

Regulatory Analysis
LSA Document #24-385**I. Description of Rule**

In April 2024, the first case of chronic wasting disease (CWD) was detected in an Indiana deer. As a result, the department is proposing to reduce the movement of deer that may be infected with and carry this disease to another location in the state.

CWD is a fatal neurological disease that affects white-tailed deer. It is a member of a group of diseases called transmissible spongiform encephalopathies, or prion diseases. Other similar prion diseases in this group include mad cow disease and scrapie in sheep. CWD is spread through bodily fluids like feces, saliva, blood, or urine and is transmitted through direct contact or indirect contact through environmental contamination of soil, plants, food, or water. CWD can infect captive-bred deer and elk as well as wild deer. There is no cure for CWD and no known treatment exists to prevent deer from getting or spreading CWD. The only test to confirm whether a deer is infected with CWD requires samples from the deer's adrenal glands after the deer is killed. It is not currently possible to test live deer.

A fawn can be infected by the fawn's mother, either through direct transmission before birth or soon after birth through the normal feeding and caring for the fawn. Fawns do not test positive until the fawn is alive and infected for at least six (6) months. Therefore, it is not possible to determine if a fawn is infected with CWD at birth. A fawn that is infected with CWD that is raised with other fawns can infect the other fawns, and, if released into an area where CWD is not present, can then infect other deer for up to two and one half (2 1/2) years after becoming infected, which spreads the disease to a new area.

Currently, Indiana Administrative Code prohibits the possession of fawns without a wild animal rehabilitation permit under [312 IAC 9-10-9](#). The department is proposing to limit the movement of fawns to individuals who hold wild animal rehabilitation permits in the areas where there are positive cases of CWD, as well as restrict the area where an individual who holds a wild animal rehabilitation permit may release a deer. The intent of the proposed change is to reduce human assisted movement of CWD prions out of the infected area in potentially infected deer. Moving a fawn from an infected area to a rehabilitation facility outside of the CWD positive area could lead to the introduction of CWD to a new area of the state, which would cause more deer to die from CWD. Due to the desire to avoid the suffering of injured or abandoned fawns, fawns may continue to be rehabilitated if they are not moved outside of the CWD positive area.

Beyond the changes needed regarding CWD, the proposed rule makes changes that conform to current practice and department administration needs. First, the proposed rule changes the requirement for an applicant for a wild animal rehabilitation permit to providing a copy of the applicant's driver's license or identification card, name and address, and the address where wild animals are housed for rehabilitation, if the address is different from the applicant's address. This change specifies the requirements of the application and reflect the current practices of the department. The changes also clarify the exam requirements for those who have held a wild animal rehabilitation permit for more than ten (10) years and have taken care of more than twelve (12) wild animals. Additionally, the proposed rule adds a statement that provides the department with the ability to limit the number of wild animals a permit holder can possess if they do not meet the requirements set forth in the rule language. Finally, while the proposed rule was changed due to an outbreak of CWD, the department wishes to use the permanent rulemaking process to update the rules according to the current practices of the department as well as and technical or drafting changes.

c. Statement of Need – The proposed changes result from a wild deer that tested positive for CWD in April 2024 in LaGrange County, Indiana. Moving a fawn from an infected area to a wild animal rehabilitator outside of a CWD positive area could introduce CWD to a new area of the state. The presence of CWD in deer will affect deer hunters and deer processors, because CWD is fatal to deer and there is no known cure or vaccine available. The Center for Disease Control does not recommend eating meat from a deer that tested positive for CWD.

d. Statutory Authority for the Proposed Rule – The department has the authority under [IC 14-22-2-6](#) to establish the methods, means, and time of taking and transporting wild animals in Indiana. The department is also required to develop rules based upon the: "(A) the welfare of the wild animal; (B) the relationship of the

wild animal to other animals; and (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. 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: The anticipated effective date of the proposed permanent rule is May 2025. The notice of intent is expected to be published in July 2024. The public hearings are not anticipated to take place until September and October 2024, then final adoption by the commission would likely take place in January 2025. After final adoption, review by the Attorney General's Office and the Governor's Office, and publications in the Register, it is likely the proposed permanent rule will become effective in March 2025.

b. Estimated Fiscal Impact on State and Local Government –The department anticipates that there will be no fiscal impact to local government or regulated entities. Wild animal rehabilitators get a free permit from the DNR to take in orphaned and injured animals for rehabilitation; therefore, any change to an individual who holds a wild animal rehabilitation permit will not have a fiscal impact. It is also not legal to sell wild deer. There will be some additional administrative costs for department staff. There will be no costs to local governments.

