

Dear Senators VANORDEN, Zuiderveld, Wintrow, and
Representatives VANDER WOUDE, Erickson, Chew:

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

IDAPA 16.02.25 - State Laboratory Fees - Proposed Rule (Fee Rule) (Docket No. 16-0225-2301).

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 09/28/2023. 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 10/26/2023.

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 Health & Welfare Committee and the House Health & Welfare Committee
FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen
DATE: July 6, 2023
SUBJECT: Department of Health and Welfare

IDAPA 16.02.25 - State Laboratory Fees - Proposed Rule (Fee Rule) (Docket No. 16-0225-2301)

Summary and Stated Reasons for the Rule

This proposed rule raises state laboratory fees for certain E. coli tests in order to conform the rule to fees negotiated with stakeholders in 2022.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted, as it was deemed not feasible; however, the fee increases were negotiated with stakeholders. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

This rulemaking appears to be authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

cc: Department of Health and Welfare
Frank Powell and Trinette Middlebrook

***** 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.

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

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

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.25 – STATE LABORATORY FEES

DOCKET NO. 16-0225-2301 (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 Sections 56-1003 and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Wednesday, July 12, 2023 9:00 a.m. - 11:00 a.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m0cbfbb28f4e4cd018af8fbcadd8dc59</p> <p>Join by meeting number Meeting number (access code): 2761 965 6543 Meeting password: PMfYXvKg355 (76399854 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Wednesday, July 19, 2023 2:00 p.m. - 4:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m5253cfb0ab7c5956de6bcef0b049c0dc</p> <p>Join by meeting number Meeting number (access code): 2764 823 7694 Meeting password: G83gUA8SuU4 (48348287 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

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. Each meeting will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

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

This rulemaking is being done to correct errors in the fees for total coliform testing procedures under Section 200 and align the fees to reflect negotiations held with stakeholders prior to the chapter rewrite approved by the 2022 legislature. Further, this assures that the state will not be in competition with commercial laboratories for these procedures.

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

The fees in Subsection 200.02 for Total Coliform/E. coli, Presence/Absence are being revised from the pre-2022 price of \$18 to the negotiated price of \$21. Similarly, Total Coliform/E. coli, Quantitative are being revised from \$20 to \$33.

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:

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, however, it will be an increase in dedicated funds for the State Laboratory. The proposed revisions will be within the laboratory's appropriation for receipts so it should not result in a substantive budget impact. This increase will help offset higher operating costs associated with this testing. Based upon the 2022 testing volume for the laboratory, these fee revisions will result in approximately a \$12,100 increase in receipts.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted as it was deemed not feasible. This rulemaking is being done simply to correct laboratory fees as negotiated with stakeholders prior to the chapter rewrite approved by the 2022 legislature.

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 under this chapter of rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chris Ball at (208) 334-0568.

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 July 26, 2023.

DATED this 8th day of June, 2023.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone;
(208) 334-6558 fax
dhwrules@dhw.idaho.gov email

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0225-2301
(Only Those Sections With Amendments Are Shown.)**

200. FEES FOR LABORATORY TESTS.

01. Laboratory Test, Air -- Table.

Fees for Laboratory Tests -- Air	
Air Test Name	Fee
PM 2.5 Filter	\$20.00

(3-15-22)

02. Laboratory Tests, Microbiology -- Table.

Fees for Laboratory Tests -- Microbiology	
Microbiology Test Name	Fee
Enzyme-Linked Immunoassay (EIA)	\$146.00
Heterotrophic Plate Count	\$28.00
Bacterial Isolate Identification	\$80.00
Legionella pneumophila in Water, Quantitative	\$29.00
Legionella spp. Culture and Identification	\$154.00
Pathogen Screen by Polymerase Chain Reaction (PCR)	\$131.00
Pseudomonas aeruginosa, in Water, Quantitative	\$50.00
Total Coliform/E. coli, Presence/Absence	\$48 21.00
Total Coliform/E. coli, Quantitative	\$20 33.00

