

Dear Senators HARTGEN, Nichols, Semmelroth, and  
Representatives ANDRUS, Raymond, Mathias:

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

IDAPA 02.02.13 - Commodity Dealers' Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule  
(Docket No. 02-0213-2301);

IDAPA 02.06.04 - Rules Governing Plant Exports (ZBR Chapter Rewrite, Fee Rule) - Proposed  
Rule (Docket No. 02-0604-2301).

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 12/07/2023. 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 01/04/2024.

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 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
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:** November 14, 2023

**SUBJECT:** Department of Agriculture

IDAPA 02.02.13 - Commodity Dealers' Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 02-0213-2301)

IDAPA 02.06.04 - Rules Governing Plant Exports (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 02-0604-2301)

#### **1. IDAPA 02.02.13 - Commodity Dealers' Rules**

##### **Summary and Stated Reasons for the Rule**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.13 - Commodity Dealers' Rules. According to the department, the rulemaking is being conducted in compliance with the Governor's Zero-Based Regulation Executive Order. The department states that redundant language that is verbatim in statute has been removed. The department states that the rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales, and remedies of the department for noncompliance. This is a fee rule. The department states that a rate of assessment of two-tenths of one percent (.2%) gross dollar amount, without deductions, due the producer pursuant to Section 69-257, Idaho Code. The Director may establish a lower rate of assessment whenever they deem it advisable or as recommended by the advisory committee created by Section 69-261, Idaho Code. In compliance with Section 22-201A, Idaho Code, the department states that the federal government does not regulate warehouses or commodity dealers. This activity is defined in the Idaho Code.

##### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted and the department states that no fiscal impact is anticipated as a result of this rulemaking.

##### **Statutory Authority**

The rulemaking appears to be authorized pursuant to Section 69-524, Idaho Code.

Paul Headlee, Deputy Director    Matt Drake, Manager    Keith Bybee, Manager    April Renfro, Manager    Norma Clark, Manager  
Legislative Services Office    Research & Legislation    Budget & Policy Analysis    Legislative Audits    Information Technology

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

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

## **2. IDAPA 02.06.04 - Rules Governing Plant Exports**

### **Summary and Stated Reasons for the Rule**

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.04 - Rules Governing Plant Exports. According to the department, the rulemaking is being conducted in compliance with the Governor's Zero-Based Regulation Executive Order. The department states that redundant language that is verbatim in statute has been removed. The department states that the rules govern the production of pest-free plants, plant products, and like inspections. To provide procedures for compliance with phytosanitary regulations of other states and foreign countries, in order to protect Idaho agriculture from the introduction of foreign pests on imported plants and materials. The department notes that the rules also govern procedures for voluntary certification of virus-free nursery stock for export. The rules also establish a ginseng registration and export program to protect American ginseng as an endangered species. This is a fee rule. The department states that fees are charged for services requested under the rule, including phytosanitary certification and sampling, field sampling, and lab services. In compliance with Section 22-201A, Idaho Code, the department states that the rule outlines the application of federal quarantines or phytosanitary requirements and governs state or customer activities in order to comply with those requirements.

### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted and the department states that no fiscal impact is anticipated as a result of this rulemaking.

### **Statutory Authority**

The rulemaking appears to be authorized pursuant to Sections 22-107, 22-112, and 22-2303, Idaho Code.

cc: Department of Agriculture  
Lloyd Knight

### **\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may 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**

### **02.02.13 – COMMODITY DEALERS' RULES**

#### **DOCKET NO. 02-0213-2301 (ZBR CHAPTER REWRITE, 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 Section 69-524, 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 October 18, 2023.

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:

This rule is being presented for authorization as part of the ISDA's plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor's [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the Department for non-compliance.

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

A rate of assessment of two-tenths of one percent (.2%) gross dollar amount, without deductions, due the producer pursuant to Section 69-257(2), Idaho Code. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code.

Additional license fees are included in statute at 69-508, Idaho Code, but are not included in this rule.

**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:

No fiscal impact is anticipated from this rulemaking.

**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 May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, Page 11](#).

**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:

There are no documents incorporated by reference.

**IDAHO CODE SECTION 22-101A STATEMENT:** Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate warehouses or commodity dealers. This activity is defined in Idaho Code.

The detailed 22-101A analysis can be found on the agency's website at [www.agri.idaho.gov](http://www.agri.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

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 October 25, 2023.

DATED this 4th day of October, 2023.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0213-2301**  
**(ZBR Chapter Rewrite)**

**02.02.13 – COMMODITY DEALERS' RULES**

**000. LEGAL AUTHORITY.**

~~This chapter is adopted under the legal authority of~~ Section 69-524, Idaho Code. (3-15-22)( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title.~~ The title of this chapter is IDAPA 02.02.13, "Commodity Dealers' Rules." (3-15-22)

~~02. Scope.~~ These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the Department for non-compliance. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-502, Idaho Code.~~ In addition to the definitions set forth in Section 69-502, Idaho Code, the following definitions apply to the interpretation and enforcement of this chapter. (3-15-22)( )

**01. Cash Sale.** Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. ( )

- 02. Commodity Indemnity Fund.** Commodity Indemnity Fund is a trust fund. ( )
- ~~**03. Credit Sale Contract.** An agreement in writing containing the provisions of Section 69-514, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-22)~~
- ~~**04. Dealer.** Is limited to dealers licensed by the state of Idaho. (3-15-22)~~
- ~~**053. Seed Crops.** Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. ( )~~
- ~~**064. NPE.** (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. ( )~~
- ~~**07. Warehouse.** Is limited to warehouses licensed by the state of Idaho. (3-15-22)~~
- 011. ABBREVIATIONS.**
- 01. CIF.** Commodity Indemnity Fund. ( )
- 02. NPE.** No price established contract. ( )
- 03. SIF.** Seed Indemnity Fund. ( )
- 012. LICENSING.**
- ~~**01. Posting of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 5, Idaho Code, the licensed commodity dealer shall post the license in a conspicuous place in each place of business or in any other place as the director may determine. The Department will issue a duplicate license for each additional facility as needed. (3-15-22)~~
- 021. Return of Suspended or Terminated License.** If a license issued to a commodity dealer has lapsed or is suspended, revoked or cancelled by the Director, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license will be returned to the commodity dealer to whom it was originally issued and be posted as prescribed by these rules. ( )
- 032. Loss of License.** Upon satisfactory proof of the loss or destruction of a license issued to a commodity dealer, a duplicate may be issued under the same number or a new number at the discretion of the Director. ( )
- 013. -- 099. (RESERVED)**
- 100. OFFICE RECORDS.**  
A commodity dealer shall maintain complete and sufficient records to show all purchases and sales, including all contracts relating to these transactions. A warehouse licensed as a commodity dealer under Title 69, Chapter 5, Idaho Code, must maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this State. Office records as set forth in Title 69, Chapter 5, Idaho Code, include, but not be limited to, the following: ( )
- 01. Daily Position Record.** Record which shows the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. ( )
- 02. Settlement Sheets/Storage Ledgers.** Every commodity dealer shall use settlement sheets showing the dealer's name and location in making settlement with the seller, unless otherwise approved by the Director. All settlement sheets/storage ledgers include, but are not limited to, the following information: ( )

- a. The seller's name and address. ( )
- b. The date of deliveries. ( )
- c. The scale ticket numbers. ( )
- d. The amount, kind and grade of commodity delivered. ( )
- e. The price per bushel or unit. ( )
- f. The date and amount of payment. ( )
- g. The contract number if a deferred payment, deferred pricing or other sale contract is used. A copy of each settlement sheet shall be maintained in alphabetical order by the commodity dealer as part of the pay records. ( )
- h. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. ( )

**03. Scale Weight Tickets.** Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered with one (1) copy of each ticket maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities and the condition of the commodities upon delivery. ( )

- a. Tickets in the commodity dealer's possession that have not been issued. ( )
- b. Tickets issued by the commodity dealer. ( )
- c. Tickets returned to and canceled by the commodity dealer. ( )

