



**THE HUMANE SOCIETY
OF THE UNITED STATES**

CITIZEN-PROPOSED ISSUE PAPER ON TRAPPING

DATE: November 20, 2019 (amended January 20, 2020)

ISSUE: Request for ban on all traps, including box traps

DISCUSSION:

Trapping animals for fur sales is an anathema to the North American Model, which does not permit the market hunting of wildlife for private profit. Understanding this and because they wanted to reduce cruelty, Colorado voters passed Amendment 14 in 1996, an initiative that restricts traps and poisons on public lands. Amendment 14, part of Colorado's Constitution (Article 18 § 12b), provides: "It shall be unlawful to take wildlife with any leghold trap, any instant kill body gripping design or trap, or by poison or snare in the state of Colorado." The law further provides narrow exceptions for trapping to protect human health or safety; to control rodent, fish, and bird populations; for scientific research or medical treatment; and on private land to prevent damage to livestock or crops, provided that nonlethal control methods are tried first.

The Colorado Legislature implemented Amendment 14 by promulgating COLO. REV. STAT. §§ 33-6-201, *et seq.*, which explains that the purpose of the statute is "to honor the expressed desire of the people of Colorado to promote humane methods of animal control and discourage the use of inhumane methods while preserving the ability to protect human life, health, safety, and property by taking wildlife when there is no practical alternative."

The Colorado Constitution (Article 18 § 12b(2)(c)) and COLO. REV. STAT. § 33-6-206 explain further that **even non-lethal (box) traps cannot be used, except for purposes of: (a) bona fide scientific research; (b) falconry; (c) relocation permitted in accordance with rules of the division; or (d) medical treatment of the animal being captured.** Box trapping was left available for humane relocation, not trophy hunting and commercial trapping.

Despite these clear constitutional and statutory directives, the Colorado Division of Wildlife Commission adopted regulations in 2006 broadly allowing cage or box traps to be used to trap bobcats and other "furbearer" species.¹ At the time, in a letter to the Commission, the Colorado Trappers Association (CTA) stated that opening up a trapping season "...would allow both big and small game hunters to take personal trophies," and "...would provide opportunity for fur harvesters to take them for sale of pelts, skulls, taxidermy and other products."

Amendment 14 was clearly intended to prohibit recreational and commercial killing of wildlife using all traps, including box traps. The Commission's regulation to allow live trapping and subsequent killing for recreational and commercial purposes is wholly inconsistent with that purpose. Accordingly, we propose the following regulatory amendment to 2 CCR § 406-3, Regulations #302 and #303, which would bring CPW regulations into better compliance with Amendment 14 and its implementing statutory and constitutional provisions by prohibiting the use of non-lethal cage and box traps to enable lethal take by trophy hunters and commercial trappers during furbearer seasons:

Chapter W-3 – Furbearers and Small Game, Except Migratory Birds

#302 – Hours

¹ Currently, CPW regulations define "Furbearers" as "those species with fur having commercial value and which provide opportunities for sport harvest including mink, pine marten, badger, red fox, gray fox, swift fox, striped skunk, western spotted skunk, beaver, muskrat, long-tailed weasel, short-tailed weasel, coyote, bobcat, opossum, ring-tailed cat and raccoon." 2 CCR § 406-3. Data from the CPW show that in the 2009-2010 season, the CPW opened trapping on gray foxes, swift foxes, opossums, ring-tailed cats, western spotted skunks, and long- and short-tailed weasels.

A. Hunting Hours:

1. Small game – from one-half (1/2) hour before sunrise to sunset.
2. Furbearers – from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. Additionally; beaver, bobcat, coyote, gray fox, raccoon, red fox, striped skunk, and swift fox may be hunted at night in accordance with Regulation #'s 303(E)(7) and (E)(8).

B. Trapping Hours:

1. Small game, except game birds; game reptiles, and furbearers – day or night. All live traps (cage or box) must be visually checked on site at least once every day; except in the Canada lynx recovery area or on properties known to be occupied by Canada lynx, they must be checked every 24 hours.
 - a. Visual lures, fresh meat baits, fish oil, and anise oil lures meant to attract felids are not permitted in the Canada lynx recovery area or on properties known to be occupied by Canada lynx.

#303 – Manner of Take:

The following are legal methods of take for game species listed in this chapter. Any method of take not listed herein, **including but not limited to the use of traps of any kind, including live traps and traps specifically designed not to kill as defined in Regulation #300(C) and (E)**, shall be prohibited, except as otherwise provided by Statute or Commission regulation or by 35-40-100.2-115; C.R.S.

