

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 02.02.15 - Rules Governing the Seed Indemnity Fund (ZBR Chapter Rewrite, Fee Rule) -
Proposed Rule (Docket No. 02-0215-2301);

IDAPA 02.06.01 - Rules Governing the Production and Distribution of Seed (Fee Rule) - Proposed
Rule (Docket No. 02-0601-2301).

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 02.02.15 - Rules Governing the Seed Indemnity Fund (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 02-0215-2301)

IDAPA 02.06.01 - Rules Governing the Production and Distribution of Seed (Fee Rule) - Proposed Rule (Docket No. 02-0601-2301)

1. IDAPA 02.02.15 - Rules Governing the Seed Indemnity Fund

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.15 - Rules Governing the Seed Indemnity Fund. According to the department, this rule is being rewritten 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 rules clarify the procedure the licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales, and remedies of the department for noncompliance. The department notes this is a fee rule and states that if an applicant is not licensed pursuant to the Pure Seed Law, Chapter 4, Title 22, Idaho Code, the license fee is equal to the out-of-state license fee and will be deposited to the state treasury and credited to the Seed Indemnity Fund. In compliance with Section 22-101A, Idaho Code, the rule regulates an activity not regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted and that there is no fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 22-5129, 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 02.06.01 - Rules Governing the Production and Distribution of Seed

Summary and Stated Reasons for the Rule

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.06.01 - Rules Governing the Production and Distribution of Seed. According to the department, the Idaho Eastern Oregon Seed Association has petitioned the agency to open rulemaking regarding the service fee schedule for the State Seed Lab. The department states that the petition expresses the concern that the current fee structure is incompatible with fee structures in surrounding state seed labs and private sector seed labs. In addition, the petition further states that the State Seed Lab fee structure is much lower than private sector and surrounding state seed labs. The department notes this is a fee rule and states that there were two rulemaking meetings and the proposed fee structure is a result of those meetings. The department states that the fee structure includes a 51% increase across all fees with additional increases for rush fees and beans. The department indicates, in compliance with Section 22-101A, Idaho Code, the rule regulates an activity not regulated by the federal government.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted and that there is no negative fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 22-2006, 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
02.02.15 – RULES GOVERNING THE SEED INDEMNITY FUND
DOCKET NO. 02-0215-2301 (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 22-5129, 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 ISDA for non-compliance.

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

If an applicant is not licensed pursuant to the “Pure Seed Law,” Title 22, Chapter 4, Idaho Code, the license fee is equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and will be deposited to the state treasury and credited to the SIF.

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 as a result 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:

There are no materials 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 entire rule regulates activity not regulated by the federal government. 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.

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

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0215-2301
(ZBR Chapter Rewrite)

02.02.15 – RULES GOVERNING THE SEED INDEMNITY FUND

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of~~ Section 22-5129, Idaho Code. (3-15-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ The title of this chapter is IDAPA 02.02.15, “Rules Governing the Seed Indemnity Fund.” (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 ISDA for non-compliance. (3-15-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5102, Idaho Code.~~ In addition to the definitions set forth in Section 22-5102, Idaho Code, and as used in this chapter, “type” means the class of seed (i.e. foundation, certified, registered, noncertified). (3-15-22)()

011. ABBREVIATIONS.

01. GAAP. Generally Accepted Accounting Principles. ()

02. ISDA. Idaho State Department of Agriculture. ()

- 03. SIF. The Idaho Seed Indemnity Fund. ()
- 04. USPS. United States Postal Service. ()

012. DELIVERY VOUCHER.

If there are no receipts or scale weight tickets issued at the time of seed crop delivery, a delivery voucher may be issued. ~~A delivery voucher is a document that may be used as written evidence of transfer in accordance with Section 22-5102(16), Idaho Code, evidencing delivery of producer's seed crop to seed buyer and includes, but is not limited to:~~ Delivery vouchers shall include at least the following: (3-15-22)()

