

Notice of First Public Comment Period

LSA Document #25-282

SCHEDULED HUNTS FOR POPULATION MANAGEMENT

PURPOSE OF NOTICE

The Natural Resources Commission (commission) is soliciting public comment on rules added at 312 IAC 9-1-8.5 defining “harvest per effort”, and 312 IAC 9-2-18 regarding scheduled deer hunting in designated areas for population management. The commission seeks comment on the affected citations listed and any other provisions of Title 312 that may be affected by this rulemaking. Effective 30 days after filing with the Publisher.

HISTORY:

ADDITIONAL DOCUMENTS

Regulatory Analysis: No changes were made to the Regulatory Analysis published with the Notice of First Public Comment Period. [Replace sentence with DIN if submitted with Notice of Second Public Comment Period]

Notice of Public Hearing: [DIN]

CITATIONS AFFECTED: IC 14-10-2-4; IC 14-22-2-6

AUTHORITY: IC 4-21.5; IC 14-22-6-1

OVERVIEW

Basic Purpose and Background

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. Prior to 2023, scheduled hunts were historically established by emergency rule. Upon passage of HEA 1623-2023, the Department of Natural Resources (department) is no longer permitted to use the emergency rulemaking process to adopt rules. The rulemaking affects any individual who wishes to participate in a scheduled hunt for population management on a property owned or managed by the department.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Anthony Sipes, Certified Wildlife Biologist ®
Natural Resources Manager
Indiana Department of Natural Resources
Division of State Parks
402 W. Washington Street, Room W298
Indianapolis, Indiana 46204
317-232-4128 (Office)
ASipes@dnr.IN.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation

One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The commission is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

- (1) By the commission's rulemaking docket at <https://www.in.gov/nrc/rules/rulemaking-docket/>.
- (2) By mail or common carrier to the following address:
LSA Document #25-282
Whitney M. Wampler
Department of Natural Resources, Legal Division
C/O Natural Resources Commission
Indiana Government Center South
402 West Washington Street, Room W261
Indianapolis IN 46204
- (3) By email to WWampler@dnr.IN.gov. **PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (4) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than [date to be entered by publisher after agency confirmation].

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference, if applicable, are on file at the and are available for public inspection at the Department of Natural Resources, Legal Division, Indiana Government Center South, 402 West Washington Street, Room W261, Indianapolis IN 46204. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Department of Natural Resources' office on behalf of the Natural Resources Commission (commission).

If the commission does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED PERMANENT RULE

SECTION 1. 312 IAC 9-1-8.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-8.5 "Harvest per effort" defined

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

Affected: IC 4-21.5; IC 14-22-6-1

Sec. 8.5. "Harvest per effort" means the ratio of the total number of deer harvested divided by the hunter effort recorded as calculated under 312 IAC 9-2-18(1). (Natural Resources Commission; 312 IAC 9-1-28)

SECTION 2. 312 IAC 9-2-18 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-2-18 Designated properties; scheduled deer hunts; population management

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

Affected: IC 4-21.5; IC 14-22-6-1

Sec. 18. (a) An individual may apply to the department for a license to take deer during a scheduled hunt for population management under this section if the individual:

(1) is at least eighteen (18) years of age not later than the first day of the first scheduled hunt under subsection (h); and

(2) possesses at least one (1) of the following:

(A) A valid resident license to take a deer issued under IC 14-22-12-1.

(B) A lifetime comprehensive hunting license issued under IC 14-22-12-7(a)(4) (before its repeal).

(C) A lifetime comprehensive hunting and fishing license issued under IC 14-22-12-7(a)(5) (before its repeal).

(b) Notwithstanding another provision of the Indiana Code or the Indiana Administrative Code governing taking a wild animal in a designated area, the department shall issue a license to take deer during a scheduled hunt under this section to an individual or unit selected by a random drawing under subsection (d).

