

Dear Senators RICE, Den Hartog, Jordan, and
Representatives BOYLE, Dayley, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Idaho State Department of Agriculture:

IDAPA 02.06.01 - Rules Governing the Pure Seed Law (Fee Rule) - Proposed Rule (Docket No.
02-0601-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/24/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/23/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 06, 2018

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.06.01 - Rules Governing the Pure Seed Law (Fee Rule) - Proposed Rule (Docket No. 02-0601-1801)

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits a proposed (fee) rule at IDAPA 02.06.01 - Rules Governing the Pure Seed Law. According to the department, the rule provides for services and fees for seed testing. The department notes that the sections were last updated in 2006. The department adds that due to customer demands, the services offered by the lab have changed since the rule was last updated and certain tests that are not currently listed are charged under "miscellaneous fees" at \$40.00 per hour. The department states that the changes are intended to provide clarity to customers relating to services and prices and that no additional fees will be charged to customers. A proposed rule cost/benefit analysis has also been submitted reflecting that explanation.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted. The department indicates that there will be no negative fiscal impact on the state general fund and that fees charged will cover the agencies cost to perform the work.

Statutory Authority

The rulemaking appears authorized pursuant to Chapter 4, Title 22, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.01 – RULES GOVERNING THE PURE SEED LAW

DOCKET NO. 02-0601-1801 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 22, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 02.06.01.500 through 502 list the different services and fees for seed testing. These Sections were last updated in 2006. Based on customer demands, the services offered by the lab have changed since this rule was last updated. The tests not listed on our current fee schedule are charged based on our “Miscellaneous Fees” – \$40.00/hour rate. To provide clarity to our customers on our services and prices, we propose updating our list of services.

We are not increasing any prices for any currently offered service; however charging for newly listed services will make this a fee rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The Seed Lab has updated its service list based on customer demands. The service list was last updated in 2006. Please see the attached updated list of services.

According to Title 22-418, Idaho Code, “The director of the department of agriculture may by rule set the service and license fees to be collected.”

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no negative fiscal impact on the state general fund. The proposed service fees will cover the agencies cost to perform the work.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, pages 28-29](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dan Salmi, (208) 332-8526. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 2nd day of August, 2018.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Phone: (208) 332-8550 / Fax: (208) 334-2710

2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0601-1801
 (Only Those Sections With Amendments Are Shown.)

501. SERVICE TESTING FEES -- SPECIAL TESTS.

Special Testing Fees	
Test Procedures:	Fees \$/Unit
All States Noxious	\$ 25.00
Ammonia Test	33.00
Canada:	
Purity	\$ 13.00 Added to purity fee
Germination	\$ 2.50 Added to germination fee
Certified Grains	\$13.00 Added to purity fee
Cold Test	\$ 23.50
Crop & Weed Check	\$ 24.50
Cut Test	22.00
Dormancy Percentage	\$ 10.00 Minimum or Dormant % found x germination fee
E.C. Norms	\$ 20.00
Ergot Check	\$13.50
Foreign Material	12.00
Grading (beans)	18.00
Hay Pellet Noxious Weed Germination (Compost/Mulch, etc.)	\$ 18.00
Noxious Weed Purity (Hay, Straw, etc.)	\$40
Identification	\$ 5.00 Minimum or hourly if necessary
Inventory Germinations (For Carryover Seed Only, when requested)	20% Discount of listed germination fee; Available only for the months of March through July.
ISTA:	
Purity	\$ 13.00 Added to purity fee
Germination	\$ 2.50 Added to germination fee
Mixtures:	
Purity	\$ 12.50 Added per kind exceeding 5%
Germination	\$ 12.50 Added per kind exceeding 5%
Tetrazolium	\$ 18.00 Added per kind exceeding 5%
Moisture Test	\$ 14.00

Special Testing Fees	
Test Procedures:	Fees \$/Unit
Round-Up-Ready Trait Test (Alfalfa, Canola, Corn)	\$40.00
Sand Germination	\$25.00
Seed Count	\$13.50
Pest, Disease, Soil & Ergot Check Soil Exam	\$13.50
Sod Quality:	
Bentgrass	\$66.00
Bermudagrass	\$64.00
Bluegrass	\$64.00
Soil Germination	\$23.50
Species Exam	\$24.50
Undesirable Grass Species	\$25.50

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502. SERVICE TESTING FEES -- MISCELLANEOUS FEES.

Miscellaneous Fees	
Type of Service:	Fees \$/Unit
Administrative Charge per Test for Internet Access and Data Processing.	Not to exceed \$2.00 per test
FAX	\$3.00 per sheet
Hourly Charge	\$40.00
Reports:	
Copies	\$1.50
Merge Records	\$4.00
Revised	\$7.00
Rush Service	\$25.00

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PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Department of Agriculture

Agency Contact: Dan Salmi Phone: (208) 332-8526

Date: 8-7-18

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 02.06.01-500-502 Rules Governing the Pure Seed Law - Service Testing Fees – Purity, Germination and Tetrazolium Fees

Fee Rule Status: X Proposed ___ Temporary

Rulemaking Docket Number: 02-0601-1801

STATEMENT OF ECONOMIC IMPACT:

No additional fees will be charged to customers. Currently any service or test performed which is not listed in our service/fee list defaults to our “Miscellaneous Fee” charge of \$40.00/hour. By updating our service/fee list, we will provide clarity to our customers on our services and prices. For this reason, there will be no negative fiscal impact on the state general fund. The proposed service fees will cover the agencies cost to perform the work.