- 01. **Producer.** The full name, address and phone number of the producer. ()
- 02. **Seed Buyer.** The full name, address and phone number of the seed buyer. ()
- 03. **Ship To.** The full name, address and phone number of the seed facility that the seed crop is to be transferred. ()
- 04. **Transportation Company.** The name, address and phone number of the transportation company delivering the seed crop to the seed facility. The truck, trailer and seal number, if applicable, driver name (printed), signature and date of transfer. ()
- 05. **Seed Crop Shipped.** For each seed crop delivery, the type, kind, variety, estimated volume or weight and date of shipment and container identification markings. ()

013. WAREHOUSE RECEIPTS.

The following information is required on each warehouse receipt: ()

- 01. **Name of Producer.** ()
- 02. **Name and Address of Seed Buyer.** ()
- 03. **Kind of Seed Crop.** ()
- 04. **Date of Delivery.** ()
- 05. **Weight of Seed Crop Delivered.** ()
- 06. **Lot Identification.** ()

014. SCALE WEIGHT TICKETS.

Scale weight tickets for electronic scales that are recorded and maintained electronically are exempt from the sequentially numbered and in triplicate requirement. ()

- 01. **Pre-Numbered Scale Tickets.** If a seed buyer has access to a scale that can be used for weighing seed, the seed buyer is to use pre-numbered scale tickets. ()
- 02. **Numerical Order Requirement.** A copy of each ticket must be maintained in numerical order. ()
- 03. **Custom Scale Requirement.** If a seed buyer does not have access to a scale and has seed crop custom weighed at various locations, the seed buyer must maintain a copy of the scale ticket in chronological order as part of the seed crop records. ()

015. -- 025. (RESERVED)

026. **LICENSE**~~ING~~ **FEE**~~S~~.

~~01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 22, Chapter 51, Idaho Code, the licensed seed buyer must post the license in a conspicuous place in each place of business or in any other place as the director may determine. The ISDA will issue a duplicate license for each additional seed facility. (3-15-22)~~

~~02.01. License Fee. If an applicant is not licensed pursuant to the "Pure Seed Law," Title 22, Chapter 4, Idaho Code, the license fee is equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and will be deposited to the state treasury and credited to the SIF. ()~~

~~03.2. Return of Suspended or Terminated License. If a license issued to a seed buyer has lapsed or is suspended, revoked or canceled by the director, the license and all duplicates shall be returned to the ISDA. At the expiration of any period of suspension, revocation or cancellation, the license will be returned to the seed buyer to whom it was originally issued and be posted as prescribed by these rules. ()~~

~~04.3. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a seed buyer, a duplicate may be issued under the same number or a new number at the discretion of the director. ()~~

~~05.4. License Reinstatement Fee. If license renewal material is received by the ISDA after the current license has expired, but no later than thirty (30) days past due, a reinstatement fee of one hundred dollars (\$100) will be assessed. If license renewal material is received after the thirty (30) day late period it will be considered an original license application and will be assessed a license fee equal to the requirements of Section 026. The exemption for license fees in Section 22-5103(3)(a), Idaho Code, will not apply to license renewals that have been received by the ISDA later than thirty (30) days. Fees collected by this subsection will be deposited in the state treasury and credited to the SIF account. ()~~

~~06. Additional License Application Information. The ISDA may request additional license information including, but not limited to: (3-15-22)~~

- ~~a. Names of officers of corporations or limited liability companies. (3-15-22)~~
- ~~b. Company information as required in the application form. (3-15-22)~~
- ~~c. Outstanding producer financial obligations. (3-15-22)~~
- ~~d. Name and address of banks that handle business accounts. (3-15-22)~~

~~07. License Duration. Licenses issued under the provisions of Title 22, Chapter 51, Idaho Code, expire on the 30th day of June of each year. (3-15-22)~~

027. -- 035. (RESERVED)

036. AMOUNT OF BOND FOR SEED STORED FOR WITHDRAWAL.
For the purpose of calculating the bond required pursuant to Section 22-5105, Idaho Code, the value for seed stored for withdrawal is calculated by either using the commonly accepted market price of similar seed crops within the same geographic location or equal to the average value of the same kind of seed crop owned by the seed buyer, whichever is greater, as determined by ISDA. ()

