

Furthermore, if you revise the proposed rule after this approval, you must resubmit the rule and obtain a new approval pursuant to IC 4-22-2-22.8(e).

Budget Committee Review

The State Budget Committee reviewed the Department's submission of fees, fines and penalties at the State Budget Committee meeting held November 14, 2023. No objections to the fees, fines or civil penalties was raised at the meeting.

The Commission received Authorization to Proceed from the Legislative Services Agency on May 1, 2024. The **Notice of First Comment Period** to adopt a rule was published in the Indiana Register at DIN: 20240515-IR-312240164FNA on May 15, 2024. The notice identified Whitney Wampler as the "small business regulatory coordinator" for purposes of IC 4-22-2-28.1. The **Notice of Public Hearing** was published at DIN: 20240515-IR-312240164PHA on May 15, 2024.

The Commission posted the Notice of First Comment Period, Regulatory Analysis, and Notice of Public Hearing and other information required under IC 4-22-2-22.5 on the Commission's rulemaking docket maintained on its website at <https://www.in.gov/nrc/rules/rulemaking-docket/>. The rulemaking docket was updated periodically as the rule adoption process progressed.

As required under IC 4-22-2.1-5(c)(2), the proposed rule amendments and regulatory analysis were submitted to the Indiana Economic Development Corporation's (IEDC) Small Business Ombudsman on May 8, 2024. In a letter dated May 15, 2024, Matthew Jaworoski, Small Business Ombudsman for the IEDC, commented as follows:

Proposed rule LSA #24-164 aims to permanently codify rules related to fees, fines, civil penalties, and reimbursement for services to be found within 312 Indiana Administrative Code (IAC) 1.5. The requirement to codify various currently existing fees and fines is derived from statutory requirements found within House Enrolled Act (HEA) 1623-2023 as part of executive agency rulemaking reform "safe harbor" of codifying existing fee related rules. The proposed rule specifically outlines and specifies various fees related to functions under the jurisdiction of the IDNR, notably fees for entering property owned or managed by IDNR for one calendar day and other part entrance fees, motorized watercraft permit fees, annual permits for commercial still photography or videography at a property owned or managed by IDNR, and other fees related to

IDNR regulated activities. The proposed rule appears to bring transparency and clarity to the various fees associated with IDNR regulated activities, creates a streamlined approach for Hoosiers to become more easily familiar with required fees for regulated activities, and brings IDNR into compliance under HEA 1623-2023.

The NRC's provided regulatory analysis displays a proper due diligence and understanding of how implementation must be carried out to ensure compliance while minimizing the impact to small businesses and individuals in Indiana. Based upon this statement and review, the Indiana Small Business Ombudsman supports the proposed rule related to the economic impact on small business if the NRC and IDNR's conclusion reflects the actual result after promulgation.

2. PUBLIC HEARING AND COMMENT

The public hearing was held on June 25, 2024 at the Fort Harrison State Park Inn, Roosevelt Ballroom, 5830 North Post Road, Indianapolis, Indiana. The meeting was also live streamed via Teams, providing members of the public the opportunity to appear in person or through the Teams application and provide comments. No public comments were received during the meeting. Members of the public were also able to make comments through the Commission's rulemaking docket until the public commenting period closed on June 25, 2024 at 11:59 p.m. No public comments were received through the Commission's rulemaking docket.

3. HEARING OFFICER ANALYSES WITH RECOMMENDATIONS REGARDING FINAL ADOPTION

As required by HEA 1623-2023, the fees, fines civil penalties, financial benefit limitations, or other payment set by an agency otherwise qualifying as a rule charged by the department must be placed in rule. The proposed rule fulfills the requirement by setting the fees, finds civil penalties, financial benefit limitations or other payment set by various divisions of the department and the divisions of entomology and plant pathology. The proposed rule also clarifies the various fees associated with DNR-regulated activities and creates a streamline approach by including the various fees, fines and civil penalties charged by various Department divisions into a single rule.

The proposed rules are appropriate and are presented for final adoption and attached as Exhibit A.



Dated: June 26, 2024

Elizabeth A. Gamboa, Director
Natural Resource Commission Division of Hearings
Hearing Officer

EXHIBIT A

SECTION 1. 312 IAC 1.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1.5. FEES; FINES; CIVIL PENALTIES; FINANCIAL BENEFIT LIMITATIONS; OTHER PAYMENT AMOUNTS

Rule 1. Fees; Fines; Civil Penalties; Financial Benefit Limitations; Other Payment Amounts

312 IAC 1.5-1-1 Applicability

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-10-2; IC 14-22

Sec. 1. (a) This article applies to fees, fines, civil penalties, financial benefit limitations, or other payment amounts set by an agency otherwise qualifying as a rule set by the department that are not found under the Indiana Code.