A. Special Conditions

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2. Live Capture
 - a. Furbearers captured in live traps cannot be moved from the capture site and must be killed or released on site when the trap is checked.
3. **Accidental Capture** – Except for Canada lynx, which are subject to the provisions of Chapter 10, any person accidentally trapping any wildlife for which the trapping season is closed or for which trapping is not a legal manner of taking, shall, in the event of live capture of such wildlife, release such wildlife immediately. Nothing in this section permits the killing of such accidentally captured wildlife, unless the wildlife cannot be released without human endangerment. In the event of mortality resulting from such accidental capture, the carcass of such wildlife shall be delivered to a Division wildlife officer or office within five (5) days. Failure to deliver the carcass shall be prima facie evidence of unlawful possession of such wildlife. Provided further that any trapper who complies with this provision shall not be charged with illegal possession of such accidentally captured wildlife.

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5. **Labeling of traps** – All live traps (limited to cage or box traps) placed on public lands must be labeled permanently and legibly with the trapper's Customer Identification Number (CID) in a location that is visible without having to manipulate the live trap in any way. If the trapper does not have a CID, all live traps placed on public lands must be labeled with the trapper's name. Live traps not properly labeled may be confiscated by any Wildlife Officer

...

D. Species listed in #300(D)(3).

1. Any method not otherwise prohibited, except that **the use of traps of any kind, including live traps and traps specifically designed not to kill as defined in Regulation #300(C) and (E), shall be prohibited.**

E. Furbearers

1. Any rifle or handgun.
2. Any shotgun.
3. Handheld bows and crossbows.
4. Any air gun, except that for coyote or bobcat the air gun must be a pre-charged pneumatic air gun .25 caliber or larger.
5. Live traps, limited to cage or box traps. All live-trapped wildlife shall be released immediately or dispatched by any legal method of take for that species in regulations #303.E.1-4. If local ordinances or public safety prohibit all legal methods of take from being used, American Veterinary Medical Association Guidelines for Euthanasia of Free-Ranging Wildlife, as provided in S7.6 of the 2013 edition of the AVMA Guidelines for Euthanasia of Animals, may alternatively be used to the extent allowable by law.

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According to the CPW, the numbers of bobcats killed in Colorado increased significantly after the rule change. This resulted in the loss of thousands of our state's native bobcats to the global fur market for private profit.² Please see Figure 1 on the following page.

² L. M. Elbroch et al., "Contrasting Bobcat Values," *Biological Conservation* <https://www.springerprofessional.de/contrasting-bobcat-values/13278284> (2017).

Furthermore, the CPW's Furbearer Management Report shows that most mammals killed in traps go unmonitored. Please see the "not surveyed" ("n/s") markers in Figure 2 on page 3.3 Fig. 1⁴

Bobcats killed by trophy hunters and commercial trappers in Colorado, 2002-2017

Season	Hunt	Trap	Total
2016-17	784	1,027	1,811
2015-16	470	882	1,352
2014-15	472	1,162	1,634
2013-14	595	1,350	1,945
2012-13	648	1,206	1,854
2011-12	607	1,021	1,628
2010-11	676	813	1,489
2009-10	782	521	1,303
2008-09	884	784	1,668
2007-08	974	769	1,743
2006-07	797	808	1,605
2005-06	656	507	1,163
2004-05	469	248	717
2003-04	453	227	680
2002-03	439	123	562

mandated.

Shockingly, in the 2015-16 season, the CPW reported that 11,417 swift foxes were killed, but then failed to survey their mortalities in the following season. This is a species that the agency promised to monitor and protect to avoid a listing under the Endangered Species Act as part of a conservation agreement with the U.S. Fish and Wildlife Service. (See details on following page.)

The number of Coloradoans who disapprove of these practices has only increased in recent years as studies and polls show.⁵ Data from the America's Wildlife Values project in 2018 show that in Colorado, the majority – 84% – want to view wildlife in the future and want wildlife protected over private property rights.⁶

Americans do not accept the cruel and barbaric acts of those who engage in the fur trade. In September 2019, California Governor Gavin Newsom signed legislation that prohibited recreational and commercial fur trapping in the state, and in October signed two additional bills into law: one prohibiting fur sales and the other prohibiting the trophy hunting of bobcats (bobcat trapping had already been prohibited in 2015). In October 2019, Macy's and Bloomingdale's department stores announced they will stop selling fur, and many popular brands and designers, including Prada and Gucci, have already stopped using fur.⁷

It is time for the Colorado Parks and Wildlife Commission to right the error of a previous Commission. Furthermore, the CPW's failure to carefully monitor all species which are allowed to be trapped is troubling and represents yet another public trust duty failure.⁸ The remedy is to prohibit the trapping of Colorado wildlife for trophies and for profit on our public lands, as the voters have already

³ Vieira, "Colorado Parks and Wildlife: Furbearer Management Report: 2016-2017 Harvest Year."

