TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule
LSA Document #11-442(F)

DIGEST

Amends 312 IAC 2-4-12 by removing J. Edward Roush Lake (formerly known as "Huntington Reservoir") from the listing of lakes that are subject to standards governing fishing tournaments. Amends 312 IAC 8-2-3 by clarifying requirements for hunting blinds, prohibiting the use of lead shot while hunting mourning doves, and clarifying requirements for the taking of reptiles and amphibians on a DNR property. Amends 312 IAC 8-2-8 by clarifying requirements for the use of airborne transportation devices and motor-driven airborne devices used on a DNR property. Amends 312 IAC 8-2-9 by removing the reference to tow kite flying. Effective January 1, 2013.

312 IAC 2-4-12; 312 IAC 8-2-3; 312 IAC 8-2-8; 312 IAC 8-2-9

SECTION 1. 312 IAC 2-4-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-12 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3
Affected: IC 5-14-3; IC 14

Sec. 12. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of boats that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinewa	~~Huntington~~	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	75	~~18~~	100	30	178	50	100
April	175	75	75	~~18~~	100	30	178	50	60
May	175	75	75	~~30~~	100	20	178	28	50
June	175	30	30	~~30~~	75	20	125	28	50
July	175	30	30	~~30~~	75	20	125	28	50
August	175	30	30	~~30~~	75	20	125	28	50
September	175	75	75	~~30~~	100	20	178	28	60
October	175	75	75	~~18~~	100	30	178	50	100
November	100	75	75	~~18~~	100	30	178	50	100

(c) A boat used to administer a tournament is excluded in determining the number of participating boats.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided ~~advance notice of the location. The name of the lake may be omitted from the license application, but the department must be provided~~ with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), a fishing tournament on Monroe Lake, from October 15 through the end of February, is restricted to a maximum of one hundred (100) participating boats.

(f) At least thirty (30) days before the scheduled event, a license holder must file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

(1) One hundred thousand dollars ($100,000) for all damages to property for a single occurrence.
(2) One hundred thousand dollars ($100,000) for injury or death of one (1) person in a single occurrence.
(3) Three hundred thousand dollars ($300,000) for injury to or death of multiple persons in a single occurrence.

(g) Attached to the application for each property, the applicant must deliver a cash bond or other security approved by the department in the amount of one hundred fifty dollars ($150). Bond may be forfeited for any of the following reasons:
(1) Failure to:
(A) pay the user fee within the prescribed time frame;
(B) cancel the event within thirty (30) days from the date the application was submitted; or
(C) comply with section 9.5 of this rule.
(2) Restoration of the mooring judge's or spectators' area.
(3) Reimburse to the department for cost of supervision, maintenance, and labor.
(4) To collect any other unpaid fees or costs that are due, including expenses incurred in the collection of the unpaid fees.

(h) Within fourteen (14) days after a tournament, the license holder must provide to the department a user fee equal to the greater of:
(1) eighty percent (80%) of the number of boats listed on the license; or
(2) the number of boats participating in the tournament.
If the user fee under this subsection is greater than the amount of the bond, the organization is also responsible for the difference.

(i) The amount of the fee shall be established by the director within a range of fees for this purpose approved by the commission. The director may waive the user fee if the:
(1) tournament is held for charity where all of the profits are given to that charity; and
(2) waiver request is:
(A) made in writing; and
(B) submitted with the application.

(j) The director may require insurance in addition to what is set forth in subsection (f) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(k) A license holder shall:
(1) indemnify;
(2) defend;
(3) exculpate; and
(4) hold harmless;
the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity.

(l) The department may deny a license application or may revoke a license issued under this section if any fee or cost provided under this section is delinquent. Upon the satisfaction of any delinquencies, an individual may apply for a new license.