(b) The department shall not charge a person a fee, a fine, a civil penalty, a financial benefit limitation, or any other payment amount set by an agency otherwise qualifying as a rule if the fee, fine, civil penalty, financial benefit limitation, or other payment amount is not provided under the Indiana Code or this article.

(c) Unless otherwise provided in the Indiana Code or this article, a fee, a fine, a civil penalty, a financial benefit limitation, or any other payment amount set by an agency otherwise qualifying as a rule under this article does not include tax.

(d) Except as otherwise provided in this article, this article applies only to the amounts charged for fees, fines, civil penalties, financial benefit limitations, or other payment amounts set by an agency otherwise qualifying as a rule. Additional conditions regarding those fees, fines, civil penalties, financial benefit limitations, or other payment amounts charged by the department to a person under this article are provided under IC 14 or 312 IAC.

(e) Except for a license or permit issued under IC 14-22, the department, or a lessee of the department, may provide a discount or promotion for a fee or other payment amount set by an agency otherwise qualifying as a rule under this article or the Indiana Code.

(f) The department may get reimbursed from a person for an expense incurred by the department from a financial institution regarding a transaction made by the department on behalf of the person.

(g) The department may pass to a person a fee charged by a vendor or state contractor at the time of a transaction for purchasing or using a product provided by the vendor or state contractor for the department.

(h) The department may seek reimbursement from a person for the cost to repair or replace damaged property owned by the department.

(i) Unless otherwise specified in the Indiana Code or this title, a person that violates a rule adopted by the commission commits a Class C infraction. (*Natural Resources Commission; 312 IAC 1.5-1-1*)

Rule 2. Department Fees

312 IAC 1.5-2-1 Special event fees

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 1. (a) The application fee for a special event permit is twenty-five dollars (\$25).

(b) The fee for a special event is not more than three thousand dollars (\$3,000). The department shall determine the fee under this subsection based on the following factors:

- (1) The time of year the special event is hosted.
- (2) Whether the special event is hosted on a weekday or weekend.
- (3) The time of day the special event is hosted.
- (4) The duration of the special event.
- (5) The nature of the property owned or managed by the department where the special event is hosted.
- (6) Whether the special event is commercial.
- (7) Whether the host of the special event is a resident or nonresident.
- (8) Whether the special event is sponsored by or benefitting a nonprofit organization.
- (9) If the special event is hosted by or benefitting a nonprofit organization, the percentage of the proceeds donated to the nonprofit organization from the special event.
- (10) If the special event is a fundraiser, whether the funds are donated to a nonprofit organization.
- (11) Whether the activities of the special event align with the current use of the property owned or managed by the department where the event is hosted.

- (12) Whether department employees are needed for the special event, and the number of department employees that may be needed.
- (13) The number of participants in or attendees of the special event.
- (14) The size and impact of the special event regarding the property owned or managed by the department.
- (15) The impact of the special event on available parking at the property owned or managed by the department.
- (16) Whether a fee is assessed on a participant in or an attendee of the special event.
- (17) Whether food, beverages, or other items are sold onsite during the special event.
- (18) Whether the special event needs exclusive use of:
 - (A) a facility;
 - (B) land; or
 - (C) a public water.
- (19) If the special event needs exclusive use under subdivision (18), the impact of using the facility, land, or public water by an individual not participating in or attending the special event.
- (20) Whether the host of the special event has previously hosted a special event at a property owned or managed by the department.
- (21) Whether a temporary structure is erected for the special event.

(Natural Resources Commission; 312 IAC 1.5-2-1)

312 IAC 1.5-2-2 Fee to impound personal property

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 2. The fee to impound personal property is:

(1) five dollars (\$5) a day; plus

(2) the cost incurred by the department to impound the personal property.

(Natural Resources Commission; 312 IAC 1.5-2-2)

312 IAC 1.5-2-3 Fee for annual pass issued to resident

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3-5

Sec. 3. (a) Except as provided in subsection (b), the fee for an annual pass issued to a resident is fifty dollars (\$50) a year.

