

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Grape Growers and Wine Producers Commission:

IDAPA 48.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 48-0101-1900F) - Idaho Grape Growers and Wine Producers Commission.

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 07/23/2019. 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 08/20/2019.

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.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: July 02, 2019

SUBJECT: Grape Growers and Wine Producers Commission

IDAPA 48.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 48-0101-1900F) - Idaho Grape Growers and Wine Producers Commission

The Idaho Grape Growers and Wine Producers Commission submits notice of temporary and proposed rules that reauthorize and re-publish the following previously approved chapter at IDAPA 48.01.01 - Rules of the Idaho Grape Growers & Wine Producers Commission.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. A number of subsections/sections have been omitted from the previous chapter as follows:

- 020.04 - Late payment penalty - because these are optional assessments, the commission states that late fees do not make sense;
- 021.03 b-f - The commission states that this is more information than is necessary and eligible activities are already listed on the application;
- 021.05 - The commission states that this is unnecessary as the information is already set forth on the application;
- 021.06 - It appears that what was 021.06 becomes 021.05;
- 021.07 - The commission states that this is unnecessary as the information is already set forth on the application;
- 021.08 - The commission states that this is unnecessary as the information is already set forth on the application.

There are a number of minor, nonsubstantive changes. No other changes from the existing rules have been noted.

This is a fee rule. According to the commission, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

The rulemaking appears to be authorized pursuant to Sections 54-3605 and 54-3610, Idaho Code.

cc: Grape Growers and Wine Producers Commission
Moya Dolsby

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

***** 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 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-3605(15); 54-3610, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 48.01.01, Rules of the Idaho Grape Growers & Wine Producers Commission.

IDAPA 48

- 48.01.01, *Rules of the Idaho Grape Growers & Wine Producers Commission* – All rules except for *Subsections 020.04, 021.03.b. through 021.03.f., 021.05, 021.06, and 021.07.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These temporary rules are necessary to the operation of the Idaho Grape Growers and Wine Producers Commission to complete the mission of supporting Idaho's grape growers and winemakers and acting as the united voice of the Idaho wine industry, helping to grow awareness and sales of Idaho wines.

The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. The IGGWPC budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the IGGWPC budget.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brenna Christison, (208) 332-1538.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Brenna Christison
Operations & Finance Manager
Idaho Grape Growers and Wine Producers Commission
821 W. State Street
Boise ID 83702
(208) 332-1538

**IDAPA 48
TITLE 01
CHAPTER 01**

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 – RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. (3-19-07)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 48.01.01, “Rules of the Idaho Grape Growers and Wine Producers Commission.” (3-19-07)

02. Scope. These rules include, but are not limited to, levy of taxes and penalties as provided by Section 54-3610, Idaho Code. (3-19-07)

002. WRITTEN INTERPRETATIONS.

This Commission may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Commission office. (3-19-07)

003. ADMINISTRATIVE APPEALS.

The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure,” Section 100, et seq., apply. (3-19-07)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (3-19-07)

005. OFFICE INFORMATION.

01. Street Address. The offices of the Commission are located at 821 W. State Street, Boise, Idaho. (3-19-07)

02. Mailing Address. The mailing address of the Commission is 821 W. State Street, Boise, Idaho 83702. (3-19-07)

03. Telephone Number. The telephone number of the Commission is (208) 332-1538. (3-19-07)

04. Facsimile. The Commission’s FAX number is (208) 334-2505. (3-19-07)

05. Electronic Address. The Commission’s website at <http://www.idahowines.org>. (3-19-07)

006. PUBLIC RECORDS ACT COMPLIANCE.

Commission records are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-19-07)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, apply to this chapter. In addition, the following terms have the meanings set forth below: (3-29-10)

01. Applicant. An individual or organization who has submitted a written request for grant funds.

(3-29-10)

02. Program. The Grape and Wine Promotion, Education and Research Grant Program established by Section 021 of these rules. (3-29-10)

03. Recipient. An individual or organization who has been awarded a grant under the Program. (3-29-10)

011. -- 019. (RESERVED)

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, grapes grown, used, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax is: (3-29-17)

a. Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. (3-29-17)

b. Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

c. Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

d. Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

02. Minimum Levy. The minimum taxes paid by any grower or winery is one hundred dollars (\$100) annually. (3-29-10)

03. Payment of Tax. The grower harvesting grapes for the production of wine must pay the tax levied upon the grower. Each winery must pay the tax levied upon the winery for the production of wine. Purchasers of grapes grown or grape juice produced outside Idaho must pay taxes levied on such grapes and grape juice. Purchasers of grape juice produced in Idaho must pay taxes levied on such grape juice. All taxes must be paid on or before June 30 of each year. (3-29-17)

04. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. The letter must include the grower or producer's name and address. (3-19-07)

021. GRAPE AND WINE PROMOTION, EDUCATION, AND RESEARCH GRANT PROGRAM.

01. Program Objective. The objective of the Program is to promote the development of markets for Idaho grapes and grape by-products, provide research concerning grapes and grape by-products, and encourage the education of individuals, organizations, and the community concerning the production of grapes and grape by-products in Idaho. (3-29-10)

02. Eligible Applicants. Individuals, organizations, and educational entities may submit applications for funding from the Program. No official, officer, or employee of the Commission, or any child, parent, sibling, or household member of an official, officer, or employee of the Commission is eligible to submit an application for funding from the Program. A grower or producer not otherwise ineligible may apply for funding from the Program if such funding satisfies the Program objectives and does not primarily promote the interests of the Applicant. (3-29-10)

03. Eligible Activities and Costs. Eligible costs for the use of Program funds are limited to tuition and

fees for education or training. (6-30-19)T

04. Ineligible Activities and Costs. Grant funds may not be used for: (3-29-10)

a. Political, lobbying, religious, or illegal activities; or (3-29-10)

b. Payroll and administrative costs routinely incurred by a Recipient. (3-29-10)

05. Compliance with Law. All Recipients must comply with applicable law in the conduct of activities funded by the Program. Public entities and employees receiving or administering Program funds must comply with the ethics, personnel, bidding, and accounting requirements generally applicable to the entity or individual. (3-29-10)

022. -- 999. (RESERVED)