

Assessment of Public Comment for ENV-23-21-00011-P, amendments to 6NYCRR Parts 1 and 2 pertaining to Deer and Bear Hunting

DEC received approximately 430 comments regarding the proposed regulations. Some comments simply expressed support or opposition to the proposals. For other comments, we reviewed the substance and merit of the comment and provide a summary and response here, organized by topic.

1. September Season for Antlerless Deer

Supportive Comment Summary: Supportive comments acknowledged that deer populations in the target Wildlife Management Units (WMUs) are too large or that the proposed season is necessary in areas where availability of Deer Management Permits (DMPs) exceeds hunter interest and additional antlerless harvest is needed. Writers were enthusiastic to avail themselves of the new opportunity and suggested that the warmer weather may be appreciated by youth and senior hunters. Other writers suggested the season be expanded to include additional WMUs.

Response: DEC agrees that proposed actions will provide new opportunity and are necessary for deer population management in the target WMUs. At this point, DEC biologists do not believe the September antlerless season is needed in other WMUs, because DEC can adjust annual issuance of DMPs to achieve desired harvest of antlerless deer. That is no longer the case in the WMUs targeted for the September antlerless season. As deer populations and harvest patterns change, DEC may add or remove WMUs from the September antlerless season.

Non-supportive Comment Summary: Writers opposed to the proposed nine-day antlerless season expressed concern that hunting with firearms in September would alter deer behavior and negatively impact the subsequent bowhunting season. Some writers suggested that the antlerless-only season will not yield desired results because hunters may not participate without opportunity to harvest an antlered deer or because they perceive challenges with private land access to be the critical factor influencing antlerless harvest. Other writers expressed concern for unintended consequences, suggesting that the September season will result in illegal harvest of antlered deer, be dangerous for other recreationists or farm workers, or result in spoiled meat because of warm temperatures. A few writers thought deer seasons are too long already. Some writers claimed that fawns are still dependent on does during September. Others claimed potential harvest of buck fawns is inconsistent with DEC's recommendations for hunters to voluntarily pass shots at young bucks. A few writers objected to inclusion of WMU 3M due to deer mortality from Epizootic Hemorrhagic Disease (EHD) in that unit in 2020. Some writers suggested alternatives including making the September season bowhunting-only, issuing 4 DMPs instead of 2 during the initial application period, eliminating the \$10 application fee for DMPs, restricting a portion of the regular firearms season to antlerless deer, or enacting an "earn-a-buck" requirement (i.e., require hunters to take a doe before a buck).

Response: DEC does not anticipate substantial impact on non-hunter safety or bowhunter success from the September season for antlerless deer. All existing firearms and bowhunting seasons overlap with other forms of outdoor recreation and avocations, and New York hunters have an excellent safety record. The basic rules of safe hunting require hunters to identify their target and what is beyond it.

For many years, New York has had firearms hunting seasons in September for squirrel, grouse, geese, and black bear. These and other outdoor activities continue through the bowhunting season, adding the scent and sounds of humans in areas where bowhunters may pursue deer. A 9-day deer season in September may increase human activity on hunted lands, but there will be anywhere from 8-14 days without deer hunting pressure prior to the start of early bow season. Research in other states found that deer no longer avoided hunting stand sites after 5 days without hunting pressure.

The proposed antlerless season does not address private land access but provides focused opportunity to use existing antlerless tags. With likely fewer hunters afield in September than during the regular season, private landowners may be more willing to grant access in September, particularly if they are concerned about the problems caused by overabundant deer and are interested in reducing deer numbers. Landowners may continue to control how hunters use their properties during the hunting seasons.

Previous antlerless-only deer seasons in other areas did not yield a noted increase in illegal killing of antlered bucks. DEC law enforcement will monitor the new hunting season and enforce violations if they arise. Hunters can assist by reporting any observed violations.

The September season is unlikely to substantially affect fawn welfare or harvest rates. Most fawns are weaned and no longer dependent on does by mid to late August. In September the size difference between adult does and fawns is more pronounced than in the fall, allowing hunters to effectively target the breeding population of adult female deer. This is efficient for management and will not compromise DEC's campaign to let young bucks go.

WMU 3M did experience some localized deer mortality from EHD in 2020, but subsequent deer harvest patterns suggest the disease did not appear to substantially affect the unit's overall deer population. The management objective for 3M is to reduce the population. For that to occur, additional antlerless harvest is necessary.

Hunters who participate in the proposed season must be prepared to cool and process harvested deer quickly to preserve the meat quality. New York bear hunters have adapted to the early bear season in mid-September. Likewise, hunters throughout southern states capably handle harvested deer in very warm temperatures.

Regarding the suggested alternatives, DMP availability is not the limiting factor for antlerless harvest in the target WMUs. Making more tags available earlier won't resolve

the management issue. Similarly, a bow-only antlerless season is not adequate to achieve management objectives, and an antlerless-only portion of the regular firearms season doesn't capitalize on benefits of an early antlerless season (e.g., greater distinction between does and fawns, early season feeding patterns). An earn-a-buck approach likely would be very effective, but such requirements are controversial among hunters and are difficult to administer and enforce. However, a future earn-a-buck approach may be necessary if the antlerless-only season is not adequate to achieve desired harvests.