**04. Separate Records.** All records and accounts required under Title 69, Chapter 5, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and are subject to inspection by the Director at any time. ( )

**101. -- 149. (RESERVED)**

**150. INSPECTION.**

For the purpose of inspection the hours of 8 a.m. to 5 p.m., Monday through Friday, except holidays, are considered as ordinary business hours. All financial records, commodity records and payment records shall be available for inspection by the Department during ordinary business hours and any other reasonable time specified by the Department in writing. All records shall be made available within the state of Idaho upon request. ( )

**151. -- 199. (RESERVED)**

**200. LICENSING ~~APPLICATION FORMAT~~ MODIFICATION.**

~~**01. License Application.** Application for a license to operate as a commodity dealer under the provisions of Title 69, Chapter 5, Idaho Code, shall be on a form prescribed by the Department and include:~~ (3-15-22)

- ~~a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (3-15-22)~~
- ~~b. The full name of each member of the firm or partnership, or the names of the officers and directors~~

~~of the company or limited liability company, association, or corporation. (3-15-22)~~

~~e. The address of the principal place of business. (3-15-22)~~

~~d. The names of any businesses previously owned or operated by the applicant or any members, officers or directors if the applicant is a corporation, partnership or association. (3-15-22)~~

~~e. Information relating to any prior adjudication of bankruptcy relating to the business or any members, officers or directors thereof. (3-15-22)~~

~~f. Information relating to any judgments against the applicants. (3-15-22)~~

~~g. The location of each office the applicant intends to operate. (3-15-22)~~

~~h. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (3-15-22)~~

~~**02. License Conditions of Issuance.** An application for license under Title 69, Chapter 5, Idaho Code, shall include: (3-15-22)~~

~~a. Application on a form prescribed by the Director. (3-15-22)~~

~~b. A current financial statement as specified by Section 69-503 and 69-521, Idaho Code. (3-15-22)~~

~~e. A bond or bonds as required by Section 69-506, Idaho Code. (3-15-22)~~

~~d. The license fee as prescribed by Section 69-508, Idaho Code. (3-15-22)~~

~~e. Compliance with all rules adopted pursuant to Title 69, Chapter 5, Idaho Code. (3-15-22)~~

~~f. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (3-15-22)~~

~~**03. License Modification.** At the request of the license holder a license may be modified to change existing license classification, providing all requirements of Section 69-508, Idaho Code, are met. (3-15-22)(    )~~

~~201. -- 249. (RESERVED)~~

~~**250. RECORDS—SEPARATE.**~~

~~All records and accounts required under Title 69, Chapter 5, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and are subject to inspection by the Director at any reasonable time. (3-15-22)~~

~~251.—299. (RESERVED)~~

**300. FINANCIAL STATEMENT EXTENSION.**

**01. Financial Statements.** In order to obtain a commodity dealer's license, the applicant shall submit a current financial statement prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 5, Idaho Code, as to annual financial statements. (3-15-22)

**02. Statement Compliance.** Each licensed commodity dealer shall submit to the Department an annual financial statement that has been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the commodity dealer's fiscal year. The commodity dealer license may be suspended or revoked for failure to comply with licensing requirements stated in Subsection 300.01 of these rules and Section(s) 69-503(6) and 69-521, Idaho Code. (3-15-22)

~~01.~~ **Extension Request.** The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. ( )

~~ba.~~ The request must be made by a certified public accountant or a licensed public accountant. ( )

~~eb.~~ The request is made prior to the date the financial statement is due. **If the request is not received before the financial statement due date, suspension or revocation of license may occur.** (3-15-22)( )

~~ec.~~ The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the state. ( )

~~032.~~ **Statement Content.** The statement shall include: ( )

a. A balance sheet. ( )

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. ( )

c. A statement of cash flows. ( )

d. All accompanying notes to the financial statement. ( )

301. -- 349. (RESERVED)

**350. SHIPPING RECORDS.**

Every dealer who ships by truck shall maintain a truck shipping record and every dealer who ships by rail must maintain a rail or car shipping record. Each shipping record includes, but is not limited to, the following: ( )

01. **Name and Address.** The name and address of the seller or shipper. ( )

02. **Buyer and Destination.** The buyer and destination of the commodity shipped. ( )

03. **Date.** The date the agricultural commodities were shipped. ( )

04. **Amount and Type.** The amount and type of agricultural commodities shipped. ( )

05. **Identification Number.** The truck identification or car number. ( )

351. -- 399. (RESERVED)

**400. SCALE TICKETS.**

If a dealer has access to a scale that can be used for weighing commodity, that dealer shall use pre-numbered scale tickets showing the dealer's name and location. A copy of each ticket shall be maintained in numerical order as part of the commodity records. If a dealer does not have access to a scale and purchases commodity by having it custom weighed at various locations or at destination, the dealer shall maintain a copy of the scale ticket in chronological order as part of the commodity records. If agricultural commodities are settled on destination weights, copies of the destination weights are to be kept as part of the records. ( )

401. -- 450. (RESERVED)

~~451. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND~~ **ADDITIONAL BONDING REQUIREMENTS.**

~~01. Bonding Requirement. The amount of bond to be furnished for each class 1 dealer and each class 2 dealer is fixed at a rate pursuant to Section 69-506, Idaho Code.~~ (3-15-22)

~~02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit.~~ For the purposes of licensing as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-15-22)

~~a. Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-15-22)~~

~~b. The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-15-22)~~

~~03. Additional Bonding Requirements.~~ ~~If~~ In addition to Section 69-506, Idaho Code, if it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the licensee may be required to post a bond or other additional acceptable security in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of deficiency. (3-15-22)( )

452. -- 499. (RESERVED)

**500. COMMODITY INDEMNITY FUND ASSESSMENTS.**

~~The Commodity Indemnity Fund applies to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-22)~~

**01. Rate of Assessment.** The rate of assessment is two-tenths of one percent (.2%) gross dollar amount, without deductions, due the producer pursuant to Section 69-257(2), Idaho Code. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. ( )

**02. Exemptions to Assessment.** Producers are not eligible to participate in CIF and no assessments will be collected according to Idaho Code and in the following cases. (3-15-22)( )

~~a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (3-15-22)~~

~~b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (3-15-22)~~

~~c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (3-15-22)~~

~~d. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (3-15-22)( )~~

**501. NPE CONTRACT CLAIMS ON THE FUND.**

NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. ( )

**01. NPE Clause.** An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." ( )

**02. NPE Contract List.** A commodity dealer shall maintain a list of all NPE contracts written in a calendar year that reflects the producers name, contract number, agricultural commodity and date of the contract. ( )

**03. NPE Contract Renewal Period.** A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the

original NPE contract was executed. ( )

**502. HOW ASSESSMENTS ARE TO BE CALCULATED.**

Assessments shall be collected by all warehouses licensed as commodity dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: ( )

**01. Cash Sale or Credit Sale Contract.** ~~In a cash sale or credit sale~~ Contract on the contract price of the commodity at the time of sale. (3-15-22)( )

**02. Unpaid Assessments.** If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. ( )

**03. Incidental Costs and Expenses.** All incidental costs and expenses including, but not limited to, transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. ( )

**503. RECORDKEEPING AND PAYMENT SCHEDULE.**

**01. Permanent Record.** Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. ( )

**02. Payment Due Dates.** On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Title 69, Chapters 2 and 5, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. ( )

**03. Notice.** The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. ( )

**504. TRUST FUNDS.**

~~All assessments collected by warehouses and dealers in compliance with Title 69, Chapters 2 and 5, Idaho Code, immediately upon payment to and collection by the warehouse or dealer, are trust fund money held for payment to the Department for the CIF. Such m~~Money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (3-15-22)( )

**505. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS -- OTHER VIOLATIONS.**

Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Title 69, Chapters 2 and 5, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. ( )

**506. RETURN OF COMMODITY DUE TO FAILURE.**

In the event of failure the Department may: ( )

**01. Identifiable Commodity.** Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or ( )

**02. Fungible Commodity.** If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and ( )

**03. Shortfall in Commodity Distribution.** Any shortfall in commodity distribution may be submitted as a claim against the CIF. ( )

**507. -- ~~599.~~ (RESERVED)**

**~~600. UNLAWFUL PRACTICES.~~**

~~It is unlawful for a commodity dealer to alter, falsify or withhold records from the warehouse examiner. (3-15-22)~~

**~~601. -- 999. (RESERVED)~~**

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.06.04 – RULES GOVERNING PLANT EXPORTS**  
**DOCKET NO. 02-0604-2301 (ZBR CHAPTER REWRITE, 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 Sections 22-107, 22-112, and 22-2303(5), 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 October 18, 2023.