(Natural Resources Commission; 312 IAC 2-4-12; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3932, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003; filed Jan 5, 2005, 11:00 a.m.: 28 IR 1460; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA; readopted filed Jul 21, 2008, 12:16 p.m.: 20080813-IR-312080052RFA; filed Nov 1, 2010, 11:30 a.m.: 20101201-IR-312090986FRA, eff Jan 1, 2011; filed Feb 6, 2012, 3:07 p.m.: 20120307-IR-312110442FRA, eff Jan 1, 2013)

SECTION 2. 312 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-3 Firearms, hunting, and trapping

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-22-2-6

Sec. 3. (a) A person must not possess a firearm or bow and arrows on a DNR property unless one (1) of the following conditions apply:
(1) The firearm or bow and arrows are:
(A) unloaded and unnocked; and
(B) placed in a case or locked within a vehicle.
(2) The firearm or bow and arrows are possessed at, and of a type designated for usage on:
(A) a rifle;
(B) a pistol;
(C) a shotgun; or
(D) an archery;
range.
(3) The firearm or bow and arrows are being used in the lawful pursuit of either of the following:
(A) A wild animal on a DNR property authorized for that purpose.
(B) A groundhog as authorized under a license.
(4) The person possesses a handgun on a DNR property other than a reservoir owned by the U.S. Army Corps of Engineers or Falls of the Ohio State Park:
(A) with a valid unlimited license to carry a handgun:
(i) issued under IC 35-47-2-3; or
(ii) recognized under IC 35-47-2-21(b); or
(B) pursuant to an exemption to handgun licensure requirements as authorized under IC 35-47-2-2.

(b) Except as provided in subsection (a)(1) or (a)(4), a firearm or bow and arrows may not be possessed on DNR properties within any of the following:
(1) A nature preserve unless hunting is authorized under subsection (d).
(2) A property administered by the division of state museums and historic sites.
(3) A campground.
(4) A picnic area.
(5) A beach.
(6) A service area.
(7) A headquarters building.
(8) A hunter check station.
(9) A developed recreation site.

(c) A person must not discharge a firearm or bow and arrows on a DNR property except as follows:
(1) As authorized for a law enforcement officer.
(2) In the lawful defense of persons or property.
(3) Under a department permit that authorizes the discharge.
(4) As authorized at a shooting range.
(5) In the lawful pursuit of wild animals. The exception provided in this subdivision does not apply within two hundred (200) feet of any of the following:
(A) A campsite.
(B) A boat dock.
(C) A launching ramp.
(D) A picnic area.
(E) A bridge.

(d) A person may hunt on the following DNR properties:
(1) A state forest administered by the division of forestry, including a portion of a state forest that is a nature preserve.
(2) A reservoir property administered by the division of state parks and reservoirs.
(3) A wildlife area administered by the division of fish and wildlife, including a portion of a wildlife area that is a nature preserve.
(4) A nature preserve not otherwise approved for hunting under this subsection if approved in a written authorization by the director of the division of nature preserves.

(e) A person hunting on any of the areas described in subsection (d) must do the following:

(1) Comply with all federal and state:
(A) hunting;
(B) trapping; and
(C) firearms;
laws.
(2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must:
(A) retain the permit and record card while in the field for the authorized date; and
(B) as directed, return them to the department.
(3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.

(f) Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing requirement for traps set forth in IC 14-22-11-1.

(g) A person must not run dogs, except:
(1) during the lawful pursuit of wild animals; or
(2) as authorized by a license for field trials or in a designated training area.
A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.

(h) A person must not ~~leave~~ **construct or place** a ~~portable~~ tree blind or ~~duck~~ **other hunting** blind ~~unattended~~ except ~~for the period authorized by 312 IAC 9-3-2(l).~~ **under 312 IAC 9-3-3 and 312 IAC 9-4-2.**