There are expected to be minimal expenditures in an amount less than five hundred dollars (\$500) out of the Fish and Wildlife Fund (39745) for the administrative work required of the department regarding: (1) updating the department's website; (2) notifying individuals who hold wild animal rehabilitation permits of the changes; and (3) sending news releases. The required administrative work, which will be primarily by email, is part of routine business. Administrative duties are paid for out of the Fish and Wildlife Fund (39745) and are considered part of normal operating costs.

There is not expected to be any significant change in revenue because of the proposed permanent rule changes.

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 permanent rule changes. Administrative work to provide public information about the proposed permanent rule changes to the division of fish and wildlife (division) website, news releases, letters to individuals issued a wild animal rehabilitation permit, and emails, all of which are paid for out of the Fish and Wildlife Fund (39745), are part of normal operating costs for the department.

III. Impacted Parties

The proposed permanent rule changes will likely affect approximately six (6) permitted wild animal rehabilitators at this time. Landowners and other residents that find orphaned and injured white-tailed deer will be indirectly affected by restricting the location where the deer may be taken for care of an individual issued a wild animal rehabilitation permit. The proposed permanent rule will help prevent the spread of CWD to new areas across the state, thereby affecting deer hunters and deer processors in those areas. Deer processors may be indirectly affected because the deer processor may process deer meat infected with CWD. The proposed permanent rule will help prevent the spread of the disease. Deer processors may be required to disinfect more often or change processes to ensure that a deer is not infected before processing meat.

IV. Changes in Proposed Rule

The primary benefit of the proposed permanent rule is to individual deer hunters who will be less likely to take a deer infected with CWD, and to residents who enjoy viewing and feeding deer. Indirect benefits of the proposed permanent rule are to the department to maintain a healthy deer population and have deer hunters purchase licenses to hunt deer, providing revenue for the division. Also, there is an indirect effect to commercial deer processors who may have to change procedures before processing meat. Nearby captive-cervid facilities may also be concerned about the spread of CWD to captive deer held behind a fence for breeding purposes, because CWD is fatal to deer and there is no known cure or treatment to prevent the

spread.

Code Cite	Direct Effects	Indirect Effect	Fiscal Impact to the department	Business Impacts
Adds 312 IAC 9-1-5.2 which defines the term "chronic wasting disease positive area"	Provides a description of the area that is determined or detected to have chronic wasting disease in deer which clearly establishes how the department will determine a chronic wasting disease positive area	Hunters may be less likely to hunt deer in a chronic wasting disease positive area due to concerns about the safety of the meat	Insignificant	Commercial deer processors may choose to process fewer deer
Adds 312 IAC 9-1-11.2 which defines a term "nonreleasable"	This is not a new definition, but a new location for the definition This definition was originally included under 312 IAC 9-10-9 . The definition was moved for compliance with the Indiana Administrative Code Drafting Manual	None known	None known	None known
Adds 312 IAC 9-2-17 which provides the procedures for where an individual may surrender a deer to a wild animal rehabilitator in a chronic wasting disease positive area and the release of the deer	Citizens who find orphaned, injured, or sick deer and want to take them to an individual issued a wild animal rehabilitation permit	Citizens who enjoy observing and feeding deer in a chronic wasting disease positive area, since more deer will become sick with chronic wasting disease and die	None known	None known
Amends 312 IAC 9-10-9 regarding a wild animal rehabilitation permit	Wild animal rehabilitators in a chronic wasting disease positive area are limited to where the wild animal rehabilitator can release deer obtained from a chronic wasting disease positive area	Orphaned deer may die or people who are not permitted may try to take care of the deer	None known	None known Wild animal rehabilitators are businesses While rehabilitations are not businesses, they may take in fewer deer than normal since they cannot take them from certain counties, which will save them time and money
Amends 312 IAC 9-10-9 by adding subsection (d), which states not later than twenty-four (24) hours after an individual under subsection (c) receiving the sick, injured, or orphaned wild animal under subsection (c), the individual holding a wild animal rehabilitation permit that is not applicable to the wild animal received shall transport the wild animal	Specifies what a wild animal rehabilitator is required to do in the event the rehabilitator receives an animal for which the rehabilitator is not permitted	None known	None known	None known as this is the current requirement

