

## **312 IAC Natural Resources Commission**

### **Regulatory Analysis**

LSA Document #24-163

#### **I. Description of Rule**

This section should include an overview of the proposed rulemaking, background, and high-level justification. Topics to address include (as applicable):

**a. History and Background of the Rule** – HEA 1623-2023 established new requirements for executive agency rulemaking. HEA 1623-2023 provided for a safe harbor for executive agencies to get their fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule into compliance with the Indiana Code. The proposed permanent rule is the result of the efforts of the department of natural resources (department) to comply with the requirements of the safe harbor and to get the department into compliance with the changes to HEA 1623-2023. The process previously used by the department for fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule was to publish the rule on the website of the natural resources commission (commission) after approval of the commission. At times, the rules or the code were updated to reflect these changes, at other times they were not due to the provision under IC 14-10-2-1(6) that “The commission may do the following: (6) Adopt rules under IC 4-22-2 for the establishment of fees under subdivision (5).” Some of the license fees followed the route of having a statutory minimum fee but allowed the commission to increase the fee (i.e. hunting and fishing licenses under IC 14-22-12). The commission adopted information bulletin #20 which outlined the process for commission approval of fees charged at a resort or marina licensee facility. Additionally, some of the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule were approved by the commission or adopted as an information bulletin.

Additionally, upon review of the Indiana Administrative Code for the commission, it was determined that technical and conforming changes are required for compliance with the Administrative Rules Drafting Manual. Any changes made to the cross-reference sections of 312 IAC are to make technical and conforming changes so 312 IAC complies with the Administrative Rules Drafting Manual.

**b. Scope of the Rule** – The proposed permanent rule adds the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule that were not previously in the Indiana Code or the Indiana Administrative Code by adding 312 IAC 1.5. Several Indiana Administrative Code cites are amended to accommodate this change, and some sections are repealed because they duplicate the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule under 312 IAC 1.5. The department is placing all fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule into one (1) article in the Indiana Administrative Code for ease of access and transparency.

**c. Statement of Need** – Provide a statement explaining the need for the rule and an evaluation of the policy rationale or goal behind the proposed rule, including an explanation as to whether the rule is intended to address 1) a federal or state statutory requirement; 2) a court order; 3) an audit finding, 4) an operational issue, or 5) another factor. For required changes, indicate what are the required changes and when were the new laws enacted, court order issued, audit conducted, etc.? If changes prompted by another factor, explain how that factor creates the need for the rulemaking.

**d. Statutory Authority for the Proposed Rule** – The statutory authority for the agency to generally regulate fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule and the specific authority for the agency to issue the proposed permanent rule are as follows:

- (1) IC 14-10-2-1;
- (2) IC 14-10-2-4;
- (3) IC 14-15-7-3;
- (4) IC 14-19-1-1;
- (5) IC 14-19-11-23;
- (6) IC 14-23-1-31;
- (7) IC 14-26-2-23;
- (8) IC 14-26-5-4;
- (9) IC 14-27-7.5-10;
- (10) IC 14-28-1-5;
- (11) IC 14-29-3-2;
- (12) IC 14-29-4-4;
- (13) IC 14-34-2-1;
- (14) IC 14-36-1-13;
- (15) IC 14-37-3-15;
- (16) IC 14-37-7-9;
- (17) IC 14-38-2-7; and
- (18) IC 25-39-3-2.

**e. Fees, Fines, and Civil Penalties** – The proposed permanent rule places the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule currently charged by the department into a single article, 312 IAC 1.5. 312 IAC 1.5 adds all of the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule that did not already appear in the Indiana Code or 312 IAC to the Indiana

Administrative Code. Additionally, the proposed permanent rule moves the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule that already appear in 312 IAC to 312 IAC 1.5 so that customers may look to either the Indiana Code or 312 IAC 1.5 to determine what the department will charge for fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule.

Under IC 4-22-2-19.6(e), the department was required to have the fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule reviewed by the budget committee prior to December 31, 2023. The department's package was reviewed by the budget committee meeting on November 14, 2023, at 1:00 PM.

## **II. Fiscal Impact Analysis**

- a. Anticipated Effective Date of the Rule** – The anticipated effective date for the rule is before the December 31, 2024 deadline under IC 4-22-2-19.6(e).
- b. Estimated Fiscal Impact on State and Local Government** – The proposed permanent rule does not impact expenditures and revenues of the department or local government because the amounts charged are what is current for the department. There is no impact here.
- c. Sources of Expenditures or Revenues Affected by the Rule** – The proposed permanent rule does not impact expenditures and revenues of the department or local government because the amounts charged are what is current for the department. Additionally, there is no fiscal impact here.