(b) The fee for an annual pass for a resident of Van Buren Township at Brown County State Park is five dollars (\$5) a year. *(Natural Resources Commission; 312 IAC 1.5-2-3)*

312 IAC 1.5-2-4 Golden Hoosier Passport fee

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3-4

Sec. 4. The fee for a Golden Hoosier Passport is twenty-five dollars (\$25) a year. *(Natural Resources Commission; 312 IAC 1.5-2-4)*

312 IAC 1.5-2-5 Fee for annual pass issued to nonresident

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3-5

Sec. 5. The fee for an annual pass issued to a nonresident is seventy dollars (\$70) a year. *(Natural Resources Commission; 312 IAC 1.5-2-5)*

312 IAC 1.5-2-6 Resident fee to enter department owned or managed property

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 6. (a) Except as provided in subsection (c), the fee for a resident to enter a property owned or managed by the department for one (1) calendar day is seven dollars (\$7) a day for each vehicle entering the property.

(b) The purchase receipt from paying the fee under subsection (a) acts as a pass to enter a property owned or managed by the department.

(c) The fee for a resident to enter Prophetstown State Park for one (1) calendar day is eight dollars (\$8) a day for each vehicle entering the property. *(Natural Resources Commission; 312 IAC 1.5-2-6)*

312 IAC 1.5-2-7 Nonresident fee to enter department owned or managed property

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 7. (a) Except as provided in subsections (c) and (d), the fee for a nonresident to enter a property owned or managed by the department for one (1) calendar day is nine dollars (\$9) a day for each vehicle entering the property.

(b) The purchase receipt from paying the fee under subsection (a) acts as a pass to enter a property owned or managed by the department.

(c) The fee for a nonresident to enter Prophetstown State Park for one (1) calendar day is ten dollars (\$10) a day for each vehicle entering the property.

(d) The fee for a nonresident to enter Indiana Dunes State Park is twelve dollars (\$12) a day for each vehicle entering the property. *(Natural Resources Commission; 312 IAC 1.5-2-7)*

312 IAC 1.5-2-8 Pedestrian or bicycle entrance fee

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 8. (a) Except as provided in subsection (b), the fee for a pedestrian or a bicycle to enter a property owned or managed by the department for one (1) calendar day is two dollars (\$2) a day.

(b) The fee under subsection (a) is not required for an individual less than five (5) years of age.

(c) The purchase receipt from paying the fee under subsection (a) acts as a pass to enter the property. (*Natural Resources Commission; 312 IAC 1.5-2-8*)

312 IAC 1.5-2-9 Commercial carrier or public passenger vehicle entrance fee

Authority: IC 4-22-2-19-6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 9. (a) Except for the individual driving a commercial carrier or public passenger vehicle, the fee under this section must be paid by each individual entering the property.

(b) The fee for a commercial carrier or public passenger vehicle to enter a property owned or managed by the department for one (1) calendar day is two dollars (\$2) for each individual entering the property.

(c) The purchase receipt from paying the fee under subsection (b) acts as a pass to enter the property. (*Natural Resources Commission; 312 IAC 1.5-2-9*)

312 IAC 1.5-2-10 Disabled Hoosier Veterans annual entrance pass fee

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 10. The fee for a Disabled Hoosier Veterans annual pass is twenty-five dollars (\$25) a year. (*Natural Resources Commission; 312 IAC 1.5-2-10*)

312 IAC 1.5-2-11 Social Security disability income annual entrance pass fee

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 11. The fee for a Social Security disability income annual entrance pass is twenty-five dollars (\$25) a year. (*Natural Resources Commission; 312 IAC 1.5-2-11*)

312 IAC 1.5-2-12 Fees for horse tags

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 12. (a) The fee for an annual horse tag is twenty dollars (\$20) a year.

(b) The fee for a daily horse tag is five dollars (\$5) a day. (*Natural Resources Commission; 312 IAC 1.5-2-12*)

312 IAC 1.5-2-13 Fees for off-road cycling

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 13. (a) The fee for an annual off-road cycling permit is twenty dollars (\$20) a year for each individual for a mountain bike trail not rated as a beginner level trail.

(b) The fee for a daily off-road cycling permit is five dollars (\$5) a day for each individual for a mountain bike trail not rated as a beginner level trail.

(c) The daily trail use fee for an off-road vehicle for:

(1) Interlake State Recreation Area; and

(2) Redbird State Recreation Area;

is fifteen dollars (\$15) for each off-road vehicle a day.

