

Regulatory Analysis

312 Natural Resources Commission LSA Document #25-282

I. Description of Rule

a. History of Deer Management Hunts in Indiana State Parks

White-tailed deer (*Odocoileus virginianus*) (deer) have thrived in state parks since they were reintroduced to the state in the middle of the twentieth century. Mild winters, absence of natural predators, and a lack of hunting within state park boundaries resulted in excessive browsing by deer that compromised the overall composition, structure, and function of most natural communities in state parks. Browsing lines and small, malnourished deer were a common sight at most properties owned or managed by the division of state parks (division) by the late 1980s.

The first scheduled hunt for population management was held in 1993 to mitigate damage to vegetation and unique habitat by the overpopulation of deer in Brown County State Park. That year, four hundred sixty-six (466) hunters harvested three hundred ninety-two (392) deer. Since 1995, as many as twenty-two (22) state parks and natural areas managed by the division have held scheduled hunts for population management during a calendar year. Scheduled hunts were historically established by emergency rule.

The decision to start scheduled hunts at a property owned or managed by the division is supported by data from monitoring particular herbaceous species at the property. Once a property begins holding scheduled hunts, harvest data is incorporated into annual decisions regarding habitat recovery and whether a property requires a scheduled hunt for population management in the following calendar year. Research indicates that vegetation and habitat begin to recover from over-browsing when a harvest per effort (H/E) for hunting with a firearm is not more than twenty-two-hundredths (0.22), and the harvest per square mile (H/Mi²) is not more than sixteen (16) deer. The department of natural resources (department) randomly draws individuals for each property owned or managed by the division where a scheduled hunt is taking place for a density of one (1) individual hunter per at least fifteen (15) acres and not more than thirty-five (35) acres.

Properties where archery is regularly used due to urban interface or property size, have an H/E of not more than one-tenth (0.1). Mounds State Park is a property that will be included in scheduled hunts in the future. The department randomly draws individuals for each property where a scheduled hunt is taking place for a density of one (1) individual hunter per at least six (6) acres and not more than twenty (20) acres.

An individual who participates in a scheduled hunt for population management may take not more than three (3) deer, one (1) of which may be an antlered deer. A deer taken during a scheduled hunt does not count toward the statewide bag limits under 312 IAC 9.

In 2023, on the thirtieth anniversary of scheduled hunts for population management, one thousand five hundred (1,500) deer were harvested through four thousand five hundred eighty-three (4,583) hunter efforts. Hunter effort is calculated by one (1) hunter hunting on a property for one (1) day during a scheduled hunt.

Scheduled hunts for population management have been historically adopted via emergency rule. After the changes made to the Indiana Code under HEA 1623-2023, use of the emergency rules process is no longer permitted. The division has set forth the requirements for scheduled hunts in emergency rule for thirty (30) years beginning in 1993.

b. Scope of the Rule

Scheduled hunts for population management have previously been adopted using the emergency rules process, which is no longer possible due to the changes made to the Indiana Code under HEA 1623-2023. The proposed change adds 312 IAC-9-2-18 which allows for scheduled hunts for population management on designated properties owned or managed by the division with permitted hunting equipment. The proposed rule allows for scheduled hunts at properties owned or managed by the division when research and analysis of the H/E for the prior calendar year indicates a need for a scheduled hunt due to overpopulation of deer at that property. The scheduled hunts will help to ensure maintenance of healthy herbaceous and understory vegetation levels in ecosystems of properties where a scheduled hunt occurs.

The proposed rule sets forth the requirements of an application for a license to take a deer during a scheduled hunt for population management and describes the process the department follows for the random drawing for scheduled hunts for population managements and how the department handles the situation if there are not enough hunters who apply for a random drawing. Additionally, the proposed rule sets forth the procedures by which the department determines whether a management hunt is necessary for a property owned or managed by the department, and how the department determines which properties to include in scheduled hunts each year. The proposed rule describes the information the department has a duty to provide in the information packet to a hunter participating in a scheduled hunt for population management and describes the areas designated for representatives of the media. Finally, the proposed rule sets forth the reasons why the department may pause a scheduled hunt for population management for one (1) year using a provisional rule under IC 4-22-2-37.1.

c. Statement of Need

The proposed rule results from the changes to the Indiana Code by HEA 1623-2023, which no longer allow the department to establish regulations by emergency rule. Scheduled hunts for population management have been established by emergency rule for the previous thirty (30) calendar years. Without the proposed rule changes, the department will not be able to have scheduled hunts during the 2025 hunting season and beyond.

The proposed change is not the result of a federal or state statutory requirement, a court order, or an audit finding. However, the changes to the Indiana Code resulting from HEA 1623-2023 require the addition of a permanent rule for scheduled hunts for population management. The proposed changes ensure the effective control of the deer population and the impact of deer on ecosystems at properties owned or managed by the division. Without the permanent rule, the deer population will become problematic on properties and begin to destroy the ecosystems. Deer will also become malnourished due to the lack of available food at the properties.

d. Statutory Authority for the Proposed Rule

The department has the statutory authority to establish methods for taking a wild animal under IC 14-22-2-6. The department is required to develop rules based upon: “(A) The welfare of the wild

animal. (B) The relationship of the wild animal to other animals. (C) The welfare of the people in IC 14-22-2-6.”. “Wild animal” is defined in IC 14-8-2-318 and includes mammals, birds, reptiles, and amphibians. The natural resources commission (commission) has the statutory authority to adopt rules under IC 14-10-2-4.

e. Fees, Fines, and Civil Penalties

The proposed changes do not change or add a fee, a fine, or a civil penalty.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule

Preliminary adoption with the commission would be at the May commission meeting. If preliminary adoption is in May, the first comment period and public hearing would run until the beginning of July, and the second comment period and public hearing would run until the end of August, then final adoption of the proposed permanent rule would be at the September commission meeting. After review by the Attorney General and the Governor, the rule would likely be submitted to the Indiana Register in late November or early December. The proposed rule would be effective December 2025 or January 2026.

b. Estimated Fiscal Impact on State and Local Government

There is no fiscal impact to the state or a local government associated with this proposed rule. The administrative costs of the department may decrease due to an annual emergency rule no longer being necessary. There will be no costs to local government.