(i) The following terms apply to the use of shooting ranges:
(1) A person must not use a shooting range unless the person is:
(A) at least eighteen (18) years of age; or
(B) accompanied by a person who is at least eighteen (18) years of age.
(2) A person must:
(A) register with the department; and
(B) pay any applicable fees;
before using a shooting range.
(3) Except as otherwise provided in this subdivision, a person must shoot only at paper targets placed on target holders provided by the department. An authorized representative may approve the use of alternative targets on a supervised shooting range if the department determines a hazard to public safety would not result.
(4) A person must fire downrange and take reasonable care to assure any projectile is stopped by the range backstop.
(5) Shot not larger than size 6 must be used on a shotgun range.
(6) A person must not:
(A) discharge a firearm using automatic fire;
(B) use tracer, armor-piercing, or incendiary rounds;
(C) play on, climb on, walk on, or shoot into or from the side berms; or
(D) shoot at clay pigeons, except on a site designated for shooting clay pigeons.
Glass and other forms of breakable targets must not be used on a shooting range.
(7) A person must dispose of the targets used by the person under section 2(a) of this rule.
(8) Permission must be obtained from the department in advance for a shooting event that involves any of the following:
(A) An entry fee.
(B) Competition for any of the following:
(i) Cash.
(ii) Awards.
(iii) Trophies.
(iv) Citations.
(v) Prizes.
(C) The exclusive use of the range or facilities.
(D) A portion of the event occurring between sunset and sunrise.
(9) On a field course, signs and markers must be staked. Trees must not be marked or damaged.

(j) A person must not take a reptile or amphibian unless the person is issued a scientific ~~collector~~ **purposes** license under 312 IAC 9-10-6. Exempted from this subsection are:
(1) **eastern snapping** turtles; ~~taken under 312 IAC 9-5-2; and~~
~~(2) frogs~~
(2) smooth softshell turtles;
(3) spiny softshell turtles;
(4) bullfrogs; and
(5) green frogs;
taken under ~~312 IAC 9-5-3;~~ **312 IAC 9-5-6** from a DNR property where hunting or fishing is authorized.

(k) A person must not possess lead shot while hunting mourning doves on a DNR property.

(Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998,3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; filed Sep 6, 2007, 12:20 p.m.:20071003-IR-312070023FRA; filed Mar 11, 2008, 9:34 a.m.: 20080409-IR-312070449FRA; filed Mar 12, 2010, 1:25 p.m.: 20100407-IR-312090470FRA, eff Jan 1, 2011; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA; filed Feb 6, 2012, 3:07 p.m.: 20120307-IR-312110442FRA, eff Jan 1, 2013)

SECTION 3. 312 IAC 8-2-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-8 Vehicles, trails, boats, and aircraft

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-11-2-1; IC 14-19-1-1
Affected: IC 14-19-1-0.5; IC 14-22-11-1

Sec. 8. (a) A person must not operate a vehicle:
(1) at a speed greater than:
(A) thirty (30) miles per hour on straight, open stretches of road; or
(B) fifteen (15) miles per hour on steep grades or curves or where posted; or
(2) except as provided in section 17 of this rule, other than on a public road.

(b) A person must not park:
(1) a vehicle;
(2) a boat; or
(3) associated equipment;
except at a site designated by the department.

(c) A person must not operate a motorized cart on a DNR property except as follows:
(1) The person must demonstrate both of the following:
(A) The person holds a valid driver's license.
(B) The person:
(i) is at least sixty-five (65) years of age that is evidenced by the valid driver's license; or
(ii) has a disability, as defined by the federal Social Security Administration guidelines (42 U.S.C. 416), that is evidenced by documentation from the Social Security Administration.
(2) A person must not operate a motorized cart other than within a campground.
(3) A motorized cart must, if operated between the hours of sunset and sunrise, have a lamp on the:
(A) front exhibiting a white light visible at least five hundred (500) feet ahead of the motorized cart; and
(B) rear exhibiting a red light visible at least five hundred (500) feet behind the motorized cart.
(4) A restriction applicable to the operation, parking, or other use of a vehicle under this section also applies to a motorized cart.
(5) As used in this subsection, "motorized cart" has the meaning set forth in IC 14-19-1-0.5.

(d) A person moving cross-country on a trail must remain on the designated pathway for the trail. A person must not:
(1) hike;

(2) bike;
(3) ski;
(4) horseback ride; or
(5) operate an off-road vehicle or snowmobile;
except on a trail designated for the purpose. A person must not ride, lead, drive, or hitch an animal, except where designated by the department.

(e) A person must not launch, dock, or moor a boat, except:
(1) for approved periods; and
(2) at sites designated by the department for those purposes.

(f) A person must not:
(1) leave a boat unattended in a courtesy dock provided by the department; or
(2) moor a boat at a designated group dock or mooring post unless the boat exhibits a valid mooring permit.