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:

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

These rules govern the production of pest-free plants, plant products, and like inspections. To provide procedures for compliance with phytosanitary regulations of other states and foreign countries, in order to protect Idaho agriculture from the introduction of foreign pests on imported plants and materials. These rules also govern procedures for voluntary certification of virus-free nursery stock for export. These rules also establish a ginseng registration and export program to protect American ginseng as an endangered species.

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

Fees are charged for services requested under this rule, including phytosanitary certification and sampling, field sampling, and lab services.

**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 is no fiscal impact because of this rulemaking.

**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 May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, Page 11](#).

**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:

Materials cited as Incorporated by Reference include to manuals published by the United States Department of Agriculture, Plant Protection and Quarantine program as required technical standards for those certification and inspection activities performed on commodities for export.

**IDAHO CODE SECTION 22-101A STATEMENT:** Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal

government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule outlines the application of federal quarantines or phytosanitary requirements and governs state or customer activities in order to comply with those requirements.

The detailed 22-101A analysis can be found on the agency’s website at [www.agri.idaho.gov](http://www.agri.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

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 October 25, 2023.

DATED this 4th day of October, 2023.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
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**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0604-2301**  
**(ZBR Chapter Rewrite)**

**02.06.04 – RULES GOVERNING PLANT EXPORTS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-107, 22-112, and 22-2303(5), Idaho Code. ( )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. The title of this chapter is “Rules Governing Plant Exports.” (3-15-22)~~

~~02. Scope. These rules govern the production of pest-free plants, and plant products, and like inspections. To provide procedures for compliance with phytosanitary regulations of other states and foreign countries, in order to protect Idaho agriculture from the introduction of foreign pests on imported plants and materials. These rules also govern procedures for voluntary certification of virus-free nursery stock for export. These rules also establish a ginseng registration and export program to protect American ginseng as an endangered species. (3-15-22)( )~~

**002. – 109. (RESERVED)**

**SUBCHAPTER A – PHYTOSANITARY AND POST-ENTRY ~~SEED~~ CERTIFICATION**

**110. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into subchapter A: ( )

**01. United States Department of Agriculture, Plant Protection and Quarantine Export Program Manual (XPM).** The Officially adopted Documents, Official Terms, and Policies, as published in the XPM of USDA/APHIS/PPQ. A copy may be obtained online from the USDA website at: [http://www.aphis.usda.gov/import\\_export/plants/manuals/domestic/downloads/xpm.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/xpm.pdf). ( )

**02. United States Department of Agriculture, Plant Protection and Quarantine Post-Entry Quarantine (PEQ) Manual.** The Officially adopted Documents, Official Terms, and Policies, as published in the PEQ manual of USDA/APHIS/PPQ. A copy may be obtained online from the USDA website at: [https://www.aphis.usda.gov/import\\_export/plants/manuals/domestic/downloads/postentry.pdf](https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/postentry.pdf). ( )

**110. DEFINITIONS.**

The definitions found in Section 110 apply to the interpretation and enforcement of Subchapter A only: (3-15-22)

**01. Applicant.** Any person applying for an inspection or certification under Subchapter A. (3-15-22)

~~**02. Federal Phytosanitary Certificate.** This certificate is issued by the Department pursuant to a “Memorandum of Understanding” with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, in accordance with the Code of Federal Regulations, Title 7, Part 353, Sections 353.1 – 353.7 as amended. This type certificate may only be issued for domestic plants and plant products being exported into a foreign country. (3-15-22)~~

~~**03. Federal Phytosanitary Certificate for Reexport.** This certificate is issued by the Department pursuant to a “Memorandum of Understanding” as referenced in Subsection 110.02 above. This type certificate may only be issued for plants and plant products of foreign origin to certify that, based on the original foreign phytosanitary certificate and/or an additional inspection, the plants and plant products entered the United States in conformance with the phytosanitary regulations of the importing country and have not been subjected to the risk of infestation or infection during storage in the United States. Shipments transiting the United States under a Customs bond are not eligible for reexport certification. (3-15-22)~~

~~**04. Post-Entry Quarantine Certification.** This program is carried out pursuant to a “Memorandum of Understanding” between the Department and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, in accordance with the Code of Federal Regulations, Title 7, Part 319.37-7 as amended. The purpose of this program is to prevent the accidental introduction of plant pests in living plants that are imported into the United States and Idaho under permit. (3-15-22)~~

~~**05. Rush Service.** This service is to accommodate phytosanitary certification applications that must be issued earlier than the routine three (3) to four (4) day turn-around. This service will be carried out only after a mutual agreement between the applicant and the Department. (3-15-22)~~

~~**06. State Phytosanitary Certificate.** This certificate may be issued for shipments of Idaho produced plants and plant products to foreign or domestic locations. This certificate is issued to confirm a field or commodity inspection for foreign destinations. This certificate must be issued to the same standard as a federal certificate as outlined in Subsection 110.02. Idaho Crop Improvement Association field inspections may serve as the basis for the issuance of a state phytosanitary certificate for domestic markets only. This certificate will also bear any notation or comment the Director may make as to any findings concerning the inspection or import requirements of the products being certified. (3-15-22)~~

~~**111.—119. (RESERVED)**~~

**120. DESIGNATED INSPECTION AREAS.**

The land mass of the state has been divided into fourteen (14) “inspection areas” to facilitate the inspection of all seed-producing localities and to confine the loci of disease infestations when they arise. These areas will be numbered serially and the boundaries of each remain fixed as described below. The cultural conditions, i.e., weather, elevation, soil type and general farming practices, are relatively uniform within each area; therefore, the disease

- ~~content of the seed produced within each respective area may be expected to be uniform. (3-15-22)~~
- ~~01. Area 1. Kootenai County. (3-15-22)~~
  - ~~02. Area 2. Benewah County. (3-15-22)~~
  - ~~03. Area 3. That portion of Latah County above two thousand (2,000) feet elevation and that portion of Nez Perce County north of the Clearwater River and above two thousand (2,000) feet elevation. (3-15-22)~~
  - ~~04. Area 4. That portion of Latah County below two thousand (2,000) feet elevation and all of the Clearwater River and below two thousand (2,000) feet elevation (3-15-22)~~
  - ~~05. Area 5. Lewis County. (3-15-22)~~
  - ~~06. Area 6. Canyon, Ada, Owyhee, Payette, Washington and Gem Counties. (3-15-22)~~
  - ~~07. Area 7. Gooding, Jerome, Lincoln and Elmore Counties. (3-15-22)~~
  - ~~08. Area 8. Twin Falls County. (3-15-22)~~
  - ~~09. Area 9. Cassia County. (3-15-22)~~
  - ~~10. Area 10. That portion of Minidoka County lying south of the main line of the Union Pacific Railroad. (3-15-22)~~
  - ~~11. Area 11. That portion of Minidoka County lying north of the main line of the Union Pacific Railroad. (3-15-22)~~
  - ~~12. Area 12. Bingham, Bonneville, Power and Bannock Counties. (3-15-22)~~
  - ~~13. Area 13. Jefferson, Madison, Fremont, Teton, Clark and Butte Counties. (3-15-22)~~
  - ~~14. Area 14. All other agricultural areas of the state not specifically designated above. (3-15-22)~~

~~121~~11. -- 129. (RESERVED)