(c) The application for a license to take deer under this section must be in a form and manner prescribed by the department, including the hunter's:

(1) name;

(2) date of birth;

(3) hunting license number; and

(4) customer identification number issued by the department.

An individual participating in a scheduled hunt shall possess a license to hunt deer issued under subsection (b) during the scheduled hunt for which the individual or unit is chosen by a random drawing under subsection (d).

(d) An individual, or not more than three (3) individuals as a unit, may submit one (1) application to participate in a scheduled hunt under subsection (h)(1), subsection (h)(2), or both. An individual, or an individual on behalf of a unit, who submits more than one (1) application for each scheduled hunt disqualifies the individual or unit from participating in the scheduled hunt under this section for which the individual submitted multiple applications.

(e) An individual, or not more than three (3) individuals as a unit, who applies to participate in a scheduled hunt under this section will be entered into a random drawing conducted by the department to participate in a scheduled hunt under subsection (h). The department shall notify the individuals drawn that they are selected to participate in a scheduled hunt and the details of the specific scheduled hunt for which the individual was drawn. If the number of hunters that enter the random drawing for a specific property do not meet the number of spots available for the scheduled hunt, the property manager for the property where the scheduled hunt is to occur may randomly draw additional hunters at the property before the beginning of the scheduled hunt to accommodate the number of hunters required for population management.

(f) The department shall draw one (1) hunter for:

(1) at least six (6) acres; and

(2) not more than twenty (20) acres;

of huntable land at a property owned or managed by the department under subsection (m)(1).

(g) The department shall draw one (1) hunter for:

(1) at least fifteen (15) acres; and

(2) not more than thirty-five (35) acres;

of huntable land at a property owned or managed by the department under subsection (m)(2).

(h) Except as provided in subsection (i), an individual who is issued a license to take deer under this section may participate in a scheduled hunt on the following dates:

- (1) The first scheduled hunt occurs on the first Monday and Tuesday following the opening day of the firearms season under 312 IAC 9-3-4.
- (2) The second scheduled hunt occurs on the third Monday and Tuesday following the opening day of the firearms season under 312 IAC 9-3-4.

(i) If the first Monday and Tuesday following the opening day of the firearms season under 312 IAC 9-3-4 falls during the week of Thanksgiving:

- (1) the first scheduled hunt occurs on the first Monday and Tuesday prior to the opening day of the firearms season under 312 IAC 9-3-4; and
- (2) the second scheduled hunt occurs on the second Monday and Tuesday following the opening day of the firearms season under 312 IAC 9-3-4.

(j) If the director of the department determines, in consultation with a professional biologist, that:

- (1) deer present within a property owned or managed by the department pose a hazard to the health or safety of persons or property; or
- (2) it is likely:

(A) deer present within a property owned or managed by the department will cause obvious and measurable damage to the ecological balance within the property, including:

- (i) decrease in herbaceous species cover;
- (ii) decrease in native tree seedling density;
- (iii) decrease in native shrub seedling density;
- (iv) decrease in native plant species diversity;
- (v) increase in stem browsing;
- (vi) decrease in the quality of wildlife habitat for species of conservation concern; or
- (vii) agricultural crops or property; and

(B) the ecological balance within the property will not be maintained unless action is taken to control the deer population;

the director may schedule a hunt to manage the deer population on the property under this section

(k) The director of the department shall determine the properties owned or managed by the department under subsection (m) where an individual participating in a scheduled hunt may use a bow and arrows or crossbow or firearms, or both using the factors under this subsection and the calculated harvest per effort under subsection (l). A determination by the director under this section is based on the following factors:

- (1) Residential population density in the local unit where the property to be hunted is located.
- (2) The nature and use of the properties adjacent to the property to be hunted.
- (3) The size of the property to be hunted.
- (4) The number of structures or residences directly adjacent to the boundaries of the property to be hunted.
- (5) The topography of the property to be hunted and the properties adjacent to the property to be hunted that may or may not stop a projectile, including:
 - (A) whether there are hills or other land masses;
 - (B) tree cover and type; and
 - (C) vegetation density.
- (6) Instances of deer-human interaction that resulted in injury or property damage.
- (7) Whether the local unit where the property is located has a firearms prohibition.

