

Economic Impact Statement

LSA Document #10-242

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed rule will add inspection fees to be paid by distributors of agricultural and vegetable seeds to defray the costs of inspection, analysis, publication, and other expenses incurred in the administration of [IC 15-15-1](#).

IC 4-22-2.1-5(a)(1): Estimated Number of Small Businesses Affected

The State Seed Commissioner estimates that approximately 300 small businesses will be impacted by the changes to this administrative rule.

IC 4-22-2.1-5(a)(2): Estimated Average Reporting, Record Keeping, and Administrative Costs

The small businesses that are impacted by the proposed changes hold current Indiana seed permits and are currently required to maintain records and pay inspection fees under [IC 15-15-1](#). This proposed rule does not require additional record keeping or administrative costs that may be incurred under [IC 15-15-1-34](#).

IC 4-22-2.1-5(a)(3): Estimated Annual Fiscal Impact

Companies distributing agricultural and vegetable seeds in Indiana will continue to pay inspection fees based on the kind and amount of seed sold. Fees are based on total poundage of seed distributed in the state. The proposed fees in this rule represent a 25% increase for the seed kinds of alfalfas, clovers, grasses, and vegetable crop kinds (from \$0.24/100 pounds to \$0.30/100 pounds sold), and a 67% increase for all other seeds (from \$0.09/100 pounds sold to \$0.15/100 pounds sold). This increase in fees will represent an additional \$303,000 per year paid by all seed companies doing business in the state. Of this total fee increase, the impact on companies defined as "small business" under [IC 4-22-2.1-4](#) is estimated to be an increase of approximately \$101,000 annually. The rule proposal also establishes a new penalty fee structure assessed on businesses who fail to file required reports of distribution in violation of [IC 15-15-1](#). Penalty fees in the current statute are set at 10% of the amount due (based on total distribution for the reporting period). The rule proposal will set a minimum penalty of \$50 or 10% of total due, whichever is greater. This additional penalty is estimated to impact 10% or approximately 30 of the businesses holding permits to distribute seed in the state per reporting period.

IC 4-22-2.1-5(a)(4): Justification of Requirements

This proposed rule establishes "inspection fees" to replace those that currently exist in [IC 15-15-1-34](#). The fees provide the entire operating budget of the State Seed Commissioner to inspect and sample seed products, analyze seed for quality factors, and label claims and administer the Indiana Seed Law. No money is received from state government or other sources. These fees were initiated in 1921 upon passage of the first Indiana Seed Law and supported the administration and enforcement of the law. The State Seed Commissioner has traditionally established fee schedules to allow the program to operate for a projected 10 years. The current fee structure in [IC 15-15-1](#) was established in 1986. Without the establishment of fees by rule, the Seed Commissioner will exhaust all operating funds by late 2011 or early 2012.

IC 4-22-2.1-5(a)(5): Regulatory Flexibility Analysis

The proposed rule amendment has been carefully considered and designed to provide continued support of the state regulatory program for seeds distributed in Indiana. The fees are structured to provide a fair assessment rate on businesses by basing total fees due on actual volume of products sold. Hence, the more pounds of seed sold, the more fees that are owed. Consequently, the fee structure is designed as an equitable method of recovering program costs in administration and enforcement.

Economic Impact Statement Summary

The State Seed Commissioner has determined that to comply with its regulatory responsibilities to the seed consumer and seed industry in the state under [IC 15-15-1](#), that this rule amendment is critical. The continued operation and increased inspection authority serves to provide the industry with a competitive, fair marketplace to do business while assuring the consumer the confidence in purchasing quality seed products sold in the state. This proposed rule with fee increases has the full support of the Indiana Seed Trade Association, The Indiana Crop Improvement Association and farm organizations in the state.

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