~~**037. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.**~~

~~01. Bonding Requirement. The amount of bond to be furnished will be fixed at a rate pursuant to Section 22-5105, Idaho Code. (3-15-22)~~

~~02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, and as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code, or as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit will be fixed at whichever of the following amounts is greater:~~

(3-15-22)

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

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

0387. -- 046. (RESERVED)

047. MAINTENANCE OF RECORDS.

All records and accounts required under Title 22, Chapter 51, Idaho Code, are kept separate and distinct from all records and accounts of any other business of the seed buyer and be subject to inspection by the Director at any reasonable time. Electronic records may be maintained outside of Idaho provided they are available for examination by the ISDA within the state at any reasonable time. ()

048. -- 049. (RESERVED)

050. INSURANCE REQUIREMENTS.

01. Insurance Coverage. Pursuant to Section 22-5114, Idaho Code, the seed buyer must maintain a commercial property policy for loss against, but not limited to: ()

- a. Loss from fire; ()
- b. Loss from internal explosion; ()
- c. Loss from lightning; ()
- d. Loss from tornado. ()

02. Insurance Deductible. The maximum deductible allowed for insurance required by Section 22-5114, Idaho Code, is fifty thousand dollars (\$50,000). However, a larger deductible may be allowed at the discretion of the director. The request must be submitted in writing and kept on file. ()

03. Seed Stored for Withdrawal. The amount of insurance coverage must be sufficient to cover the full replacement value of similar or better kind and quality of seed crop. ()

~~**04. Self-Insurance.** A request for self insurance must be submitted to the ISDA in writing and signed by the seed buyer or his representative. Supporting evidence of ability to pay seed crop obligations, in the event of a loss due to fire, internal explosions, lightning, or tornadoes, must be attached to the self insurance request. (3-15-22)~~

~~a. The director may accept or reject the self insurance request. The director's findings will be in writing and kept on file. (3-15-22)~~

~~b. If a seed buyer is self-insured and the seed crop within the licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers within thirty (30) days of the loss. Failure of the seed buyer to make such settlement is cause to revoke the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the thirty (30) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. (3-15-22)()~~

05. Insurance Settlement. When the seed crop within a licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers having seed crops transferred to the seed buyer or stored for withdrawal within ten (10) days after settlement with the insurance company. Failure of the seed buyer to make such settlement is cause to revoke the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the ten (10) day time period. If

only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. ()

051. -- 059. (RESERVED)

060. NONCOMPLIANCE -- REQUIREMENTS.

If a seed buyer is not meeting its obligations to producers, does not have the ability to pay producers, or refuses to submit records and papers for lawful inspection, the ISDA will give written notice to the seed buyer and direct the seed buyer to comply with all of the following requirements within ten (10) working days or as agreed to by the ISDA. ()

01. Additional Security Requirements. If it appears the licensee does not have the ability to pay producers for seed crops transferred, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the ISDA may require the licensee 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. ()

02. ~~Provide an Audited or Reviewed Financial Statement.~~ In addition to Section 22-5113, Idaho Code. ~~The ISDA may require the licensee to submit an audited or reviewed financial statement prepared for the current financial accounting year by an independent certified public accountant or licensed public accountant. The audited or reviewed financial statement is to be prepared in accordance with GAAP. The ISDA may request a follow-up review of the submitted financial statement.~~ (3-15-22)()

061. -- 069. (RESERVED)

070. HOW ASSESSMENTS ARE TO BE CALCULATED.

~~Pursuant to Section 22-5121, Idaho Code, a~~ All seed buyers must collect assessments from producers who transfer seed crop or store for withdrawal. Assessments are calculated as follows: (3-15-22)()