2. Antlerless harvest in the early muzzleloader season in WMUs 6A, 6F, and 6J

Comment Summary: Some hunters expressed support for the renewed opportunity to take deer of either-sex in these Northern Zone WMUs, indicating their perspective that the deer populations have increased and are capable of the additional antlerless harvest. These hunters welcomed the opportunity to harvest antlerless deer again. Other hunters opposed the season, believing that the deer population cannot sustain the additional antlerless harvest.

Response: DEC believes the proposed restoration of either-sex harvest during early muzzleloader season is compatible with current management objectives and population dynamics. Since DEC restricted harvest of antlerless deer in WMUs 6A, 6F and 6J, annual buck harvest trends suggest increasing deer populations in the units. The average harvest of antlered bucks increased in WMU 6A by 80% between 2014-15 and 2019-20. In WMUs 6F and 6J, the harvest of antlered bucks increased by 50% and 20% respectively between the same two time periods. Harvest patterns in WMUs 6F and 6J reflect population dynamics of other Adirondack units where hunters have continued to be able to take deer of either-sex during the early muzzleloader season. As in all WMUs, DEC will continue to monitor deer population trajectories in 6F and 6J and will adjust hunting regulations as needed.

3. Extending big game hunting hours

Comment Summary: Many writers expressed enthusiastic support for longer hunting hours, emphasizing the reality that ambient light sufficient for safe archery and firearm hunting exists before sunrise and after sunset. In contrast, some writers expressed concern that extending the daily hunting hours will decrease safety of non-hunters and increase the risk of hunters not recovering harvested animals. Several writers suggested a shorter extension of 10 or 15 minutes or beginning 30 minutes before sunrise and ending at sunset.

Response: There is no evidence that longer hunting hours will increase hunting-related shooting incidents as states with existing longer hours report similar safety experiences during the extended periods as during full daylight periods. Currently, waterfowl and spring turkey hunting begin 30 minutes before sunrise, and furbearer hunting can occur at any time of day or night. DEC's Hunter Education program emphasizes target

identification in all situations, and hunters must always be aware that others may be in the same area and ensure down range safety. Weather and vegetation conditions can dramatically affect visibility and sight distances at any time, and the time of day one can hunt has little bearing on the importance of target identification and safe consideration of what is beyond the target. Likewise, hunters bear responsibility to make wise and ethical shot choices and to make every reasonable effort to recover their harvest regardless of the time of day. All other states allow deer hunting beginning ½ hour before sunrise or earlier, or simply specify “daylight hours”, and 46 of 50 states allow deer hunting until some period (mostly ½ hour) after sunset.

4. Fluorescent orange or pink requirement for big game hunting with a firearm

Comment Summary: Many writers expressed support for the proposal, indicating that requiring fluorescent orange or pink is a common-sense measure to increase hunter visibility and safety. Conversely, other writers were opposed to the proposed requirement, generally indicating that the use of orange or pink clothing should remain optional. Some opposition was based on misconceptions that: wearing orange will decrease their success; the proposal applies to bowhunting; hunting is safe enough; or hunters will be less careful about identifying their target if they do not see orange or pink. One writer was opposed to wearing bright clothing because they didn’t want other hunters to know where they hunt. Another suggested the cost of acquiring an orange or pink hat or vest adds another barrier for new hunters. Suggested alternatives included only applying the requirement to hunting big game with a firearm on public lands, requiring all hunters, including bow and crossbow hunters, to wear orange or pink when hunting during a firearms big game season, or requiring all hunters and non-hunters to wear orange or pink when recreating on public land during a firearms big game season.

Response: DEC agrees that the proposal is a simple measure to improve safety of hunters pursuing deer or bear with a firearm. New York hunters have an exceptional safety record, but there is room for improvement. Most two-party hunting-related shooting incidents involve a hunter victim that was not wearing fluorescent orange or pink clothing. Most states and provinces require hunters to wear some degree of fluorescent orange clothing during firearms seasons, and there is no evidence that this requirement results in hunters exercising less discretion at identifying their downrange target.

Hunters who do not already possess fluorescent orange or pink clothing can acquire a suitable vest or hat for less than \$10. The proposal will not affect hunter success. Deer have different sensitivity to various wavelengths of light than humans. Deer see short wavelength colors such as blue and ultra-violet (which humans cannot see) brighter than humans do. However, deer are less sensitive to longer wavelengths such as orange and pink, which appear darker to deer and more like green or brown.

We appreciate the suggested alternatives. Only requiring orange or pink clothing for hunters on public land would neglect most big game hunting in New York that occurs on private land. We considered requiring all big game hunters to wear orange or pink regardless of the type of implement, but hunters who use a bow or crossbow are generally not involved in two-party hunting-related shooting incidents where fluorescent orange or pink would be beneficial. Furthermore, the victims of hunting-related shooting incidents are almost always other firearms hunters and not bow or crossbow hunters or non-hunting recreationists. DEC encourages non-hunting recreationists to wear bright colored clothing when using public lands during hunting seasons.

5. Simplifying bear hunting seasons in the Adirondacks and removing outdated regulations for deer tag use in September

Several writers supported the proposed simplification of the Adirondack bear season.