(g) A person must not operate or maintain a boat on a lake unless the person does each of the following:
(1) Operates the boat according to any horsepower or speed restrictions applicable to the lake.
(2) Except as provided in subdivisions (3) and (6), obtains and displays a valid annual boat lake permit as follows:
(A) Purchase from the department a boat lake permit under a fee schedule approved by the commission.
(B) Affix the permit in a visible location on the forward half of the boat.
(3) Except as provided in subdivision (6), for a motorboat, obtains and displays a valid annual motorboat lake permit as follows:
(A) Purchase from the department a motorboat lake permit under a fee scheduled approved by the commission.
(B) Affix the permit in a visible location on the port (left) side immediately following the excise tax decal or registration number.
(4) For a lake containing fewer than three hundred (300) acres, operates a motorboat only if the motorboat is either of the following:
(A) Powered by an electric trolling motor with not more than:
(i) two (2) 12-volt batteries; or
(ii) one (1) 24-volt battery.
(B) Operated on Loon Lake, Otter Lake, or Blue Grass Pit in the Blue Grass Fish and Wildlife Area at not greater than idle speed.
(5) Removes a boat from the lake before the expiration of fourteen (14) consecutive days, unless the boat is moored in an area where the department has approved mooring for a longer duration.
(6) A lake located on a DNR property administered by the division of fish and wildlife is exempted from subdivisions (2) and (3).

(h) A person must not leave a vehicle, boat, or associated equipment at a DNR property unless the person is actively engaged in the use of:
(1) a DNR property; or
(2) an adjacent:
(A) public freshwater lake; or
(B) navigable waterway.

(i) A person must not land, taxi, take off, park, or moor:
(1) an ~~aircraft;~~ **airborne human transportation device; or**
(2) a ~~hang glider;~~ **motor-driven airborne device;**
~~(3) an ultralite;~~
~~(4) a powered model aircraft; or~~
~~(5) a hot air balloon;~~
except at a site designated for that purpose or pursuant to a license.

(Natural Resources Commission; 312 IAC 8-2-8; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 555, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3715; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 463, eff Jan 1, 2006; filed Jun 9, 2006, 3:40 p.m.: 20060705-IR-312050344FRA; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA; filed Aug 18, 2011, 11:38 a.m.:

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SECTION 4. 312 IAC 8-2-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-9 Swimming, snorkeling, and scuba diving

Authority: IC 14-10-2-4; IC 14-11-2-1
Affected: IC 14

Sec. 9. (a) A person must not swim, or allow a child or other person in the person's care to swim, other than at the following locations:
(1) At a designated swimming beach or pool during designated hours.
(2) From a boat between sunrise and sunset in an embayment on a reservoir property established under 312 IAC 5-10 as an idle speed zone, but not:
(A) in a causeway; or
(B) within one hundred (100) feet of a designated launching ramp or other public use facility.

(b) A person must not snorkel, except from a boat on a reservoir property and within an embayment designated as an idle speed zone.

(c) A person must not scuba dive unless in compliance with each of the following:
(1) A license is issued by the department.
(2) Between the hours of sunrise and sunset.
(3) A diving flag is displayed to designate the area in use.

~~(d) A person must not engage in tow kite flying, except during the following periods:~~
~~(1) On weekdays from sunrise to sunset.~~
~~(2) Except as provided in subdivision (3), on Saturdays, Sundays, or holidays, from sunrise until 11 a.m. and from 5 p.m. until sunset.~~
~~(3) On:~~
~~(A) Memorial Day weekend;~~
~~(B) the Fourth of July and a Saturday or Sunday that immediately precedes or follows the Fourth of July; and~~
~~(C) Labor Day weekend;~~
~~from sunrise until 11 a.m.~~

(Natural Resources Commission; 312 IAC 8-2-9; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Sep 19, 2003, 8:14 a.m.: 27 IR 458; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA; filed Feb 6, 2012, 3:07 p.m.: 20120307-IR-312110442FRA, eff Jan 1, 2013)

SECTION 5. SECTIONS 1 through 4 of this document take effect January 1, 2013.

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