01. Contract. Assessments are collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop. ()

02. Seed Stored for Withdrawal. On the clean or estimated clean weight at the time the seed crop is withdrawn from the seed facility: ()

a. The initial rate of assessment for cereal grain, lentil, pea, and dry edible bean and oil seed stored for withdrawal is not to exceed one hundredth (1/100) cent per pound. ()

b. The initial rate of assessment for all seed crops stored for withdrawal other than seed crops pursuant to Section 070, is not to exceed one half (1/2) cent per pound. ()

c. The SIF advisory ~~board will~~ committee may review the assessment rate annually and make recommendations for change, as necessary, to the director. (3-15-22)()

d. If the amount of assessment for a producer on all seed stored for withdrawal made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. ()

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

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

071. -- 079. (RESERVED)

080. COLLECTION AND REMITTANCE OF SIF ASSESSMENTS.

SIF assessments are collected from obligations owed to the producer or at the time of withdrawal by the seed buyer

and remitted to the ISDA. If assessment is paid by mail the payment must be postmarked no later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. ()

081. -- 089. (RESERVED)

090. CLAIM FORMS AND PAYMENT FROM THE FUND.

01. Claim Forms. Claim forms will be provided ~~either via the USPS, by electronic transfer by the ISDA, or other commercial means~~ by the Department. (3-15-22)()

02. Contract. If the seed crop is contracted, the value of the contract price of the seed crop, at the time of payment, may be used to determine payment from the SIF. ()

03. Not Contracted or Stored for Withdrawal. If the seed crop is not contracted or stored for withdrawal, the value for payment from the SIF will be determined by a survey of prices, for similar seed crops and similar seed facilities, within the same geographic location as the failed seed buyer. ()

091. -- ~~099.~~ (RESERVED)

~~100. EXEMPTIONS.~~

~~Producers are not eligible to participate in SIF and no assessments will be collected from:~~ (3-15-22)

~~**01. Producers With a Financial or Management Interest.** Producers that have a financial or management interest in a seed facility, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code.~~ (3-15-22)

~~**02. Producers That Sell or Transfer to Another Producer.** Producers that sell to another producer, none of which are seed buyers.~~ (3-15-22)

~~**03. Deliveries or Transfers to Unlicensed Seed Facilities.** Producers that deliver or transfer seed crops to an unlicensed facility.~~ (3-15-22)

~~101. -- 999. (RESERVED)~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.01 – RULES GOVERNING THE PRODUCTION AND DISTRIBUTION OF SEED

DOCKET NO. 02-0601-2301 (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 22-2006, 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:

The Idaho Eastern Oregon Seed Association (IEOSA) has petitioned the agency to open rulemaking regarding the service fee schedule for the State Seed Lab, which is operated by the agency. The petition expresses the concern that the current fee structure is “incompatible” with fee structures in surrounding state seed labs and private sector seed labs. The petition further states that the State Seed Lab fee structure is much lower than private sector and surrounding state seed labs.

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

Two rulemaking meetings were held, and the fee structure proposed is a result of those meetings. The fee structure includes a 51% increase across all fees, with additional increases for rush fees and beans as detailed below and included in Sections 190 through 192.

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
AGRICULTURAL GRASS SEED			
Bluegrasses	\$68	\$38	\$60
Bromegrasses	\$57	\$36	\$60
Fescues	\$53	\$33	\$60
Orchardgrass	\$57	\$38	\$60
Ryegrasses	\$57	\$35***	\$60
Timothy	\$42	\$35	\$60
For all others the hourly rate will apply			
FIELD SEED			
Alfalfa, clovers and trefoils	\$30	\$26	\$60