**130. CROP/COMMODITY, DISEASE AND PEST(S) INSPECTIONS.**

**01. Minimum Field Inspection(s).** ~~Unless otherwise requested by the applicant, m~~Minimum field inspections for diseases will be ~~as follows~~ published annually by the Department. ~~(3-15-22)(\_\_\_\_)~~

~~a. Corn: Stewart's wilt, Erwinia stewartii (E.F.Sm.)Dye, head smut Sphacelotheca reiliana, common smut Ustilago zeae (U. maydis), and maize dwarf mosaic virus. (3-15-22)~~

~~b. Peas: Bacterial blight, Pseudomonas species. (3-15-22)~~

~~e. Beans: Halo Blight, caused by Pseudomonas syringae pv. phaseolicola (Burkholder 1926) Young, Dye & Wilkie 1978, (synonym P. phaseolicola (Burkholder 1926) Dawson 1943); common blight caused by Xanthomonas campestris pv. phaseoli (Smith 1897) Dye 1978, (synonyms X. phaseoli (Smith 1897) Dawson 1939, X. phaseoli var. fuscans (Burkholder 1930) Starr and Burkholder 1942); brown spot, caused by Pseudomonas syringae pv. syringae, van Hall 1902, (synonym P. syringae, van Hall 1902) only strains virulent to Phaseolus sp.; bacterial wilt, caused by Corynebacterium flaccumfaciens (Hedges 1922) Dawson 1942; or any variations or new strains of these bacteria, which are recognized as virulent to and seedborne in Phaseolus spp., and are a potential threat to seed production, all of which are hereafter referred to as bacterial diseases of beans. Anthraenose, Colletotrichum lindemuthianum (Sacc. and Magn.) Scrib. (3-15-22)~~

~~d. Alfalfa: Verticillium Wilt Verticillium albo-atrum, stem and bulb nematode Ditylenchus dipsaci.~~

- (3-15-22)
- e. Lettuce: Lettuce mosaic virus. (3-15-22)
  - f. Radish: Bacterial spot ~~*Xanthomonas campestris* pv. *vesicatoria*~~, Anthracnose ~~*Colletotrichum higginsianum*~~, blackleg ~~*Leptosphaera maculans*~~. (3-15-22)
  - g. Onion: Stem and bulb nematode ~~*Ditylenchus dipsaci*~~, Onion white rot ~~*Sclerotium cepivorum*~~, onion smut ~~*Urocystis cepulae*~~, neck rot ~~*Botrytis alli*~~, purple blotch ~~*Alternaria porri*~~. (3-15-22)
  - h. Carrot: Bacterial blight ~~*Xanthomonas campestris* pv. *carotae*~~, soft rot ~~*Erwinia carotovera*~~. (3-15-22)

**02. Special Inspection Requests.** Requests for inspection of plants and plant products for plant diseases or pests not specifically listed in ~~Subchapter A~~ the annual publication will be performed subject to the availability of Department inspectors and the biology of the pest and plant or plant products for which the request is being made. Procedures for conducting the special field or commodity inspections, the time the inspection is to be made, and any charges or fees will be made at the discretion of the Department and may be in addition to those listed in Section 195. (3-15-22)(    )

~~131.—139.~~ (RESERVED)

~~140. APPLICATION FOR INSPECTION PROCEDURES.~~

~~01. Application for Field Inspection.~~ Application(s) must include but will not be limited to the following: company name, grower name, crop, variety, lot number (if available), pest(s)/disease(s) inspections being requested, field location, number of acres and type of irrigation. Application(s) must be filed with the Idaho Department of Agriculture, Division of Plant Industries, P.O. Box 7249, Boise, ID 83707 or Idaho Department of Agriculture, Division of Plant Industries, P.O. Box 401, 434 Shoshone St. West, Twin Falls, Idaho 83303-0401, on forms provided by the Department. (3-15-22)

~~02. Application for Area Inspection (Peas and Corn Only).~~ Application shall be made in writing on company letterhead listing crop, grower name, variety, lot number, acres, and area grown in as outlined in Subsections 120.01 through 120.14. A minimum of two hundred (200) acres per company per designated inspection area must be submitted to be eligible for an area inspection. Applicants submitting under two hundred (200) acres within a designated inspection area must do so pursuant to Subsection 140.01 above. (3-15-22)

~~03. Deadlines.~~ Applications for individual and/or area field inspections are to be submitted no later than: April 30 for Alfalfa, May 1 for peas and mint, May 15 for lettuce, radish, onion, or other vegetable crops, and July 1 for beans and corn. Applications submitted after these dates will be performed only at the discretion of the Director. (3-15-22)

~~04. Special Field Inspection Requests.~~ Requests for field inspections of plants and plant products for diseases or pests not listed in Subsections 130.01.a. through 130.01.h. above shall be written in on the application as provided in Subsection 140.01 above and be subject to the conditions as outlined in Subsection 130.02. (3-15-22)

~~141.—149.~~ (RESERVED)

~~150. INSPECTION AUTHORITY.~~

The Director will authorize the crop inspections and will delegate competent agents or agencies to conduct the work. Phytosanitary certificates will be issued only by the Director. (3-15-22)

~~151.—159.~~ (RESERVED)

~~160. INSPECTION PROCEDURES.~~

~~01. Mechanics of Inspection.~~ The mechanics of inspection for a particular crop(s) will be left to the

discretion of the Department, but will take into account sound sampling procedures, the biology of the pest, and the crop being inspected. A crop will be inspected a minimum of, but not limited to, one (1) time during the growing season, depending on the biology of the pest or disease being inspected. (3-15-22)

**02. Reports of Inspection Summaries and Requests for Inventory.** Written reports of the field and area inspections will be filed and retained in the office of the Director, for a minimum of five (5) years after the inspection of the fields is completed. At the end of each inspection season, each applicant will be sent a summary of the inspections performed with a request for any corrections or adjustments to be made as far as lot numbers, varietal names, or other information is concerned. A request will also be made at that time for the clean weights of the product harvested from each lot inspected. No phytosanitary certificate will be issued for any inspected lot for which there is incomplete documentation. (3-15-22)

**03. Notification of the Detection of Disease(s) or Pest(s).** The Department will notify the applicant in writing upon the confirmation of the presence of a disease or pest. Notification will be limited to those disease(s) or pest(s) outlined in Subsections 130.01.a. through 130.01.h. above or as specifically requested on the applicant's application for inspection for phytosanitary certification pursuant to Subsection 140.04. (3-15-22)

**16431. -- 169. (RESERVED)**

**170. PROCEDURE FOR OBTAINING APPLICATIONS FOR FIELD INSPECTION AND PHYTOSANITARY CERTIFICATES.**

**01. Application for Field Inspection.** Application(s) must be filed with the Department's online submission form. Applications submitted after published deadlines will be performed only at the discretion of the Department. ( )

**02. Requests for Phytosanitary Certificates.** Application shall be made in writing to the Department on the appropriate application form(s) provided by the Department for the certificate(s) being requested and submitted by the application to the USDA Phytosanitary Certificate Issuance and Tracking (PCIT) System at <https://pcit.aphis.usda.gov/pcit/>. Only fully completed applications will be accepted. Applications can be submitted to either the State of Idaho, Department of Agriculture, Plant Industries Division, P.O. Box 7249, Boise, ID 83707, or State of Idaho, Department of Agriculture, P.O. Box 401, Twin Falls, Idaho 83301. Notification of pending applications shall be submitted to the area phone message line. (3-15-22)( )

**02. Application Information.** Applications for phytosanitary certificates must include, but will not be limited to the following information: variety, crop (including scientific name), lot number (in the case of blends, all lots used in the blend must be included), number of pounds in each lot, name of grower, area and year in which crop was grown, state number, consignor and consignee, and chemical treatment applied. (3-15-22)