(l) Harvest per effort is calculated based on the following:

STEP ONE: Determine the total number of deer harvested during both scheduled hunts.

STEP TWO: Determine the total hunter effort by the sum of the total number of individuals who participated in each day of the scheduled hunts under subsections (h)(1) and (h)(2). An individual who is present for one (1) day equals one (1) hunter effort. An individual who is present for two (2) days equals two (2) hunter effort.

STEP THREE: Determine the quotient of:

- (A) the STEP ONE result; divided by
- (B) the STEP TWO result.

(m) An individual who is issued a license to take deer under subsection (b) may take deer in a designated area as determined by the department under subsections (k) and (l), with the permitted equipment as follows:

- (1) A property owned or managed by the department that has a harvest per effort greater than one tenth (0.10) for the scheduled hunt during the previous calendar year, and using the factors under subsection (k), an individual may hunt deer using only a bow and arrows or crossbow under 312 IAC 9-3-3.
- (2) A property owned or managed by the department that has a harvest per effort greater than twenty-two hundredths (0.22) for the scheduled hunt during the previous calendar year, and using the factors under subsection (k), an individual may hunt deer using only a firearm under 312 IAC 9-3-3.

(n) An individual who participates in a scheduled hunt may begin hunting not earlier than thirty (30) minutes before sunrise until 4:00 p.m. each day of a scheduled hunt. The department shall provide an individual under this subsection an information packet that includes the following:

- (1) The dates and times the property scheduled to be hunted closes to the public.
- (2) The time and property will open for the scheduled hunt.
- (3) The time the property will close for the scheduled hunt.
- (4) The time hunters are required to leave the property after the scheduled hunt ends.
- (5) Hunting hours.
- (6) Parking restrictions for hunters.
- (7) The location and hours of hunter check in stations and a description of the online check in procedure.
- (8) Unit assignments, if applicable.
- (9) Information regarding zones at the property where hunters are not permitted to enter or hunt.
- (10) The equipment permitted to be used at the property during the scheduled hunt.
- (11) Restrictions, dates, and times tree stands may be installed and removed.
- (12) Indiana Administrative Code provisions explaining requirements to participate in a scheduled hunt, including:
 - (A) requirements for wearing hunter orange;
 - (B) equipment restrictions;
 - (C) bag limits;
 - (D) requirements for using flagging tape;
 - (E) requirements for retrieving deer from safety zones and private property.
- (13) How to coordinate accessibility needs with the property.
- (14) Availability of lodging at the property to be hunted.
- (15) Any additional safety restrictions to ensure adequate protection of the:
 - (A) ecological balance of the property;
 - (B) other species within the property;
 - (C) the landowners surrounding the property;
 - (D) hunters during the scheduled hunt; and
 - (E) any other individual present at the property during the scheduled hunt.
- (16) Information regarding the specific property to be hunted, including:
 - (A) use of a watercraft;
 - (B) use of bicycles; and
 - (C) information regarding possible prescribed fire areas.

(o) The following individuals may enter a property owned or managed by the department during a scheduled hunt:

- (1) An individual issued a license to take deer under this section for the scheduled hunt.
- (2) A representative of the media, in an area permitted by the department for representatives of the media under subsection (p).
- (3) An employee of the department.

(4) An individual who is at least eighteen (18) years of age not later than the first day of the first scheduled hunt, who:

(A) is assisting an individual who is issued a license to hunt deer under this section who possesses a Person with Disabilities Hunting Permit under 312 IAC 9-10-10; and

(B) does not intend to participate in the scheduled hunt.