(3-15-22)()

03. Laboratory Tests, Inorganic Chemistry -- Table.

Fees for Laboratory Tests -- Inorganic Chemistry	
Inorganic Chemistry Test Name	Fee
Alkalinity (CaCO ₃),	\$18.00
Ammonia as N,	\$22.00
Arsenic	\$23.00
Bromate	\$100.00
Bromide	\$32.00
Chlorate	\$100.00
Chloride	\$20.00
Chlorite	\$150.00

Fees for Laboratory Tests -- Inorganic Chemistry	
Inorganic Chemistry Test Name	Fee
Chlorophyll A and Pheophytin A	\$75.00
Conductivity	\$11.00
Cyanide	\$50.00
Direct Mercury Analysis	\$50.00
Fluoride	\$20.00
Hardness	\$28.00
Lead	\$23.00
Mercury	\$40.00
Metals Digestion	\$21.00
Metals each (Aluminum, Antimony, Barium, Beryllium, Boron, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Lithium, Magnesium, Manganese, Molybdenum, Nickel, Potassium, Selenium, Silicon, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc)	\$13.00
Metals Speciation	\$50.00
Nitrate + Nitrite as N	\$20.00
Nitrate as N	\$20.00
Nitrite as N	\$20.00
Orthophosphate as P	\$20.00
pH	\$10.00
Sulfate	\$20.00
Total Dissolved Solids	\$16.00
Total Kjeldahl Nitrogen	\$40.00
Total Phosphorus	\$28.00
Total Suspended Sediment	\$16.00
Total Suspended Solids	\$16.00
Turbidity	\$15.00
Uranium	\$23.00

(3-15-22)

04. Laboratory Tests, Organic Chemistry -- Table.

Fees for Laboratory Tests -- Organic Chemistry	
Organic Chemistry Test Name	Fee
1,2-dibromo-3-chloropropane/ethylene dibromide (DBCP/EDB/TCP)	\$125.00
Carbamates	\$175.00

Fees for Laboratory Tests -- Organic Chemistry	
Organic Chemistry Test Name	Fee
Chlorinated Herbicides	\$175.00
Diquat	\$175.00
ELISA	\$12.00
Endothall	\$175.00
Glyphosate	\$150.00
Haloacetic Acids	\$150.00
Oil and Grease	\$75.00
Organochlorine Pesticides / PCBs	\$175.00
Semi-volatile Compounds	\$225.00
Semi-volatile, GC-MS Screen (Qualitative Results)	\$150.00
Total Trihalomethanes (TTHMs)	\$110.00
Unknown Identification	\$100.00
Volatile Organic Compounds (VOC)	\$190.00

(3-15-22)

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: Department of Health and Welfare, Bureau of Laboratories

Agency Contact: Christopher Ball **Phone:** 208-334-0568

Date: 05-03-2023

IDAPA, Chapter and Title Number and Chapter Name:

16.02.25 State Laboratory Fees

Fee Rule Status: **Proposed** _____ **Temporary**

Rulemaking Docket Number: 16-0225-2301 _____

STATEMENT OF ECONOMIC IMPACT:

We are requesting to correct the fees listed in section 200.02 Total Coliform/E. coli, Presence/Absence from the pre-2022 price of \$18 to the negotiated price of \$21. Similarly, Total Coliform/E. coli, Quantitative needs to be corrected from \$20 to \$33. By not correcting the prices to those that were negotiated in 2022, the state lab will continue offering these tests at a price that is below current market prices. We do not want to be in competition with commercial laboratories and would like to amend the rule to reflect the prices we proposed in 2022. Based upon our 2022 testing volume this rule correction will result in approximately a \$12,100 increase in receipts for the state laboratory. This won't impact the SGF because it will be an increase in state laboratory dedicated funds. The proposed increase will be within our appropriation for receipts so it should not result in a substantive impact on the laboratory. This increase will help offset higher operating costs associated with this testing.