



State of Indiana

Eric J. Holcomb, Governor



Office of Management and Budget
102 State House
Indianapolis, IN 46204

State Budget Agency
212 State House
Indianapolis, IN 46204

April 10, 2024

Whitney M. Wampler
Senior Attorney
Indiana Department of Natural Resources
402 W. Washington Street, Room W261
Indianapolis, Indiana 46204

Dear Ms. Wampler,

Pursuant to the provisions of IC 4-22-2-22.8, the Office of Management and Budget and State Budget Agency have reviewed the proposed rule that adds 312 IAC 1.5-1 through 312 IAC 1.5-3 (OMB #2024-07R-1) which you submitted on March 26, 2024. After reviewing the proposed rule, the recommendation of OMB and SBA is that the rule changes be approved. DNR is authorized to commence the public comment period(s).

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).

Indiana Department of Natural Resources may proceed with the rule proposed in its submission.

Cristopher R. Johnston
OMB Director

Date: 04/08/2024

Joseph M. Habig
SBA Director

Date: 04/10/2024

Proposed Permanent Rule

LSA Document #XX-XXX

DIGEST

Adds 312 IAC 1.5-1 through 312 IAC 1.5-3 regarding: (1) the applicability of fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule to the department of natural resources (department); (2) the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule charged by multiple divisions of the department; and (3) the fees, fines, civil penalties, financial benefit limitations, or another payment amount set by an agency that otherwise qualifies as a rule charged by the division of entomology and plant pathology. Effective thirty (30) days after the final permanent rule is accepted for filing by the publisher.

HISTORY

Notice of First Public Comment Period: *[date in regular type]*, Indiana Register (DIN: 20XX IR XXXX).

Notice of Second Public Comment Period: *[date]*, Indiana Register (DIN: 20XX IR XXXX). *[if applicable]*

Notice of First Public Hearing: *[date published]*, Indiana Register (DIN: 20XX IR XXXX).

Date of First Public Hearing: *[date]*.

Notice of Second Public Hearing: *[date published]*, Indiana Register (DIN: 20XX IR XXXX). *[if applicable]*

Date of Second Public Hearing: *[date]*. *[if applicable]*

SUMMARY/RESPONSE TO COMMENTS

[Agency name] requested public comment from *[date]*, through *[date]*, and during the public hearing on *[date of hearing or dates of hearings]*. **[Alt 1]:** *[Agency name]* received no comments in response to the Notice of First Public Comment Period. **[Alt 2]:** *[Agency name]* received comments from the following parties by the comment period deadline: *[summarizes the comments and response to comments]*.

312 IAC 1.5.

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

ARTICLE 1.5. Fees, Fines, Civil Penalties, Financial Benefit Limitations, or Another Payment Amount Set by an Agency that Otherwise Qualifies as a Rule

Rule 1. Applicability of Fees, Fines, Civil Penalties, Financial Benefit Limitation, or Another Payment Amount Set by an Agency that Otherwise Qualifies as a Rule

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 14-10-2-1; IC 14-10-2-4

Sec. 1. (a) This article applies to a fee, a fine, a civil penalty, a financial benefit limitation, or another payment amount set by an agency that otherwise qualifies as a rule set by the department that is 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 another payment amount set by an agency that otherwise qualifies as a rule if the fee, the fine, the civil penalty, the financial benefit limitation, or another payment amount set by the agency that otherwise qualifies as a rule does not appear 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 another payment amount set by an agency that otherwise qualifies 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 a fee, a fine, a civil penalty, a financial benefit limitation, or another payment amount set by an agency that otherwise qualifies as a rule. Additional conditions regarding a fee, a fine, a civil penalty, a financial benefit limitation, or another payment amount set by an agency that otherwise qualifies as a rule charged by the department to a person under this article may be found 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 a promotion for a fee or another payment amount set by an agency that otherwise qualifies as a rule under this article or the Indiana Code.

(f) The department may obtain a reimbursement 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 the purchase or use of 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 who violates a rule adopted by the commission commits a Class C infraction.

Rule 2. The Department

312 IAC 1.5-2-1 Fees for a special event

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

Affected: IC 14

Sec. 1. (a) The application fee for a special event permit application 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 in which the special event is hosted.**
- (2) Whether the special event is hosted on a weekday or a weekend.**
- (3) The time of day in which 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 at which the event is hosted.
- (12) Whether department employees are required for the special event, and the number of department employees required.
- (13) The number of participants in or attendees of the special event.
- (14) The size of the special event and the impact of the special event to 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 requires exclusive use of:
 - (A) a facility;
 - (B) land; or
 - (C) a public water.
- (19) If the special event requires exclusive use under subdivision (18), the impact to the use of the facility, the land, or the 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.

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

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

- (1) five dollars (\$5) per day; plus
- (2) the cost incurred by the department to impound the personal property.

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

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-29-3-5

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) per year.

(b) The fee for an annual pass for a resident of Van Buren Township at Brown

County State Park is five dollars (\$5) per year.