(5) Any other individual with a credential issued by the department who is permitted by the department to enter the property owned or managed by the department during the scheduled hunt.

(p) The department shall designate permitted areas for representatives of the media during a scheduled hunt. Representatives of the media must be escorted to and from the areas by an employee of the department. These areas include:

(1) the property office;

(2) a hunter sign-in location;

(3) a check station; or

(4) any other area designated by the department for representatives of the media located within a safety zone while escorted by an employee of the department.

(q) Except as otherwise provided in this section, an individual may not enter a property owned or managed by the department when there is a scheduled hunt:

(1) beginning at 8:00 p.m. the day before the first day of the first scheduled hunt and ending 8:00 a.m. on the day following the last day of the first scheduled hunt; and

(2) beginning at 8:00 p.m. the day before the first day of the second scheduled hunt and ending not later than 8:00 a.m. on the day following the last day of the second scheduled hunt.

(r) An individual who participates in a scheduled hunt shall enter a property owned or managed by the department only in a location designated by the department.

(s) An individual issued a license to take deer under this section may be randomly assigned:

(1) a designated area of the property to hunt;

(2) a designated parking space;

(3) or both.

The individual shall comply with requirements regarding a randomly assigned designated area of the property to hunt or designated parking space set by the department.

(t) An individual issued a license to take deer under this section shall check in and check out of a designated area upon each arrival to and departure from the property owned or managed by the department where the scheduled hunt occurs.

(u) An individual who participates in a scheduled hunt shall wear two articles of hunter orange clothing that meets the requirements under IC 14-22-38-7, including:

(1) a hat or cap; and

(2) a vest, coat, jacket, or coveralls.

(v) Except for property owned or managed by the department under subsection (m)(1), an individual may not use ground blinds (as defined by 312 IAC 9-1-7.6) in a designated area.

(w) An individual who is participating in a scheduled hunt under this section may not possess or consume an alcoholic beverage in a designated area during the scheduled hunt.

(x) An individual may take not more than three (3) deer during a scheduled hunt for population management under this section. An individual may take not more than one (1) antlered deer under this subsection.

(y) A deer taken under this section does not apply to the seasonal bag limit for taking deer under 312 IAC 9.

(z) An individual who takes a deer under this section shall deliver the deer to a designated check station at the property owned or managed by the department where the scheduled hunt for population management occurs prior to leaving the property with the deer.

(aa) If the harvest per effort is below the required thresholds under subsection (m) for a specific property where scheduled hunts occur, then the department may pause scheduled hunts for one (1) hunting season. Scheduled hunts will resume at the property for the hunting season following the season in which the scheduled hunts are paused.

(bb) The department may pause scheduled hunts for population management for a specific property where scheduled hunts occur for one (1) hunting season if a provisional rule is adopted by the department to avoid:

- (1) an imminent and a substantial peril to public health, safety, or welfare;**
- (2) an imminent and a material loss of federal funds for an agency program;**
- (3) an imminent and a material deficit;**
- (4) an imminent and a substantial violation of a state or federal law or the terms of a federal agreement or program;**
- (5) injury to the business or interests of the people or any public utility of Indiana as determined under IC 8-1-2-113;**
- (6) an imminent and a substantial peril to:**
 - (A) wildlife; or**
 - (B) domestic animal;**
- health, safety, or welfare; or**
- (7) the spread of invasive species, pests, or diseases affecting plants.**

Scheduled hunts will resume for the hunting season following the season in which the scheduled hunts are paused. (Natural Resources Commission; 312 IAC 9-2-18)

[text added by publisher to end of document]

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Notice of First Public Comment Period: [DIN]

Public Hearing Held: [date]

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

Public Hearing Held: [date] [if applicable]

Approved by Attorney General: [date]

Approved by Governor: [date]

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Documents Incorporated by Reference: [references received by publisher]

Small Business Regulatory Coordinator: [contact information]