

PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Agricultural Affairs Committee
65th Idaho Legislature
First Regular Session – 2019



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2019

SENATE AGRICULTURAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.01 – RULES GOVERNING THE PURE SEED LAW

DOCKET NO. 02-0601-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-418, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 52-54](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-418, Idaho Code.

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

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

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:

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Dan Salmi, (208) 332-8526.

Dated this 4th day of October, 2018.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dated this 2nd day of August, 2018.

[LINK: LSO Rules Analysis Memo and Cost Benefit Analysis \(CBA\)](#)

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0601-1801

501. SERVICE TESTING FEES -- SPECIAL TESTS.

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

Special Testing Fees	
Test Procedures:	Fees \$/Unit
Mixtures:	
Purity	\$12.50 Added per kind exceeding 5%
Germination	\$12.50 Added per kind exceeding 5%
Tetrazolium	\$18.00 Added per kind exceeding 5%
Moisture Test	\$14.00
<u>Round-Up-Ready Trait Test (Alfalfa, Canola, Corn)</u>	<u>\$40.00</u>
<u>Sand Germination</u>	<u>\$25.00</u>
Seed Count	\$13.50
Pest, Disease, Soil & Ergot Check <u>Soil Exam</u>	\$13.50
Sod Quality:	
Bentgrass	\$66.00
Bermudagrass	\$64.00
Bluegrass	\$64.00
Soil Germination	\$23.50
Species Exam	\$24.50
Undesirable Grass Species	\$25.50

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502. SERVICE TESTING FEES -- MISCELLANEOUS FEES.

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

(3-30-06)()

**IDAPA 11 – IDAHO STATE POLICE
IDAHO BRAND BOARD**

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 25-1160, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 106–109](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-1160(5), Idaho Code.

The pending rule increases the cattle brand inspection fee by twenty-five cents (\$0.25), from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the minimum brand inspection fee from ten dollars (\$10) to twenty dollars (\$20). The fee increase moves the Brand Board cattle brand inspection fee closer to the maximum of one dollar twenty-five cents (\$1.25) set in Section 25-1160(1)(a), Idaho Code. For clarification purposes, the increase in cattle brand inspection fee also affects the fee schedule for the courtesy brand inspection fee, increasing it from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the Idaho livestock to pasture fee from forty-seven cents (\$0.47) to sixty cents (\$0.60). The Brand Board has not imposed a cattle brand inspection fee increase since FY2006.

Pursuant to Title 25-1160(5): “The state brand board may adopt a schedule or schedules of fees which are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees.”

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:

An estimated \$473,000 will be generated to the Brand Board from the Idaho livestock industry.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cody Burlile, State Brand Inspector, at (208) 884-7070.

Dated this 11th day of December, 2018.

Cody D. Burlile, State Brand Inspector
Idaho State Brand Board
700 S. Stratford Drive
P.O. Box 1177
Meridian, ID 83680-1177
Phone: (208) 884-7070
Fax: (208) 884-7097

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 25-1160, 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 17, 2018.

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

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

The Idaho State Brand Board has experienced a budget shortfall dating back to FY2016. To make up this shortfall, on October 2, 2017 the Brand Board adopted a temporary rule increasing cattle brand inspection fees by twenty-five cents (\$0.25), from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19), and the minimum brand inspection fee from ten dollars (\$10) to twenty dollars (\$20). The increase moved the Brand Board fees closer to the cap set in Section 25-1160, Idaho Code.

The notice and text of the Temporary/Proposed rulemaking published in the November 2017 Administrative Bulletin under Docket No. 11-0201-1701. The Board's intent was to complete the rulemaking and have a pending rule reviewed during the 2018 legislative session for final approval. Public hearings were requested and held and, based on ensuing discussions with constituents and legislators during the legislative session, the proposed rule under Docket No. 11-0201-1701 was vacated and a new rulemaking was initiated with the publication of the Notice of Intent to Promulgate a Rule to conduct additional negotiated rulemaking. The temporary rule adopted and promulgated under Docket No. 11-0201-1701 was extended and is currently in effect.

The Brand Board's shortfall of inadequate funds still exists. The FY2018 and FY2019 budget line items included increases in personnel costs, health care and benefit costs, cyber security liability insurance costs and an increased personnel and equipment costs. This, combined with lower market induced inspection count, has eroded the Brand Board's sustainable operating revenue. Without this fee increase the Brand Board faces a budget shortfall for FY2019 and beyond, which will result in a loss of required regulatory services.