to an individual holding an applicable wild animal rehabilitation permit				
Amends 312 IAC 9-10-9(e)(7) Changes the requirement to require an Indiana Driver's License or Identification Card	Increase to the number of individuals who possess an Indiana Driver's License or Identification Card	None known	None known	This could create additional cost to individuals applying for the wild animal rehabilitation permit that did not previously possess an Indiana Driver's License or Identification Card. However, this increase is likely to be small, if at all
Adds 312 IAC 9-10-9(e)(8) and (9) Required application information	Clarifies information that will be required when an individual applies for a wild animal rehabilitation permit	None known	None known	None known
Amends 312 IAC 9-10-9(f) Clarifies when an applicant is required to fulfill the testing requirement	Clarifies that a first-time applicant must satisfy the testing requirement to obtain a wild animal rehabilitation permit	None known Current policy	None known	None known Current policy
Amends 312 IAC 9-10-9(h) Specifies ongoing requirements of an individual holding a wild animal rehabilitation permit before the individual has held the permit for at least ten (10) years and has taken in at least twelve (12) wild animals for rehabilitation	Clarifies that an individual holding a wild animal rehabilitation permit for at least ten (10) years who has taken in at least twelve (12) wild animals for rehabilitation is exempt from certain requirements Anyone not in that category of permit holders is required to complete the requirements every three (3) years	None known Current policy	None known	None known Current policy
312 IAC 9-10-9(n) Adds a statement that the department may limit the number or species of wild animals a rehabilitator may possess if the rehabilitator does not satisfy certain standards set by the department regarding conditions for wild animals	None known The rule initially permitted the department to impose additional conditions on a permit holder; the change specifies what those conditions might be	None known	None known	None known
312 IAC 9-10-9(r) Creates a table	None known The rule itself is not changed substantively; reorganized for clarity	None known	None known	None known
312 IAC 9-10-9(r)(1)(C) Adds endangered species of turtle	Adds endangered species of turtle to the types of reptiles an individual may possess to put the rule in line with	None known	None known	None known

	312 IAC 9-5-11f			
312 IAC 9-10-9	Technical and conforming changes under the Indiana Administrative Code Drafting Manual	None known	None known	None known

V. Benefit Analysis

The Statement of Need on pages one (1) and two (2) of this document outlines the benefits for the proposed permanent rule changes. The table above specifies the impact of the proposed permanent rule changes. The direct and indirect effects of the proposed permanent rule changes are described on page one (1) of this document. As described in this document, the purpose of the proposed permanent rule changes is to help prevent the spread of CWD to other areas of the state where more deer can become infected and die. There is no change to fees, fines, or civil penalties.

a. Estimate of Primary and Direct Benefits of the Rule – The direct benefits of the proposed permanent rule changes are to deer hunters by preventing the spread of deer to other locations in the state where deer can become infected and die. Deer infected with CWD may make the deer less desirable to hunt and the Center for Disease Control recommends people not eat the meat of deer that tests positive for CWD.

b. Estimate of Secondary or Indirect Benefits of the Rule – Indirect benefits of the proposed permanent rule changes are described above.

c. Estimate of Any Cost Savings to Regulated Industries – There will be no cost savings for regulated industries from the proposed permanent rule changes.

VI. Cost Analysis

See pages one (1) and two (2) of this document.

a. Estimate of Compliance Costs for Regulated Entities – There are no new costs for regulated entities or businesses to comply with the proposed permanent rule changes. Most individuals issued a wild animal rehabilitation permit release deer in the county where they are located, so if the individual issued a wild animal rehabilitation permit or the deer are in the CWD positive area, there is no need for the individual issued a wild animal rehabilitation permit to make changes to current practices. However, individuals issued wild animal rehabilitation permits may decide to change their protocol for housing deer and disinfecting enclosures.

b. Estimate of Administrative Expenses Imposed by the Rules – There is expected to be minimal expenditures out of the Fish and Wildlife Fund (39745) to accommodate additional administrative work required from enacting the proposed permanent rule changes, including updating the department's website, sending out emails and letters, and sending out news releases. Department website updates, news releases, and emails to individuals issued wild animal rehabilitation permits are part of routine business. Administrative duties are paid out of the Fish and Wildlife Fund (39745) and are considered normal operating costs.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) –The proposed permanent rule changes do not add or change a fee, a fine, or a civil penalty.

VII. Sources of Information

a. Independent Verifications or Studies – The number of individuals issued a wild animal rehabilitation permit affected by the proposed permanent rule changes was obtained from the department's list of individuals issued a wild animal rehabilitation permit.

The initial testing of the deer which resulted in the detection of CWD in the deer in the state was performed by Purdue University's Animal Disease Diagnostic Laboratory and was subsequently verified by the National Veterinary Services Laboratory.

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

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

VIII. Regulatory Analysis

There are no new costs for regulated entities or businesses because of these rule changes. The department believes that with the seriousness of CWD and the likely impact of CWD on deer hunting and processors in the state, these rule changes are necessary.

Notice of First Public Comment Period with Proposed Rule: [20241009-IR-312240385FNA](#)

Notice of Determination Received: July 10, 2024

Posted: 10/09/2024 by Legislative Services Agency

An [html](#) version of this document.