**03. "Rush" Service.** As defined in Subsection 110.05 must be requested before or upon submission of an application for phytosanitary certification. This service is to accommodate requests for phytosanitary certification applications, official sampling, field inspection, or other services that must be completed with a one (1) business day turn-around or within a specific timeframe on a certain day without a two (2) business day prenotification. Request for phytosanitary or treatment observation services after normal working hours, on weekends, or holidays are subject to overtime and state per diem charges in addition to the normal charges. This service will be carried out only after a mutual agreement between the applicant and the Department. The request may must be made by telephone. "Rush" service will be subject to the fees as outlined in Subsections ~~195.02.d~~ 195.01 and 195.02. (3-15-22)( )

**171. — 179. (RESERVED)**

**180. SIZE OF SAMPLES.**

Size of samples for visual inspection for phytosanitary seed inspection certificates shall be: When shipment is: under two hundred (200) pounds — one half (1/2) pound sample (minimum); two hundred (200) pounds up to one thousand (1,000) pounds — two (2) pound samples; over one thousand (1,000) pounds — five (5) pound samples (maximum); or as may be required by the importing state or country. (3-15-22)

**181. — 189. (RESERVED)**

**190. POST ENTRY QUARANTINE CERTIFICATION.**

Applications shall be made on forms provided by the Department and accompanied by the fee as stated in Subsection 195.05. The applicant must allow inspection by the Department as a condition of application approval, and additional inspections as required by the Department or the United States Department of Agriculture. The United States Department of Agriculture has final approval authority. The minimum period of the quarantine is two (2) years, with a minimum of one (1) inspection being performed during each of the two (2) years. (3-15-22)

**191-194. (RESERVED)**

**195. FEES AND CHARGES.**

**01. Phytosanitary Certificates, Like Inspections, and Official Treatment Observations.** Fees for these voluntary services will be published annually on the Department website at [www.agri.idaho.gov](http://www.agri.idaho.gov). Fees will be updated every three (3) years. Proposed fees will be posted for comment no later than September 1, final fees will be posted no later than November 1 to be in effect the following January 1. (3-15-22)(\_\_\_\_)

- a.** Federal Phytosanitary Inspection Certificates or like documents: sixty dollars (\$60) per certificate. (3-15-22)
- b.** State Phytosanitary Inspection Certificates or like documents: twenty-five dollars (\$25) per certificate. (3-15-22)

**02. Phytosanitary Certification and Like Inspections and Official Treatment Observations.** (3-15-22)

- a.** Officially Drawn Samples: (i.e., purity and germ samples, referee samples, lab analysis) twenty dollars (\$20) per sample. (3-15-22)
- b.** Submitted Samples: twenty dollars (\$20) per item submitted. (3-15-22)
- c.** Treatment Observations: for official verification of seed and plant treatment, seed lot fumigation, cold storage treatments, and treatment of agricultural products brought into the state in violation of a state quarantine, fees are thirty dollars (\$30) per hour (including travel time), and any per diem incurred. Per diem will be at established state rates. (3-15-22)
- d.** Rush service fees will be one hundred dollars (\$100) per certification, which will be in addition to the normal phytosanitary certification charges outlined in this Section 195. (3-15-22)
- e.** Request for phytosanitary or treatment observation services after normal working hours, on weekends, or holidays are subject to overtime and state per diem charges in addition to the normal charges outlined in this section. (3-15-22)

**03. Area Inspections.** Area Inspection: fourteen cents (\$.14) per hundred weight. (3-15-22)

**04. Field or Lot Inspections.** Fees published annually by the Department. Fees for these voluntary services will be published annually on the Department website at [www.agri.idaho.gov](http://www.agri.idaho.gov). Fees will be updated every three (3) years. Proposed fees will be posted for comment no later than September 1, final fees will be posted no later than November 1 to be in effect the following January 1. (3-15-22)(\_\_\_\_)

- a.** Application for Field Inspection: five dollars (\$5) per application. (3-15-22)
- b.** Acreage Inspection Fee: three dollars and fifty cents (\$3.50) per acre per inspection. A minimum of fifty dollars (\$50) per inspection will be charged when the total acreage submitted by any one (1) applicant is fifteen (15) acres or less. (3-15-22)

**05. Post Entry Quarantine Inspections.** The inspection fee is two hundred dollars (\$200) for the

~~required two (2) year quarantine and an additional one hundred dollars (\$100) per year for each year beyond the initial two (2) years, if required. For rejected applications, twenty five dollars (\$25) of the two hundred dollar (\$200) inspection fee is non-refundable, and will be retained to cover administrative costs. (3-15-22)~~

**063. Plant Pathological Laboratory Services.** Fees available upon request through the Bureau of Agriculture Laboratories. (3-15-22)(    )

**07. Special Project Fee.** (3-15-22)

~~a. Special projects not covered by the existing fee schedule may be billed at twenty five dollars (\$25) per hour with a minimum twenty five dollar (\$25) fee. Special projects include, but are not limited to, the following: (3-15-22)~~

~~i. Research; (3-15-22)~~

~~ii. Lot history verification; (3-15-22)~~

~~iii. Data entry; (3-15-22)~~

~~iv. Sales and purchases; (3-15-22)~~

~~v. Transfer of lots into ISDA database; (3-15-22)~~

~~vi. ISDA training of private company personnel; (3-15-22)~~

~~vii. Special plant pest detection surveys; or (3-15-22)~~

~~viii. Any other circumstance approved by the Director. (3-15-22)~~

~~b. This fee does not include any laboratory analysis fees that might be required as part of a special plant pest detection survey. (3-15-22)~~

**196. -- 209. (RESERVED)**

**SUBCHAPTER B – VIRUS-FREE NURSERY STOCK CERTIFICATION**

**210. CERTIFICATION PROCEDURES.**

A virus certification program exists to produce fruit and ornamental nursery stock material discernibly free of economically harmful plant viruses and virus-like agents that meet domestic and international standards required for export. Eligible nurseries participate in the program on a voluntary basis and plant material must meet certification program requirements as provided by the Department. (    )

**210. DEFINITIONS.**

In addition to the definitions found in Section 22-2302, Idaho Code, the definitions in Section 210 apply in the interpretation and enforcement of Subchapter B only. (3-15-22)

~~**01. Certification.** Verification that proper field sampling procedures were followed and that the indexing results as outlined in this rule are those determined by an approved laboratory designated to test for virus diseases under Subchapter B. (3-15-22)~~

~~**02. Idaho Certified Nursery Seed.** Seed produced from registered seed trees or commercial seed having been tested and found to have a transmissible virus content that does not exceed five percent (5%). (3-15-22)~~

~~**03. Idaho Certified Nursery Stock.** Nursery grown, true seedlings, clonal rootstocks originating from certified virus-free trees, and nursery grown trees or seedlings propagated by using top stock from certified virus-free trees and rootstock originating from certified virus-free trees except as herein provided for certain rootstocks. (3-15-22)~~

- ~~04. **Index.** To determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other acceptable method as designated by the Director. (3-15-22)~~
- ~~05. **Indicator Plant.** Any herbaceous or woody plant used to index or determine virus infection. (3-15-22)~~
- ~~06. **Interstock.** Scionwood used for compatibility purposes to graft between a particular top stock and rootstock. (3-15-22)~~
- ~~07. **Nursery Stock.** For purposes of this rule includes the plants and plant parts of the genera *Prunus*, *Malus*, *Pyrus*, *Chaenomeles* and *Cydonia*. (3-15-22)~~
- ~~08. **Off Type.** Not true to name (phenotype) as registered under Subchapter B. (3-15-22)~~
- ~~09. **Registered Tree.** A tree or clonal planting that has been inspected and tested in accordance with the provisions of this program and assigned a registration number by the Department. (3-15-22)~~
- ~~10. **Rootstock.** That part of a plant including the roots on which another variety of plant material may be grafted. (3-15-22)~~
- ~~11. **Scion Block.** A planting of certified virus-free trees that serves as a source of scionwood for the propagation of "Idaho certified nursery stock." (3-15-22)~~
- ~~12. **Scion (Scionwood).** A detached shoot or other portion of a plant consisting of one or more buds used in propagation by grafting. (3-15-22)~~
- ~~13. **Seed Block.** A planting of certified virus-free trees that serves as a source of seed for producing rootstock used in the propagation of "Idaho certified nursery stock." (3-15-22)~~
- ~~14. **Stool Bed.** A clonal planting of self-rooted, certified virus-free trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of "Idaho certified nursery stock." (3-15-22)~~
- ~~15. **Top Stock.** Usually scionwood used for grafting onto interstock or rootstock, may include seed. (3-15-22)~~
- ~~16. **True Seedling.** A tree that has been grown from seed. (3-15-22)~~
- ~~17. **Virus Infected.** The presence of a harmful virus(es) in a plant or plant part. (3-15-22)~~
- ~~18. **Virus Like.** A disorder of genetic or non-transmissible origin and also includes mycoplasma like organisms and rickettsia-like organisms. (3-15-22)~~