There is no expected increase or decrease in hunting license sales resulting from this change because scheduled hunts for population management have occurred annually for the last thirty (30) years. Administrative expenses include work by the division and the division of fish and wildlife to publicize and manage hunting draws, and to analyze the results and hunt details are part of routine business. These are a part of normal operating costs for the division and the division of fish and wildlife. Additionally, these administrative expenses are the same as those for the prior thirty (30) years. No increase or decrease is expected.

No significant change in revenue is expected because of the proposed change.

c. Sources of Expenditures or Revenues Affected by the Rule

There will be no need for an appropriation and no changes in the distribution of revenue resulting from the proposed changes. Administrative work to provide information to the public regarding the proposed changes is conducted through the department’s website. News releases and emails will be paid for through the current operating budget for the division and the division of fish and wildlife. These expenses are the same as the prior thirty (30) years.

III. Impacted Parties

Approximately eleven thousand one hundred five (11,105) individuals who register for the first scheduled hunt for population management, the second scheduled hunt for population management, or both may be impacted. The department does not expect any changes to the process for random drawings or conducting the scheduled hunts for population management on properties owned or managed by the division due to the proposed change.

Scheduled hunts for population management require closing the properties owned or managed by the division during the scheduled hunt. Individuals who might visit a designated property where a scheduled hunt for population management is occurring to hike, camp, or stay at an inn are impacted. However, most entrance gates are not operating during the time of year when scheduled hunts for population management occur, and overall visitation is limited in the winter months. The impact to individuals would not be significant and would be the same as the individuals experienced in the prior thirty (30) years. The value these hunts provide in managing our natural resources warrant the temporary closures.

IV. Changes in Proposed Rule

<u>Section Number</u>	<u>Proposed Change</u>
312 IAC 9-1-18.5	Defines “harvest per effort”.
312 IAC 9-2-18	The proposed change establishes scheduled deer hunts for population management at designated properties owned or managed by the division with permitted hunting equipment.

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule

The direct benefit of the proposed change is an established process that permits annual scheduled hunts for population management at designated properties owned or managed by the division as determined by research, statistical results, and habitat evaluation.

An additional direct benefit is the ability of permit individuals to take not more than three (3) additional deer above the bag limits and statewide quotas for taking deer under 312 IAC 9 when the individual is drawn and participates in a scheduled hunt.

b. Estimate of Secondary or Indirect Benefits of the Rule

An indirect benefit of the proposed change is ensuring that the impact of deer on the herbaceous and understory layers of the forested ecosystems of properties owned or managed by the division are permanently managed.

An additional indirect benefit, although not immediately quantifiable, is the positive economic impact from individuals who participate in scheduled hunts for population management on businesses such as restaurants, gas stations, hotels, and sporting goods stores in local communities where the scheduled hunts occur.

Again, these benefits will be largely the same as they have been over the prior thirty (30) years of scheduled hunts.

c. Estimate of Any Cost Savings to Regulated Industries

There are no cost savings for any regulated industries resulting from the proposed change.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities

There are no new costs for regulated entities or businesses to comply with the proposed change. The proposed change is the same as the prior thirty (30) years. No new costs will be imposed.

b. Estimate of Administrative Expenses Imposed by the Rules

There is expected to be only minimal expenditures out of the Indiana State Parks legal/dedicated fund (39310) and the Fish and Wildlife Fund (39745) to do administrative work such as managing hunter registration for the draws, updating the website, sending out news releases, and on-site management of hunts on the designated dates. All of these are part of routine business and are normal operating costs. These costs are the same as the prior thirty (30) years.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6

This rule does not increase or change fees, fines, or civil penalties.

VII. Sources of Information

a. Independent Verifications or Studies

The number of individuals who applied to participate in a random drawing for a scheduled hunt for population management in the 2023 calendar year was obtained from the database of applications provided through the division of fish and wildlife for the department. The number of individuals who participated in previous scheduled hunts and the number of deer harvested during those calendar years were obtained from annual reports related to scheduled hunts.

The method for evaluating and selecting a designated property for a scheduled hunt each calendar year was determined through research, observation, and the informed biological opinion of researchers at Purdue University and department staff.

Additional information is available regarding past annual scheduled hunts for population management at: on.IN.gov/INStateParkNaturalResources.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits

The benefits and costs of the proposed changes were obtained from staff for the division.

VIII. Regulatory Analysis

There are no new costs for regulated entities or businesses due to the proposed change. Individuals who wish to participate in scheduled hunts for population management will be able to register for the random drawings, and scheduled hunts for population management will ensure that department achieves the mission of conserving and managing the natural resources of Indiana. There will be a reduction in annual administrative costs for the department, and the proposed change simplifies the processes and is warranted.

Additional Information for OMB and SBA Review

The following information is required for OMB and State Budget Agency (SBA) review but will not be published along with the regulatory analysis.

IX. Contact Information of Staff to Answer Substantive Questions

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[Text to be added by the Register]

First Notice of Public Comment Period [link to document with proposed rule]

LSA Document #XX-XXX

Notice of Determination Received: [date]