⁴ Bobcat kill data from the CPW. Mark Vieira, "Colorado Parks and Wildlife: Furbearer Management Report: 2016-2017 Harvest Year," ed. Terrestrial Wildlife (https://cpw.state.co.us/Documents/Hunting/SmallGame/Statistics/2016-2017_Furbearer_Report.pdf2018).

⁵ A. M. Dietsch et al., "State Report for Colorado from the Research Project Entitled, "America's Wildlife Values"," *Colorado State University, Department of Natural Resources* <https://content.warnercnr.colostate.edu/AWV/CO-WildlifeValuesReport.pdf> (2018); M. J. Manfredo et al., "America's Wildlife Values: The Social Context of Wildlife Management in the U.S.," ed. National Report from the research project entitled "America's Wildlife Values" (Fort Collins, Colorado: Colorado State University, Department of Natural Resources, 2018).

⁶ Dietsch et al., "State Report for Colorado from the Research Project Entitled, "America's Wildlife Values"."

⁷ Kitty Block - Humane Society of the United States, "Macy's and Bloomingdale's Ditch Fur," https://blog.humanesociety.org/2019/10/breaking-news-macys-and-bloomingdales-ditch-fur.html?credit=blog_em_102119_id10913&utm_source=feedblitz&utm_medium=FeedBlitzRss&utm_campaign=humanenation (2019).

⁸ Kyle A. Artelle et al., "Hallmarks of Science Missing from North American Wildlife Management," *Science Advances* 4, no. 3 (2018).

Fig. 2. Table from Vieira (2018)

HISTORIC HARVEST DATA

	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17
Badger	158	159	110	n/s	135	n/s	n/s	225	n/s	102	550	n/s	n/s	n/s	n/s
Beaver	1576	896	238	n/s	1072	n/s	n/s	356	n/s	782	1147	n/s	n/s	n/s	n/s
Bobcat (Total Mortality)	644	766	796	1261	1708	1845	1783	1399	1578	1686	1917	2022	1695	1407	1924
Bobcat (Harvest Only)	562	680	717	1163	1605	1743	1668	1303	1489	1628	1854	1945	1634	1352	1811
Coyote	39610	45912	38211	n/s	34943	31204	42427	n/s	49974	64294	41337	n/s	28529	42513	37180
Gray Fox	CS	CS	CS	CS	CS	CS	CS	109	n/s	510	763	1047	164	1003	n/s
Red Fox	1517	997	457	n/s	n/s	n/s	n/s	1925	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Swift Fox	CS	CS	CS	CS	CS	CS	CS	153	n/s	107	381	416	609	11417	n/s
Mink	CS	CS	CS	CS	0	n/s	n/s	15	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Muskrat	1300	87	439	n/s	1230	1230	n/s	n/s	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Opossum	CS	CS	CS	CS	CS	CS	CS	45	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Pine Marten	CS	CS	CS	CS	175	n/s	n/s	52	n/s	139	940	1569	2018	993	n/s
Raccoon	2777	2153	293	n/s	n/s	n/s	n/s	5299	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Ring-tailed Cat	CS	CS	CS	CS	CS	CS	CS	0	n/s	9	74	n/s	n/s	n/s	n/s
Striped Skunk	2482	896	274	n/s	n/s	n/s	n/s	948	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Western Spotted Skunk	CS	CS	CS	CS	CS	CS	CS	0	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Long-tailed Weasel	CS	CS	CS	CS	CS	CS	CS	0	n/s	n/s	n/s	n/s	n/s	n/s	n/s
Short-tailed Weasel	CS	CS	CS	CS	CS	CS	CS	0	n/s	n/s	n/s	n/s	n/s	n/s	n/s

CS = closed season n/s = not surveyed

According to NatureServe, swift foxes (*Vulpes velox*) have disappeared from 60 percent of their former range and are considered “vulnerable” to extirpation in Colorado.⁹ Threats to swift foxes come from a variety of factors, and while NatureServe suggests that, “Overall trapping pressure has been reduced over the past few decades,”¹⁰ the CPW’s own data show otherwise. Fig. 2.