~~211.—219. (RESERVED)~~

~~220. **REQUIREMENTS.**~~

- ~~01. **Participation.** Participation is open only to those nurseries registered under Title 22, Chapter 23, Idaho Code, and is voluntary. (3-15-22)~~
- ~~02. **Application.** Application forms for the establishment of new blocks will be provided by the Idaho Department of Agriculture. The applicant nurseryman shall furnish to the Department all information pertinent to the operation of this program, including a diagram of each block and give consent to the Department to take plant parts (buds, leaves, roots, etc.) from any tree for testing purposes. (3-15-22)~~
- ~~03. **Registration.** Trees may be registered as rootstock, top stock, or seedstock sources for the propagation of certified nursery stock when inspected, tested, and found to be true to name and discernibly free from~~

~~known harmful virus and virus-like diseases by procedures outlined in this program. (3-15-22)~~

~~**04. Responsibility.** The applicant nurseryman is responsible, subject to the approval of the Director, for the selection of the location and the proper maintenance of registered plantings grown under the provisions of Subchapter B. The applicant nurseryman is responsible for maintaining the identity of all nursery stock entered into this program in a manner approved by the Department. Any planting entered into this program shall be kept in a healthy growing condition and free of plant pests. (3-15-22)~~

~~**05. Filing Date.** Application for inspection and testing of new or existing blocks of registered scion, seed, and stool bed trees and for inspection of nursery stock for certification shall be filed by June 1 of each year with the Idaho Department of Agriculture. (3-15-22)~~

~~**06. Nematode Sampling.** The ground being submitted for planting with virus-free stock as outlined in Subchapter B shall be officially sampled, using established procedures acceptable to the Director, tested, and found free of virus transmitting nematodes prior to planting of any stock. Subsequent sampling for the presence of nematodes after planting may be carried out at the discretion of the Director, to ensure that a nematode-free status is maintained. (3-15-22)~~

~~**07. Grafting.** There shall be no budding, grafting, or top-working of registered trees in any scion block, seed block, or stool block. (3-15-22)~~

~~**08. Inspection.** Maintenance of virus-free integrity of all plants entered into this program will be by inspection and spot testing at a minimum of every three (3) years or as stated elsewhere in this rule. (3-15-22)~~

~~**09. Diseased Plants.** Immediately following notice from the Director or his agent, any plant found to be infected by a virus or virus-like disease or if off type, the plant(s) shall be removed and destroyed. Any ground found to be infested with virus transmitting nematodes must be fumigated with a fumigant registered and approved by the Idaho Department of Agriculture prior to planting, at the grower's expense. (3-15-22)~~

~~221.—229. (RESERVED)~~

**230. SCION BLOCKS.**

~~**01. Location.** A scion block shall be located not less than one hundred (100) feet away from any non-registered cultivated plant of the Rosaceae family. The ground in a scion block and for a distance of twenty (20) feet surrounding it shall be kept either clean cultivated or in an approved, properly controlled ground cover. Registered scion block trees shall be planted and maintained in a manner and at sufficient distance so that branches of different varieties do not overlap. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the use of infected pollen or its application. Registered scion block trees may not be used for propagation purposes until trueness to name or variety has been established. Each tree will bear a permanent registration number. The ground in the scion block will be sampled, using established procedures acceptable to the Director, and be tested and found free of virus transmitting nematodes prior to planting of any stock. (3-15-22)~~

~~**02. Acceptability.** The rootstock and top stock sources of the scion block trees shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved programs. If the tree is scion rooted, its source shall have met the requirements stated in Subchapter B. Only registered trees are permitted in the scion block. (3-15-22)~~

~~231.—234. (RESERVED)~~

**235. SEED BLOCKS.**

~~**01. Location.** A Prunus seed block shall be located not less than three hundred (300) feet from any non-registered flowering plant of the Prunus species. The ground in a seed block and for a distance of twenty (20) feet surrounding it shall be kept clean cultivated or in an approved, controlled ground cover. Care shall be taken in the use of pollenizing insects and pollen application to prevent the transmission and spread of virus diseases through the~~

~~use of infected pollen or its application. Each tree will bear a permanent registration number. (3-15-22)~~

~~**02. Acceptability.** The rootstock and top stock sources of the seed tree shall have originated from foundation trees established under this program or from virus-tested trees originating through the USDA-ARS Inter-Regional Project No. 2 (IR-2) or other approved program. If the tree is scion rooted, its source shall have met the requirements stated in Subchapter B. Only registered trees are permitted in the seed block. (3-15-22)~~

~~**236.—239. (RESERVED)**~~

~~**240. STOOL-BEDS.**~~

~~**01. Location.** A stool bed shall be located not less than fifty (50) feet from any non-registered cultivated plant of the Rosaceae family. The following exception will apply: Non-registered stool beds may be located not less than ten (10) feet from registered stool bed plantings. The ground in a stool bed and for a distance of ten (10) feet surrounding it shall be kept clean cultivated. (3-15-22)~~

~~**02. Acceptability.** Existing stool beds that index clean on the commonly used virus indicators will qualify as Registered Stool Beds. New stool beds (those planted after the effective date of Subchapter B) shall have originated from foundation stock established under this program or from virus-tested plants originating through the USDA-ARS Inter-Regional No. 2 (IR-2) or other approved program. If the tree is scion rooted, its source shall have met the requirements stated in Subchapter B. Only registered trees are permitted in the stool beds. (3-15-22)~~

~~**241.—244. (RESERVED)**~~

~~**245. NURSERY STOCK.**~~

~~**01. Rootstocks.** All nursery stock being grown for certification, shall be on rootstock from registered trees except for stone fruit trees grown on peach seedlings and pome fruit trees grown on apple and pear seedlings. These seedling rootstocks, when grown from commercial seed, will be acceptable if seed transmissible virus content does not exceed five percent (5%). Clonal rootstock used in the production of Idaho Certified Nursery Stock must originate from Registered Stool Beds. (3-15-22)~~

~~**02. Location.** The isolation distances between certified and non-certified nursery stock shall be: (3-15-22)~~

~~**a.** Not less than fifty (50) feet from non-certified plants of the Rosaceae family; (3-15-22)~~

~~**b.** Not less than twenty (20) feet from other non-certified nursery stock; (3-15-22)~~

~~**e.** Program participants shall maintain a twenty (20) foot clean cultivated area around all certified nursery stock beds. Nursery stock shall be designated as to rootstock, top stock, and inter stock sources. There shall be no re-budding or re-grafting of nursery raw stock unless such stock is re-worked with scions from the original registered scion tree. (3-15-22)~~

~~**03. Identity Maintenance.** The maintenance of certified stock identity shall be a tagging program identifying trees produced from: (3-15-22)~~

~~**a.** Registered rootstock produced from registered seed or stool beds; (3-15-22)~~

~~**b.** Registered scion source trees. The tracking system involves a numbering diagram system of each participant's nursery stock beds in the program. (3-15-22)~~

~~**04. Seed.** Certified seed shall have been produced on Registered Seed Trees or commercial seed having been tested and found to have a transmissible virus content that does not exceed five percent (5%). (3-15-22)~~

~~**05. Tagging.** An Idaho Certified Nursery Stock Tag designates trees produced from registered scion source trees and that have been propagated on rootstocks produced from registered seed source or stool bed trees, or~~