Cereals (Barley, Oats, Rice, Rye, Triticale and Wheat)	\$38	\$26	\$60
Beans	\$32	\$28	\$60
Corn (all types)	\$30	\$26	\$60
Peas, and Lentils	\$27	\$26	\$60
For all others the hourly rate will apply			
VEGETABLES, FLOWERS AND HERB SEED			
Brassica (Canola, Cauliflower, Broccoli, Radish, etc.)	\$60	\$26	\$76
Beets and Swiss chard	\$44	\$48	\$60
Carrots, celery, dill and parsley	\$41	\$30	\$60
Curcubits (Squash, melons, etc.)	\$38	\$30	\$60
Flowers (Bachelors button, poppy, etc.)	\$60	\$38	\$76
Lettuce, tomato, and pepper	\$38	\$30	\$60
Onion and Chives	\$38	\$30	\$60
For all others the hourly rate will apply			
TREE AND SHRUB SEED			
Bitterbrush	\$60	\$45	\$76
Saltbush	\$91	\$45	\$76
Chokecherry and Woods' rose	\$38	\$91	\$91
Serviceberry, cliff-rose and mahogany	\$45	\$45	\$60
Trees (Firs, pines, spruces, etc.)	\$38	\$45	\$60
For all others the hourly rate will apply			
RANGE AND NATIVE SEED			
Bluestems and grammas	Hourly Rate	\$45	\$76
Globemallow and penstemons	\$60	\$45	\$76
Kochia and forage Kochia	\$45	\$45	\$60
Rushes and Sedges	Hourly Rate	\$45	\$76
Sagebrush and Rabbitbrush	Hourly Rate	\$45	\$60
Wheatgrasses, wildryes, and squirreltail	\$60	\$38	\$60
Winterfat	Hourly Rate	\$45	Hourly Rate
For all others the hourly rate will apply			

* Samples with high levels of impurities (i.e. other crops, weeds, multiple florets, inert materials) requiring more than one (1) hour analyst time for purity testing will be charged the standard hourly rate of forty dollars (\$40) for each additional hour.

** For all samples submitted for a TZ or Germination test requiring more than one (1) hour for cleaning and/or preparing will be charged at the standard hourly rate of forty dollars (\$40) for each additional hour.

*** With germination fluorescence testing thirty dollars (\$30).

Special Testing Fees	
Test Procedures:	Fees \$/Unit
All States Noxious	\$38
Canada: Purity Germination	\$20 - Added to purity fee \$4.00- Added to germination fee
Certified Grains	\$13 - Added to purity fee
Cold Test	\$35
Crop & Weed Check	\$37
Dormancy Percentage	\$11 - Minimum or Dormant % found x germination fee
E.C. Norms	\$30
Ergot Check	\$20
Noxious Weed Germination (Compost/Mulch, etc.)	\$27
Noxious Weed Purity (Hay, Straw, etc.)	\$Hourly Rate
Identification	\$8- 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 Germination	\$20 - Added to purity fee \$4.- Added to germination fee
Mixtures: Purity Germination Tetrazolium	\$19 - Added per kind exceeding 5% \$19 - Added per kind exceeding 5% \$27 - Added per kind exceeding 5%
Moisture Test	\$21

Round-Up-Ready Trait Test (Alfalfa, Canola, Corn)	\$60
Sand Germination	\$38
Seed Count	\$20
Soil Exam	\$43.50 <u>20.00</u>
Sod Quality:	
Bentgrass	\$100
Bermudagrass	\$97
Bluegrass	\$97
Soil Germination	\$35
Species Exam	\$37
Undesirable Grass Species	\$39

Miscellaneous Fees	
Type of Service:	Fees \$/Unit
Administrative Charge per Test for Internet Access and Data Processing.	Not to exceed \$2 per test
Hourly Charge	\$60
Reports:	
Merge Records	\$4
Rush Service (priority processing over standard)	\$75
Super Rush Service (priority processing over Rush)	\$150

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:

If there were no changes in sample volume, the proposed changes would result in an additional \$110,000 in dedicated fund revenue.

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 5, 2023 Idaho Administrative Bulletin, [Vol. 23-7, page 12](#).

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:

This rule regulates an activity that is not regulated by the federal government; therefore the entire rule is broader in scope or more stringent than federal law. All activity is authorized or directed by Idaho Code.

The detailed 22-101A analysis can be found on the agency’s website at: 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

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0601-2301
(Only Those Sections With Amendments Are Shown.)