## **III. Impacted Parties**

Because the proposed permanent rule provides for the amounts the department is currently charging for fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule, there is not an impact to regulated persons or the agency. The proposed permanent rule is to ensure the department is compliant with the changes to the Indiana Code under HEA 1623-2023.

## **IV. Changes in Proposed Rule**

<b>Indiana Administrative Code Provision</b>	<b>Proposed Changes</b>
<b>312 IAC 1.5-5</b>	Adds to the Indiana Administrative Code the applicability of the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule for the department for the division of forestry.
<b>312 IAC 1.5-6</b>	Adds to the Indiana Administrative Code the current amounts charged by the department for fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that

	otherwise qualifies as a rule for the division of historic preservation and archeology.
	Moves to one (1) article the Indiana Administrative Code the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule that already appear in the Indiana Administrative Code for ease of access, transparency, and consistency.
<b>312 IAC 1.5-7</b>	Adds to the Indiana Administrative Code the current amounts charged by the department for fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule for the division of land acquisition.
	Moves to one (1) article the Indiana Administrative Code the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule that already appear in the Indiana Administrative Code for ease of access, transparency, and consistency.
<b>312 IAC 1.5-8</b>	Adds to the Indiana Administrative Code the current amounts charged by the department for fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule for the division of reclamation.
	Moves to one (1) article the Indiana Administrative Code the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule that already appear in the Indiana Administrative Code for ease of access, transparency, and consistency.
<b>312 IAC 1.5-9</b>	Adds to the Indiana Administrative Code the current amounts charged by the department for fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that

	otherwise qualifies as a rule for the division of state parks.
	Moves to one (1) article the Indiana Administrative Code the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule that already appear in the Indiana Administrative Code for ease of access, transparency, and consistency.
<b>312 IAC 1.5-10</b>	Adds to the Indiana Administrative Code the current amounts charged by the department for fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule for the division of water.
	Moves to one (1) article the Indiana Administrative Code the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule that already appear in the Indiana Administrative Code for ease of access, transparency, and consistency.
<b>312 IAC 17-1-11</b>	Repealed.
<b>312 IAC 25-5-8</b>	Repealed.
<b>312 IAC 25-7-15</b>	Repealed.
<b>312 IAC 29-12-2</b>	Repealed.
<b>312 IAC 29-12-4</b>	Repealed.

## V. Benefit Analysis

- a. Estimate of Primary and Direct Benefits of the Rule** – The estimated proposed permanent rule has the primary and direct benefit of getting the department into compliance with HEA 1623-2023.
- b. Estimate of Secondary or Indirect Benefits of the Rule** – The estimated secondary or indirect benefit of the proposed permanent rule is an increase to the transparency of the department to a regulated person and providing clarity to the regulated person regarding certain fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule to ensure the regulated person can reasonably determine the cost of a fee, a fine, a civil penalty, a financial benefit limitation, and another payment amount set by an agency that otherwise qualifies as a rule charged or imposed by the department.

**c. Estimate of Any Cost Savings to Regulated Industries** – The proposed permanent rule will not provide cost savings to an individual, a business, or both.

## **VI. Cost Analysis**

- a. Estimate of Compliance Costs for Regulated Entities** – Because the amounts charged under the proposed permanent rule are what is currently being charged by the department, there is not a direct cost or an indirect cost associated with the proposed permanent rule to the department.
- b. Estimate of Administrative Expenses Imposed by the Rules** – There are not any legal, consulting, reporting, accounting, or other administrative expenses imposed by the requirements of the proposed permanent rule. The is no additional time on a regulated person because the proposed permanent rule does not make any changes to the current operations of the department.
- c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6** – The proposed permanent rule does not add or increase a fee, a fine, or a civil penalty. The fees, fines, civil penalties, financial benefit limitations, and another payment amount set by an agency that otherwise qualifies as a rule under the proposed permanent rule are what has been charged by the department since before the passing of HEA 1623-2023.

## **VII. Sources of Information**

- a. Independent Verifications or Studies** – There were not any studies relied upon for the cost-benefit analysis.
- b. Sources Relied Upon in Determining and Calculating Costs and Benefits** – No sources outside of the department were used to calculate costs and benefits.

## **VIII. Regulatory Analysis**

There are no new requirements proposed in the proposed permanent rule. The proposed permanent rule ensures compliance with HEA 1623-2023 and includes only the current fees, fines, civil penalties, financial benefit limitation, and another payment amount set by an agency that otherwise qualifies as a rule charged by the department.

*[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]*