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

The proposed rulemaking increases the cattle brand inspection fee by twenty-five cents (\$0.25), from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the minimum brand inspection fee from ten dollars (\$10) to twenty dollars (\$20). The fee increase moves the Brand Board cattle brand inspection fee closer to the maximum of one dollar twenty-five cents (\$1.25) set in Section 25-1160(1)(a), Idaho Code. For clarification purposes, the increase in cattle brand inspection fee also affects the fee schedule for the courtesy brand inspection fee, increasing it from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the Idaho livestock to pasture fee from forty-seven cents (\$0.47) to sixty cents (\$0.60). The Brand Board has not imposed a cattle brand inspection fee increase since FY2006.

According to Title 25-1160(5) "The state brand board may adopt a schedule or schedules of fees which are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees."

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:

An estimated \$473,000 will be generated to the Brand Board from the Idaho livestock industry.

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 June 6, 2018 Idaho Administrative Bulletin, **Vol. 18-6, Page 44**.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cody Burlile, (208) 884-7070.

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 24, 2018.

Dated this 30th day of August, 2018.

LINK: LSO Rules Analysis Memo and Cost Benefit Analysis (CBA)

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 11-0201-1801

- 004. OFFICES, MAILING ADDRESS, ~~AND~~ OFFICE HOURS, WEB ADDRESS, AND FORMS.**
- 01. Office Hours.** Office hours are Monday through Friday, 8 a.m. to 5 p.m. ()
 - 02. Mailing Address.** The mailing address of the Idaho State Brand Board is P.O. Box 1177, Meridian, Idaho 83680-1177. ()
 - 03. Main Office and District Offices – Street Addresses and Phone Numbers.** ()
 - a. Main Office.** 700 S. Stratford, Meridian, Idaho 83642. Phone Number - 208-884-7070. ()
 - b. Lewiston Office.** 1118 F St, Lewiston, Idaho 83501. Phone Number - 208-799-5019. ()
 - c. Caldwell Office.** 1900 E. Chicago, Caldwell, Idaho 83605. Phone Number - 208-459-4231. ()
 - d. Twin Falls Office.** 630 Railroad Avenue, Twin Falls, Idaho 83301. Phone Number - 208-733-8270. ()
 - e. Idaho Falls Office.** 701 Northgate Mile, Idaho Falls, Idaho 83401. Phone Number - 208-522-6676. ()
 - 04. Internet Address.** <https://www.isp.idaho.gov/brands/index.html>. ()
 - 05. Forms.** ~~Any or all~~ Forms used by the Idaho State Brand Board are available *for inspection* during office hours ~~at 700 S. Stratford, Meridian, Idaho 83642~~ **at the main Board office and at the district offices.** (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a Brand	\$50 initial recording fee plus a \$20 per year prorated staggered renewal fee every year thereafter	
Transfer of a recorded brand	\$50.00	
Renewal of a recorded brand (every five years)	\$100.00	
Duplicate brand registration certificate	\$1.50	
Ownership and transportation certificate	\$35.00	
Duplicate ownership and transportation certificate	\$5.00	
Annual inspection equine or bovine	\$5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$.94 <u>1.19</u>	\$1.50
Idaho livestock to pasture (per head)	\$.47 <u>.60</u>	\$.75
Minimum auction fee (per day)	\$50.00	\$50.00
Minimum field brand inspection fee	\$10 <u>20.00</u>	\$10 <u>20.00</u>
Courtesy brand inspection	\$.94 <u>1.19</u>	\$1.50

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.50
Idaho Horse Board (per head)	\$3.00
Idaho Department of Agriculture:	
Animal health (per head)	\$.22
Predator control (per head)	\$.05

~~(3-27-13)~~ ()

02. Due and Payable. Pursuant to Section 25-1160(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

041. -- ~~049~~50. (RESERVED)

~~050. LOCATIONS OF THE OFFICES OF THE IDAHO STATE BRAND BOARD.~~

- ~~**01. Main Office.** 700 S. Stratford, Meridian, Idaho 83642. (3-30-01)~~
- ~~**02. District Brand Offices.** (7-1-93)~~
 - ~~**a.** Lewiston, 2780 North & South Highway, Lewiston, Idaho 83501. (7-1-93)~~
 - ~~**b.** Caldwell, 1900 E. Chicago, Caldwell, Idaho 83605. (3-30-01)~~
 - ~~**c.** Twin Falls, 630 Railroad Avenue, Twin Falls, Idaho 83301. (7-1-93)~~
 - ~~**d.** Idaho Falls, 701 Northgate Mile, Idaho Falls, Idaho 83401. (7-1-93)~~