190. SERVICE TESTING FEES -- PURITY, GERMINATION AND TETRAZOLIUM FEES.

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
AGRICULTURAL GRASS SEED			
Bluegrasses	\$4568	\$2538	\$4060
Bromegrasses	\$3857	\$2436	\$4060
Fescues	\$3553	\$2233	\$4060
Orchardgrass	\$3857	\$2538	\$4060
Ryegrasses	\$3857	\$2335***	\$4060

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
Timothy	\$ 28 <u>42</u>	\$ 23 <u>35</u>	\$ 40 <u>60</u>
For all others the hourly rate will apply			
FIELD SEED			
Alfalfa, clovers and trefoils	\$ 20 <u>30</u>	\$ 17 <u>26</u>	\$ 40 <u>60</u>
Cereals (Barley, Oats, Rice, Rye, Triticale and Wheat)	\$ 25 <u>38</u>	\$ 17 <u>26</u>	\$ 40 <u>60</u>
Beans	\$ 18 <u>32</u>	\$ 16 <u>28</u>	\$ 40 <u>60</u>
Corn (all types)	\$ 20 <u>30</u>	\$ 17 <u>26</u>	\$ 40 <u>60</u>
Peas, and Lentils	\$ 18 <u>27</u>	\$ 17-50 <u>26</u>	\$ 40 <u>60</u>
For all others the hourly rate will apply			
VEGETABLES, FLOWERS AND HERB SEED			
Brassica (Canola, Cauliflower, Broccoli, Radish, etc.)	\$ 40 <u>60</u>	\$ 17 <u>26</u>	\$ 50 <u>76</u>
Beets and Swiss chard	\$ 29 <u>44</u>	\$ 32 <u>48</u>	\$ 40 <u>60</u>
Carrots, celery, dill and parsley	\$ 27 <u>41</u>	\$ 20 <u>30</u>	\$ 40 <u>60</u>
Curcubits (Squash, melons, etc.)	\$ 25 <u>38</u>	\$ 20 <u>30</u>	\$ 40 <u>60</u>
Flowers (Bachelors button, poppy, etc.)	\$ 40 <u>60</u>	\$ 25 <u>38</u>	\$ 50 <u>76</u>
Lettuce, tomato, and pepper	\$ 25 <u>38</u>	\$ 20 <u>30</u>	\$ 40 <u>60</u>
Onion and Chives	\$ 25 <u>38</u>	\$ 20 <u>30</u>	\$ 40 <u>60</u>
For all others the hourly rate will apply			
TREE AND SHRUB SEED			
Bitterbrush	\$ 40 <u>60</u>	\$ 30 <u>45</u>	\$ 50 <u>76</u>
Saltbush	\$ 60 <u>91</u>	\$ 30 <u>45</u>	\$ 50 <u>76</u>
Chokecherry and Woods' rose	\$ 25 <u>38</u>	\$ 60 <u>91</u>	\$ 60 <u>91</u>
Serviceberry, cliff-rose and mahogany	\$ 30 <u>45</u>	\$ 30 <u>45</u>	\$ 40 <u>60</u>
Trees (Firs, pines, spruces, etc.)	\$ 25 <u>38</u>	\$ 30 <u>45</u>	\$ 40 <u>60</u>
For all others the hourly rate will apply			
RANGE AND NATIVE SEED			
Bluestems and grammas	Hourly Rate	\$ 30 <u>45</u>	\$ 50 <u>76</u>
Globemallow and penstemons	\$ 40 <u>60</u>	\$ 30 <u>45</u>	\$ 50 <u>76</u>

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
Kochia and forage Kochia	\$ 30 <u>45</u>	\$ 30 <u>45</u>	\$ 40 <u>60</u>
Rushes and Sedges	Hourly Rate	\$ 30 <u>45</u>	\$ 50 <u>76</u>
Sagebrush and Rabbitbrush	Hourly Rate	\$ 30 <u>45</u>	\$ 40 <u>60</u>
Wheatgrasses, wildryes, and squirreltail	\$ 40 <u>60</u>	\$ 25 <u>38</u>	\$ 40 <u>60</u>
Winterfat	Hourly Rate	\$ 30 <u>45</u>	Hourly Rate
For all others the hourly rate will apply			

* Samples with high levels of impurities (i.e. other crops, weeds, multiple florets, inert materials) requiring more than one (1) hour analyst time for purity testing will be charged the standard hourly rate of forty dollars (\$40) for each additional hour.