~~that are self-rooted. All nursery stock meeting the requirements of this program when sold shall have the variety, inter stock, and rootstock designated where applicable as follows: variety/inter stock/rootstock. (3-15-22)~~

~~**06. Acceptability.** All nursery stock meeting the requirements of this program are known as Idaho Certified Nursery Stock. (3-15-22)~~

~~**246.—249. (RESERVED)**~~

~~**250. BLOCK EXPANSION.**~~

~~Expansion within a scion or stool bed will be allowed with no restriction regarding the number of generations, provided accepted tissue culture methods are employed. Only two (2) propagative steps will be allowed between “mother plants” and foundation trees for scion, seed, and stool bed blocks. (3-15-22)~~

~~**251.—259. (RESERVED)**~~

~~**260. INSPECTION PROCEDURES.**~~

~~**01. Time of Inspection.** Inspections will be made at the discretion of the Department and at times when specific disease symptoms are most likely to be expressed. (3-15-22)~~

~~**02. Inspection of Nursery Stock for Certification.** At least one (1) visual inspection will be made of nursery rootstock in a planting being grown for certification during the first growing season. At the request of the Department, any undesirable rootstock will be rogued before propagation. At least two (2) visual inspections will be made of nursery stock during the growing season following bud or graft placement. (3-15-22)~~

~~**03. Refusal of Certification.** The Department will refuse certification if plants have been propagated from registered trees determined to be affected by a virus or virus-like disease or if other requirements of this program have not been met. (3-15-22)~~

~~**261.—264. (RESERVED)**~~

~~**265. TESTING PROCEDURES.**~~

~~Testing standards prescribed in this program will conform to USDA ARS Inter-Regional Project No. 2 (IR-2) standards or to any other acceptable and approved procedures developed and used for determining the presence of virus diseases in nursery stock. All testing results shall be made available directly to the Department by the approved agency or laboratory. (3-15-22)~~

~~**266.—269. (RESERVED)**~~

~~**270. TAGGING, IDENTITY, AND RECORDS.**~~

~~**01. Official Certification Tags.** The Department will authorize the use of official certification tags for identification of nursery stock or seed that meet the requirements of this program. These tags will be supplied at cost to all program cooperators by the Department. (3-15-22)~~

~~**02. Identity.** Any person selling Idaho Certified Nursery Stock is responsible for the identity of the stock bearing each tag and for such nursery stock meeting the requirements of this program. (3-15-22)~~

~~**03. Records.** Any person selling Idaho Certified Nursery Stock shall keep record on a form prescribed by the Director that includes but is not limited to the source of the stock, quantity, and disposition. (3-15-22)~~

~~**271.—279. (RESERVED)**~~

~~**280. FEES.**~~

~~**01. Application Fees.** A fee of fifty dollars (\$50) per application submitted plus ten cents (\$.10) per tree being certified shall be submitted with each application. (3-15-22)~~

~~02. Laboratory Fees. Laboratory fees are established by a Department approved testing facility and will be paid directly to the facility. (3-15-22)~~

~~03. Service Fees. Fees for plant or soil sampling and inspection services provided by the Idaho Department of Agriculture are in accordance with the following schedule. (3-15-22)~~

~~a. A fee of twenty five dollars (\$25) per hour for inspection and travel time with a minimum charge of fifty dollars (\$50). (3-15-22)~~

~~b. Per diem costs will be charged according to established state rates. (3-15-22)~~

~~e. The fees charged for tags will be at cost plus an administrative fee of ten percent (10%) for each order. (3-15-22)~~

~~28411. -- 309. (RESERVED)~~

### SUBCHAPTER C – GINSENG REGISTRATION AND EXPORT

#### 310. REGISTRATION.

A ginseng registration and export program exists to protect American ginseng (*Panax quinquefolius*) as an endangered species, prevent illegal trade of wild ginseng, and ensure cultivated ginseng meets domestic and international standards required for export. Anyone who buys ginseng for resale or grows and sells it for export shall register with the Department and plant material must meet program requirements as provided by federal and state standards. ( )

#### 310. DEFINITIONS.

~~In addition to the definitions found in Section 22-2005, Idaho Code, the definitions in Subchapter C apply in the interpretation and enforcement of Subchapter C, only. (3-15-22)~~

~~01. Cultivated Ginseng. Any part of a ginseng plant that is growing or grown in managed beds under artificial or natural shade and cultivated according to recognized ginseng horticultural practices. Cultivated ginseng includes woodsgrown ginseng. (3-15-22)~~

~~02. Dealer. Anyone who buys ginseng for resale, or grows and sells it for export. This definition does not apply to persons who buy ginseng solely for the purpose of final retail sale to consumers in the United States. (3-15-22)~~

~~03. Dealer Registration. An annual registration issued by the department authorizing a dealer to buy, collect, or otherwise acquire ginseng for resale or export. (3-15-22)~~

~~04. Dry Weight. The weight in pounds and ounces of harvested or collected ginseng root that is dried and is no longer viable. (3-15-22)~~

~~05. Export. Outside the boundaries of the United States. (3-15-22)~~

~~06. Ginseng. Any and all parts of the plant known as American ginseng (*Panax quinquefolius*) including, but not limited to: plants; whole roots; essentially intact roots; root chunks; slices; seeds; and tissue. (3-15-22)~~

~~07. Green Ginseng. A ginseng root from which the moisture has not been removed by drying. (3-15-22)~~

~~08. Green Weight. The weight in pounds and ounces of freshly harvested or collected ginseng root that is not dried and is still viable. (3-15-22)~~

~~09. Grower. A person who grows “cultivated,” “wild simulated,” and or “woodsgrown” ginseng, and~~

~~sells it to a dealer. (3-15-22)~~

~~10. **Grower Registration.** An annual registration issued by the department that enables a grower to sell cultivated ginseng that the grower has produced. (3-15-22)~~

~~11. **Out of State Ginseng.** Ginseng that is grown or originated outside the state of Idaho. (3-15-22)~~

~~12. **Wild Ginseng.** Ginseng growing naturally within its native range. (3-15-22)~~

~~13. **Wild Simulated Ginseng.** Wild ginseng seeds or roots planted in natural habitat, within the natural range, in suitable ginseng habitat that is not further cultivated. (3-15-22)~~

~~14. **Woodsgrown Ginseng.** Ginseng grown in managed beds under natural shade. (3-15-22)~~

311. -- 319. (RESERVED)

**320. REGULATED PRODUCTS.**

American ginseng (*Panax quinquefolius*). ( )

321. -- 329. (RESERVED)

**330. COLLECTION OF WILD GINSENG.**

~~To prevent illegal trade, No grower's or dealer's registration will be issued for the collection, sale or distribution of wild ginseng. (3-15-22)( )~~

~~**331. DEALERS AND GROWERS ANNUAL REGISTRATION WITH THE DEPARTMENT.**~~

~~No person may act as a dealer or grower without first registering with the department. Any person who acts as a dealer and a grower shall register as both. The department will assign a registration number to each person registered. Registration with the applicable fee will be made annually no later than January 15 of each year on a form provided by the department and the registration will expire on December 31. (3-15-22)~~

~~332. -- 339. (RESERVED)~~

~~**340. GROWER RECORDS.**~~

~~A grower selling cultivated ginseng shall do all of the following when selling to a dealer: (3-15-22)~~

~~01. **Record of Sale.** Provide to the dealer a record of sale containing all of the following information: grower's name and address; grower's registration number; ginseng certificate number; ginseng dry weight; year harvested; county of harvest; and date of transaction. (3-15-22)~~

~~02. **Certificate of Origin.** Certify that the ginseng was grown in the state of Idaho. The certificate of origin form is prescribed by the department. (3-15-22)~~

~~03. **Records.** Maintain records of all ginseng production and sales. Records must be maintained for a period of three (3) years. (3-15-22)~~

~~341. -- 349. (RESERVED)~~

~~**350. DEALER RECORDS.**~~

~~Dealers shall keep true and accurate records of transactions, including both sales and purchase records, in a format prescribed by the department. Records must be maintained for a period of three (3) years. (3-15-22)~~