(d) The trail use fee for two (2) consecutive days for an off-road vehicle for:

(1) Interlake State Recreation Area; and

(2) Redbird State Recreation Area;

is twenty-five dollars (\$25) for each off-road vehicle for two (2) consecutive days.

(e) The annual trail use fee for an off-road vehicle for:

(1) Interlake State Recreation Area; and

(2) Redbird State Recreation Area;

is ninety-five dollars (\$95) for each off-road vehicle.

(f) A nonresident may obtain a document from the department that acts as a substitute to an off-road vehicle registration for twenty dollars (\$20) for each substitute document. (*Natural Resources Commission; 312 IAC 1.5-2-13*)

312 IAC 1.5-2-14 Fee for interpretive services

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 14. (a) The fee for interpretive services is not more than one hundred dollars (\$100) for each individual attending an event where interpretive services are provided.

(b) The department shall determine the fee under subsection (a) based on the following factors:

(1) The location of the event where interpretive services are provided.

(2) Whether travel is required, and the distance traveled.

(3) Whether the location where interpretive services are provided requires renting a building.

(4) The number of interpretive services sessions provided.

(5) The cost of materials for program activities associated with interpretive services.

(6) Whether lunch is provided at the event.

- (7) Whether there are additional costs for the person providing interpretive services.**
- (8) Any other consideration of a circumstance that requires adjusting the initial costs of interpretive service.**

(Natural Resources Commission; 312 IAC 1.5-2-14)

312 IAC 1.5-2-15 Fee for transaction on central reservation system

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-9-3

Sec. 15. The fee for a transaction on the central reservation system is six dollars (\$6) for each transaction. *(Natural Resources Commission; 312 IAC 1.5-2-15)*

312 IAC 1.5-2-16 Annual permit fee; commercial photography or videography at department property

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-9-3

Sec. 16. (a) This section does not apply to production commercials, movies, or other similar mediums.

(b) Except as provided in subsection (c), the fee for an annual permit for commercial still photography or videography at a property owned or managed by the department is one hundred dollars (\$100) a calendar year.

(c) Beginning September 1 of a calendar year, the fee for an annual permit for commercial still photography or videography at a property owned or managed by the department is fifty dollars (\$50) a year. *(Natural Resources Commission; 312 IAC 1.5-2-16)*

312 IAC 1.5-2-17 Commercial vendor permit fee

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 17. (a) The fee for a commercial vendor permit is not more than five hundred dollars (\$500) a year.

(b) The department shall determine the fee under subsection (a) based on the following factors:

- (1) The estimated gross sales of a commercial vendor on a property owned or managed by the department for the duration of the commercial vendor permit.**
- (2) How long an event is hosted by the commercial vendor under the commercial vendor permit.**
- (3) The number of events hosted by the commercial vendor during the calendar year under the commercial vendor permit.**
- (4) The exclusive use of the property owned or managed by the department required by an event hosted by a commercial vendor under the commercial vendor permit.**

(5) The impact of an event hosted by a commercial vendor to a property owned or managed by the department under the commercial vendor permit.

(Natural Resources Commission; 312 IAC 1.5-2-17)

312 IAC 1.5-2-18 Fee; DNR lake permit with motorized watercraft indication

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 18. The fee for a DNR lake permit with a motorized watercraft indication for a motorized watercraft is twenty-five dollars (\$25) a year. *(Natural Resources Commission; 312 IAC 1.5-2-18)*

312 IAC 1.5-2-19 Fee; DNR lake permit with nonmotorized watercraft indication

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4

Affected: IC 14-19-3

Sec. 19. The fee for a DNR lake permit with a nonmotorized watercraft indication for a nonmotorized watercraft is five dollars (\$5) a year. *(Natural Resources Commission; 312 IAC 1.5-2-19)*

Rule 3. Division of Entomology and Plant Pathology

312 IAC 1.5-3-1 Fees for phytosanitary certificates

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24

Sec. 1. (a) Except as provided in subsection (b), the fee for a state phytosanitary certificate is fifty dollars (\$50) a year.

(b) A person is not required to pay the fee under subsection (a) for the following:

(1) Lawfully moving a domesticated plant for a personal, noncommercial purpose to a state that requires certification.

(2) Obtaining an inspection and certification as a nursery under IC 14-24.

(3) Obtaining an inspection and a voluntary certification under this rule.