312 IAC 1.5-2-4 Fee for a Golden Hoosier Passport

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 4-19-3-4

Affected: IC 4-19-3-4

Sec. 4. (a) The fee for a Golden Hoosier Passport is twenty-five dollars (\$25) per year.

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

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-19-3-5

Affected: IC 14-19-3-5

Sec. 5. The fee for an annual pass issued to a nonresident is seventy dollars (\$70) per year.

312 IAC 1.5-2-6 Fee to enter a property owned or managed by the department for one (1) calendar day for a resident

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

Affected: IC 14

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

(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 to enter Prophetstown State Park for one (1) calendar day for a resident is eight dollars (\$8) per day for each vehicle entering the property.

312 IAC 1.5-2-7 Fee to enter a property owned or managed by the department for one (1) calendar day for a nonresident

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

Affected: IC 14

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

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

(d) The fee to enter Indiana Dunes State Park for a nonresident is twelve dollars (\$12) per day for each vehicle entering the property.

312 IAC 1.5-2-8 Fee for a pedestrian or a bicycle to enter a property owned or managed by the department for one (1) calendar day

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

Affected: IC 14

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) per day.

(b) An individual is not required to pay the fee under subsection (a) if the individual is 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.

312 IAC 1.5-2-9 Fee for a commercial carrier or a public passenger vehicle to enter a property owned or managed by the department for one (1) calendar day

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

Affected: IC 14

Sec. 9. (a) Except for the individual driving the 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 a public passenger vehicle to enter a property that is owned or managed by the department for one (1) calendar day is two dollars (\$2) per individual entering the property owned or managed by the department.

(c) The purchase receipt from paying the fee under subsection (b) acts as a pass to enter the property.

312 IAC 1.5-2-10 Fee for a Disabled Hoosier Veterans annual entrance pass

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

Affected: IC 14

Sec. 10. The fee for a Disabled Hoosier Veterans annual pass is twenty-five dollars (\$25) per year.

312 IAC 1.5-2-11 Fee for a social security disability income annual entrance pass

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

Affected: IC 14

Sec. 11. The fee for a social security disability income annual entrance pass is twenty-five dollars (\$25) per year.

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

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

(b) The fee for a daily horse tag is five dollars (\$5) per day.

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

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

Affected: IC 14

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

(b) The fee for a daily off-road cycling permit is five dollars (\$5) per day per individual for a mountain bike trail that is 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) per off-road vehicle per 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) per 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) per off-road vehicle per year.

(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) per substitute document.

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

Sec. 14. (a) The fee for interpretive services is not more than one hundred dollars (\$100) per individual attending the event at which 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 at which 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.

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

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

Affected: IC 14

Sec. 15. The fee for a transaction on the central reservation system is six dollars (\$6) per transaction.

312 IAC 1.5-2-16 Fee for an annual permit for commercial still photography or videography at a property owned or managed by the department

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

Affected: IC 14

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) per 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) per year.

312 IAC 1.5-2-17 Fee for a commercial vendor permit

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

Affected: IC 14

Sec. 17. (a) The fee for a commercial vendor permit is not more than five hundred dollars (\$500) per 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) The duration of an event 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.**

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

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

Affected: IC 14-

Sec. 18. The fee for a DNR lake permit with a motorized watercraft indication for a motorized watercraft is twenty-five dollars (\$25) per year.

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

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

Affected: IC 14

Sec. 19. The fee for a DNR lake permit with a nonmotorized watercraft indication for a nonmotorized watercraft is five dollars (\$5) per year.

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) per 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) per phytosanitary certificate.

312 IAC 1.5-3-2 Fee for a nursery grower certificate and inspection

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

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) per acre;**

per year.

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

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

312 IAC 1.5-3-3 Fee for a dealer license for nursery stock

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1; IC 14-24-7; IC 14-24-10-1

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) per year.

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

312 IAC 1.5-3-4 Fee for a voluntary certification for florist stock or greenhouse stock

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; IC 14-24-10-1

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

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

per year.

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

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

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

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) per 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 required 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) per 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 required to provide the special service.

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

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1; IC 14-24-5-8

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) per 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 that passes between the time a notice of violation is issued and the time the nursery grower cures 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 due to the violation.**
- (5) The time and labor costs for the department to cure the violation.**
- (6) The cost to the department and the extent of the procedures required to cure 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.**

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

Authority: IC 4-22-2-19.6; IC 14-10-2-1; IC 14-10-2-4; IC 14-24-3-1; IC 14-24-8-3

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) per 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 that passes between the time a notice of violation is issued and the time the apiary cures 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 for the department to cure the violation.**
- (6) The cost to the department and the extent of the procedures required to cure 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.**

[text added by publisher to end of document]

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Notice of First Public Comment Period: [DIN]

Public Hearing Held: [date]

Notice of Second Public Comment Period: [DIN] [if applicable]

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Small Business Regulatory Coordinator: [contact information]