~~01. **Purchase Records.** Purchase records include dealer's name, address and registration number; grower/seller name and registration number; ginseng weight in pounds and ounces; designation of green or dry ginseng; designation of wild or cultivated ginseng; harvest year of ginseng; county in which the ginseng was harvested; and date of transaction. (3-15-22)~~

~~02. Sales Records. Sales records shall include the following information: dealer's name, address and registration number; buyer's name, address and registration number; ginseng weight in pounds and ounces; designation of green or dry ginseng; designation of wild or cultivated ginseng; harvest year; county in which the ginseng was harvested; and date of transaction. (3-15-22)~~

~~351~~**31.** -- 359. (RESERVED)

**360. OUT-OF-STATE GINSENG.**

~~01. Certificate of Origin. No dealer may purchase, receive or import out of state ginseng unless it is accompanied by a valid certificate of origin issued by the state or country of origin. The certificate must include the state or country of origin, the source (wild or cultivated), year of harvest, and dry weight of the out of state ginseng. (3-15-22)~~

~~02. Recordkeeping. The dealer shall retain for a period of three (3) years a copy of each written certificate of origin received. (3-15-22)~~

~~03-1 Uncertified Ginseng. If a dealer receives ginseng not accompanied by a valid certificate of origin, the uncertified ginseng must be returned within thirty (30) days to the state or country of origin. Failure to do so renders the ginseng illegal for commerce. ( )~~

~~361. SELLING OR SHIPPING OF GINSENG — CERTIFICATES.~~

~~01. Export. Except as described in Subsection 361.06, no person may sell or ship ginseng out of state or export Idaho grown ginseng unless it is accompanied by a valid, prenumbered certificate of origin on a form issued by the department. The department will, upon request and receipt of the required fee(s), provide each registered grower or dealer with forms for certificates of origin. The department will identify each certificate of origin form with a serial number, and the registration number of the grower or dealer. Registered growers or dealers may certify their own cultivated ginseng by filling out and signing a certificate of origin form. The certificate of origin contains the following information: (3-15-22)~~

- ~~a. State of origin; (3-15-22)~~
- ~~b. Serial number of certificate; (3-15-22)~~
- ~~c. Dealer's and/or grower's state registration number; (3-15-22)~~
- ~~d. Year of harvest of ginseng being certified; (3-15-22)~~
- ~~e. Designation as cultivated roots or plants; (3-15-22)~~
- ~~f. Designation as dried or fresh (green) roots, or live plants; (3-15-22)~~
- ~~g. Weight of roots or plants (or number of plants) separately expressed both numerically and in writing; (3-15-22)~~
- ~~h. Date of certification; and (3-15-22)~~
- ~~i. Signature of grower or dealer making certification. (3-15-22)~~

~~02. Idaho Certificate of Origin. All of the following conditions must be met in order for an Idaho certificate of origin to be valid: (3-15-22)~~

- ~~a. The grower or dealer whose registration number was entered on it by the department shall sign the certificate; and (3-15-22)~~
- ~~b. The ginseng is cultivated ginseng grown in Idaho. (3-15-22)~~

~~03. **Forms.** Forms for certificates of origin are issued by the department in triplicate. The original is designated for the dealer's use in commerce; the first copy is for the dealer's records; and the grower or dealer shall send the second copy, within two (2) weeks of issuance, to the Division of Plant Industries, Idaho State Department of Agriculture, P.O. Box 7249, Boise, ID 83707. (3-15-22)~~

~~04. **Out-of-State Issued Certificates.** No person may export ginseng grown in Idaho using an out-of-state issued certificate. (3-15-22)~~

~~05. **Wild Ginseng Certificates.** Certificates of origin will not be issued for wild ginseng. (3-15-22)~~

~~06. **Final Retail Sales.** Subsection 361.01 does not apply to a person who sells or ships cultivated ginseng out of state to a person who is buying or receiving it solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record for a period of three (3) years that includes: name and address of the buyer or receiver; weight of the ginseng in pounds and ounces; date of the sale or shipment; county of harvest of the ginseng; and year of harvest of the ginseng. (3-15-22)~~

~~362.—369. (RESERVED)~~

~~370. **MAINTAINING SEPARATE LOTS OF GINSENG.**~~

~~Dealers shall maintain separation between lots of out-of-state ginseng and that harvested in Idaho until a certificate of origin has been issued for the ginseng harvested in Idaho. (3-15-22)~~

~~371. **DEALER OR GROWER HOLDING GINSENG AFTER DECEMBER 31 OF THE YEAR.**~~

~~Any grower or dealer holding ginseng on or after December 31 shall report all carryover stocks on a form provided by the department. The form shall list the name and address of the grower or dealer; location of the lot; lot identification; county of harvest; dry or green weight in pounds and ounces; and year of harvest. (3-15-22)~~

~~372.—379. (RESERVED)~~

~~380. **INSPECTION AND DISCLOSURE OF RECORDS.**~~

~~01. **Inspection.** All records required to be kept under Subchapter C shall be made available to the department upon request for inspection and copying. (3-15-22)~~

~~02. **Disclosure.** The department will not disclose information obtained regarding purchases, sales, or production of an individual ginseng dealer, except for providing reports to the United States Fish and Wildlife Service. (3-15-22)~~

~~381.—389. (RESERVED)~~

~~390. **EXPORT PROCEDURES.**~~

~~Valid federal Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents are necessary to export ginseng. (3-15-22)~~

~~391. **FEES—HOURLY, OVERTIME.**~~

~~Fees will be charged to cover the department's cost of implementing Subchapter C. (3-15-22)~~

~~01. **Certification and Overtime Rate.** Ginseng certification services will be provided at an hourly and overtime rate as provided in Section 392 of Subchapter C. The overtime rate will apply for service provided subsequent to a regularly scheduled eight (8) hour week day shift or on Saturdays, Sundays, and state legal holidays. No service will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5 p.m., on the previous day. (3-15-22)~~

~~02. **Minimum Charges.** Charges will be for a minimum of one (1) hour. Additional time will be charged in one half (1/2) hour increments. (3-15-22)~~

**392. ~~SCHEDULE OF FEES AND CHARGES.~~**

The following schedule for ~~ginseng certification services~~ apply: ~~(3-15-22)~~

- ~~01. **Registration.** Registration (grower or dealer or grower and dealer), twenty five dollars (\$25). ~~(3-15-22)~~~~
- ~~02. **Certificate of Origin Form.** Certificate of origin form, each, ten dollars (\$10). ~~(3-15-22)~~~~
- ~~03. **Hourly Rate.** Hourly rate for certification services, twenty eight dollars (\$28). ~~(3-15-22)~~~~
- ~~04. **Overtime Rate.** Overtime rate for certification services, thirty three dollars (\$33). ~~(3-15-22)~~~~

~~393~~**61.** -- 999. (RESERVED)

# 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 State Department of Agriculture \_\_\_\_\_

**Agency Contact:** Lloyd B. Knight \_\_\_\_\_ **Phone:** (208)332-8615 \_\_\_\_\_

**Date:** November 7, 2023 \_\_\_\_\_

**IDAPA, Chapter and Title Number and Chapter Name:**

[IDAPA 02.06.04 – Rules Governing Plant Exports](#) \_\_\_\_\_

**Fee Rule Status:**  Proposed  Temporary

**Rulemaking Docket Number:** 02-0604-2301 (ZBR Fee Rule) \_\_\_\_\_

## STATEMENT OF ECONOMIC IMPACT:

Fees for these voluntary services are proposed to be removed from the rule and will be published annually on the department website at [www.agri.idaho.gov](http://www.agri.idaho.gov). Fees will be updated every three (3) years. Proposed fees will be posted for comment no later than September 1, final fees will be posted no later than November 1 to be in effect the following January 1. These include fees for phytosanitary certificates and field or lot inspections. This will better allow the agency to set fees in a manner to ensure fees are established during the writing of contracts between our company customers and their growers.