.	No limit
5.27	Skunk		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed Season	No limit
5.28	Muskrat		
	By trapping	Fourth Sat. in Oct.-March 31	No limit
	By hunting	March 20-April 19	No limit
5.29	Coyote		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	Hunting/Taking Coyote without the Aid of Dogs	No closed season	No limit
	Hunting/Taking with the Aid of Dogs	December 15 through March 31	No limit
5.14	Fisher		
	By trapping	December 1-December 31	No limit
	By hunting	No open season	Zero
5.15	Weasel		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed season	No limit
5.16	Opossum		
	By trapping	Fourth Sat. in Oct.-Dec. 31	No limit
	By hunting	No closed season	No limit
5.17	Wolf	No open season	Zero
5.18	Lynx	No open season	Zero

5.20 With the exception of state and federally listed threatened and endangered species, seasons shall not be applicable to any person, who takes a furbearing animal in defense of persons or property for compensation, in accordance with 10 V.S.A. § 4828.

6.0 Trapping Rabbits and Furbearers in Defense of Property for a Fee

In accordance with Sec. 11 of Act 170 from the 2017-2018 Adj Session, the following sections and subsections of Board rules set forth in Title 10, Appendix § 44 are applicable to trapping rabbits and fur-bearing animals in defense of property for compensation: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.10 (however, possession is allowed for the purpose of moving the animal to a more appropriate place for dispatch), 4.11, 4.12, 4.13, 4.18 e), 4.22 a), and 4.23.