** For all samples submitted for a TZ or Germination test requiring more than one (1) hour for cleaning and/or preparing will be charged at the standard hourly rate of forty dollars (\$40) for each additional hour.

*** With germination fluorescence testing thirty dollars (\$30). (~~3-15-22~~)()

191. SERVICE TESTING FEES -- SPECIAL TESTS.

Special Testing Fees	
Test Procedures:	Fees \$/Unit
All States Noxious	\$ 25 <u>38</u>
Canada: Purity Germination	\$ 13 <u>20</u> - Added to purity fee \$ 2,504 <u>1,00</u> - Added to germination fee
Certified Grains	\$13 - Added to purity fee
Cold Test	\$ 23 <u>50</u> <u>35</u>
Crop & Weed Check	\$ 24 <u>50</u> <u>37</u>
Dormancy Percentage	\$ 40 <u>11</u> - Minimum or Dormant % found x germination fee
E.C. Norms	\$ 20 <u>30</u>
Ergot Check	\$13.50
Noxious Weed Germination (Compost/Mulch, etc.)	\$ 18 <u>27</u>
Noxious Weed Purity (Hay, Straw, etc.)	\$ 40 <u>Hourly Rate</u>
Identification	\$ 5 <u>8</u> - 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.

Special Testing Fees	
Test Procedures:	Fees \$/Unit
ISTA: Purity Germination	\$ 1320 - Added to purity fee \$ 2504 - Added to germination fee
Mixtures: Purity Germination Tetrazolium	\$ 12.5019 - Added per kind exceeding 5% \$ 12.5019 - Added per kind exceeding 5% \$ 1827 - Added per kind exceeding 5%
Moisture Test	\$ 4421
Round-Up-Ready Trait Test (Alfalfa, Canola, Corn)	\$ 4060
Sand Germination	\$ 2538
Seed Count	\$ 13.5020
Soil Exam	\$ 13.5020.00
Sod Quality: Bentgrass Bermudagrass Bluegrass	\$ 66100 \$ 6497 \$ 6497
Soil Germination	\$ 23.5035
Species Exam	\$ 24.5037
Undesirable Grass Species	\$ 25.5039

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192. 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 per test
Hourly Charge	\$ 4060
<u>Reports:</u>	
Merge Records	\$4
Rush Service	\$ 2575
<u>Super Rush Service (priority processing over Rush)</u>	\$ 150

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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 State Department of Agriculture _____

Agency Contact: Lloyd Knight _____ **Phone:** (208)332-8615 _____

Date: November 7, 2023 _____

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 02.02.15 – Rules Governing the Seed Indemnity Fund](#) _____

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 02-0215-2301 (ZBR Fee Rule) _____

STATEMENT OF ECONOMIC IMPACT:

The assessments outlined in Section 070 are as defined in statute (Section 22-5121, Idaho Code). These assessments have not been changed from what is already defined in statute.

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 02.06.01 – Rules Governing the Production and Distribution of Seed](#) _____

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 02-0601-2301 (ZBR Fee Rule) _____

STATEMENT OF ECONOMIC IMPACT:

The Idaho Eastern Oregon Seed Association (IEOSA) has petitioned the agency to open rulemaking regarding the service fee schedule for the State Seed Lab, which is operated by the agency. The petition expresses the concern that the current fee structure is “incompatible” with fee structures in surrounding state seed labs and private sector seed labs. The petition further states that the State Seed Lab fee structure is much lower than private sector and surrounding state seed labs.

Two rulemaking meetings were held, and the fee structure proposed is a result of those meetings. The fee structure includes a 51% increase across all fees, with additional increases for rush fees and beans as detailed below and included in Sections 190 through 192.

As the rulemaking record clearly shows, this rulemaking and the subsequent recommended fee schedule were proposed by the industry for the service provided by the Seed Lab.