In February 1992, swift foxes were petitioned for listing as endangered under the Endangered Species Act (ESA). In response, ten states, including Colorado formed the Swift Fox Conservation Team (SFCT).¹¹ In 1995, the U.S. Fish and Wildlife Service (FWS) determined that their listing was warranted, but precluded, citing other priorities. In 1997, the SFCT wrote an assessment and drafted a conservation plan. In response, in 2001 the FWS removed swift fox as a candidate for listing under the ESA despite its precarious status in most states. In 2008, the Colorado Wildlife Commission allowed trapping and night hunting of swift foxes in Colorado.

Researchers consistently comment that swift foxes are naïve and easily trapped.¹² Swift foxes tolerate humans, and research animals have walked into traps over and over again, and when released would not panic, but would walk away a few meters and then sit and groom themselves.¹³ In a study on the Pawnee National Grasslands of Colorado, trappers were an important cause of mortality.¹⁴ At the Defenders of Wildlife’s Carnivores November 2009 conference in Denver, Dr. Eric Gese presented on swift foxes and his long-term

⁹ NatureServe, “Vulpes Velox,” <http://www.natureserve.org>.

¹⁰ Ibid.

¹¹ J. Stuart and S. Wilson, “Introduction and Overview in Eds. J. Stuart and S. Wilson, Swift Fox Conservation Team Annual Report for 2004.” (Santa Fe, New Mexico and Lincoln, Nebraska: Swift Fox Conservation Team, 2006).

¹² Carol Boggis, “Swift Fox Habitat in North Central Colorado” (Colorado State University, 1977); J. Fitzgerald, C. Meaney, and D. Armstrong, *Mammals of Colorado* (Niwot: University Press of Colorado, 1994); J. P. Fitzgerald, “Furbearer Management Analysis: A Report Submitted to the Department of Natural Resources, Colorado Division of Wildlife,” (Greeley: University of Northern Colorado, 1994).

¹³ R. Loy, “An Ecological Investigation of the Swift Fox (*Vulpes Velox*) on the Pawnee National Grasslands, Colorado” (University of Northern Colorado, 1981).

¹⁴ J.P. Fitzgerald, R.R. Loy, and M. Cameron, “Status of Swift Fox on the Pawnee National Grassland, Colorado,” (Greeley 1983).

study on the Piñon Canyon Maneuver Site.¹⁵ One of his comments was how easily these animals are trapped and that individuals could be trapped over and over again. Swift foxes are vulnerable to trapping.

WHO MIGHT BE INTERESTED IN THIS ISSUE? HAVE YOU COMMUNICATED WITH ANY OTHER INTERESTED PARTIES? WHAT INPUT HAVE YOU RECEIVED?

A tiny minority of Coloradoans trap our wildlife for trophies and profit. Of the 5.5 million Coloradoans, fewer than 800 killed bobcats during the 2017 season. Wendy Keefover (HSUS) spoke to Dan Gates (CTA) about this issue during a break at the Rifle Commission hearing. He indicated a strong unwillingness to concede nothing when asked if he would give up trapping any one species, including swift foxes, among which the CPW currently permits for trapping.

We also reached out to local conservation groups including the Rocky Mountain Chapter of the Sierra Club, local Audubon groups, and the Center for Biological Diversity, who have all expressed support in favor of this petition.

ALTERNATIVES: PLEASE INDICATE THE PROBABLE OUTCOME IF THIS PETITION IS ACCEPTED, AS WELL AS THE IMPACT OF ALTERNATIVES TO THIS PETITION:

If the CPW Commission accepts and approves of these ideas, its public credibility can be repaired. Failure to act could result in citizens finding other ways to change the rules that are out of the hands of the Commission.

PETITION PROPOSED BY: Colorado citizens Aubyn Royall (aroyall@humanesociety.org) and Wendy Keefover (wkeefover@humanesociety.org).

PETITION WRITTEN BY: Colorado citizens Aubyn Royall (aroyall@humanesociety.org) and Wendy Keefover (wkeefover@humanesociety.org).

DATE SENT TO THE COMMISSION: November 20, 2019

¹⁵ see: CM Thompson and EM Gese, "Food Webs and Intraguild Predation: Community Interactions of a Native Mesocarnivore," *Ecology* 88, no. 2 (2007).

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