(c) The fee to replace a phytosanitary certificate is ten dollars (\$10). *(Natural Resources Commission; 312 IAC 1.5-3-1)*

312 IAC 1.5-3-2 Nursery grower certificate and inspection fees

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24

Sec. 2. (a) The fee for a nursery grower certificate and inspection is:

(1) fifty dollars (\$50); plus

(2) three dollars (\$3) an acre;

each year.

- (b) If the inspected area is less than one (1) acre, the fee is:**
(1) fifty dollars (\$50); plus
(2) three dollars (\$3).

(Natural Resources Commission; 312 IAC 1.5-3-2)

312 IAC 1.5-3-3 Dealer license for nursery stock fees

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24-7; IC 14-24-10-1

Sec. 3. (a) Except as provided in subsection (b), the fee for a dealer license for nursery stock is fifty dollars (\$50) a year.

(b) The fee for a dealer license for nursery stock is twenty dollars (\$20) a year for a person issued a nursery grower certificate or voluntary certification for nursery stock.

(Natural Resources Commission; 312 IAC 1.5-3-3)

312 IAC 1.5-3-4 Voluntary certification for florist or greenhouse stock fees

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24-10-1

Sec. 4. (a) The fee for a voluntary certification is:

- (1) fifty dollars (\$50); plus**
(2) three dollars (\$3) an acre;

each year.

(b) If the inspected area is less than one (1) acre, the fee is:

- (1) fifty dollars (\$50); plus**
(2) three dollars (\$3).

(Natural Resources Commission; 312 IAC 1.5-3-4)

312 IAC 1.5-3-5 Reimbursement for services

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24-3-5; IC 14-24-10-2

Sec. 5. (a) A person shall reimburse the department for the actual cost of expenses incurred to perform a laboratory service. The reimbursement under this subsection is at least eleven dollars (\$11) and not more than seven hundred dollars (\$700) for each sample. The department shall determine the fee under this subsection based on the following factors:

- (1) The type of laboratory service provided by the department.**
(2) The extent of the laboratory service provided by the department.
(3) The expenses incurred by the department to provide the laboratory service.
(4) The number of department employees needed to provide the laboratory service.

(b) A person shall reimburse the department for the actual cost of expenses incurred to perform a special service. The reimbursement under this subsection is at least eleven

dollars (\$11) and not more than seven hundred dollars (\$700) for each sample. The department shall determine the fee under this subsection based on the following factors:

- (1) The type of special service provided by the department.
- (2) The extent of the special service provided by the department.
- (3) The expenses incurred by the department to provide the special service.
- (4) The number of department employees needed to provide the special service.

(Natural Resources Commission; 312 IAC 1.5-3-5)

312 IAC 1.5-3-6 Civil penalty for notice of violation for nursery grower

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24-5-8

Sec. 6. (a) The civil penalty for a notice of violation for a nursery grower is not more than five hundred dollars (\$500) a day.

(b) The department shall determine the civil penalty under subsection (a) based on the following factors:

- (1) The extent of the violation.
- (2) The length of time between when a notice of violation is issued and when the nursery grower remedies the violation.
- (3) The number of prior notices of violation issued to the nursery grower.
- (4) The extent of the danger to the agricultural industry or natural resources of the state because of the violation.
- (5) The time and labor costs for the department to remedy the violation.
- (6) The cost to the department and the extent of the procedures needed to remedy the violation.
- (7) The cost of additional inspections to establish compliance with a notice of violation.
- (8) The cost of laboratory services to confirm compliance with a notice of violation.

(Natural Resources Commission; 312 IAC 1.5-3-6)

312 IAC 1.5-3-7 Civil penalty for notice of violation for apiary

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24-8-3

Sec. 7. (a) The civil penalty for a notice of violation for an apiary is not more than five hundred dollars (\$500) a day.

(b) The department shall determine the civil penalty under subsection (a) based on the following factors:

- (1) The extent of the violation.
- (2) The length of time between when a notice of violation is issued and when the apiary remedies the violation.
- (3) The number of prior notices of violation issued to the apiary.
- (4) The extent of the danger to the agricultural industry or natural resources of the state because of the violation.
- (5) The time and labor costs for the department to remedy the violation.

(6) The cost to the department and the extent of the procedures needed to remedy the violation.

(7) The cost of additional inspections to establish compliance with a notice of violation.

(8) The cost of laboratory services to confirm compliance with a notice of violation.

(Natural Resources Commission; 312 IAC 1.5-3-7)