

Dear Senators GUTHRIE, Den Hartog, Jordan, and
Representatives BOYLE, Troy, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Beef Council, Idaho:

IDAPA 51.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 51-0101-1900F) - Idaho Beef Council.

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 07/22/2019. 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 08/19/2019.

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 Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: July 02, 2019

SUBJECT: Beef Council, Idaho

IDAPA 51.01.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 51-0101-1900F) - Idaho Beef Council

The Idaho Beef Council submits notice of temporary and proposed rules that reauthorize and re-publish the following previously approved chapter at IDAPA 51.01.01 - Rules of the Idaho Beef Council.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. Sections 400, 500 and 600 have been omitted regarding the logo, research and joint marketing. According to the council, those provisions were removed because they are basic business practices of the Idaho Beef Council. Other minor changes are nonsubstantive. No other changes from the existing rules have been noted.

This is a fee rule. According to the council, 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 Section 25-2906, Idaho Code.

cc: Beef Council, Idaho
TK Kuwahara

***** 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 51 – IDAHO BEEF COUNCIL

DOCKET NO. 51-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules 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 Section 25-2906 (9), 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 51, rules of the Idaho Beef Council:

IDAPA 51

- IDAPA 51.01.01, *Rules of the Idaho Beef Council* – All rules *except Sections 400, 500, and 600*. Section 300 was updated to reflect current personnel.

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. Idaho Beef Council rules are critical to maintaining daily operations which outline funding in regard to assessments, collection and refunds, as well as disbursements in regard to the collection fee to Brand Inspector, National Beef Promotion and Research Board, and operational/activity expenses.

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. Assessments include \$1.50 per head of cattle at the time the cattle are sold. This includes one dollar (\$1.00) required by the National Beef Promotion and Research Act, and fifty cents (\$.50) authorized by Section 25-2907(1).

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 T.K. Kuwahara at (208) 376-6004.

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.

T.K. Kuwahara
Chief Executive Officer
Idaho Beef Council
1951 W. Frederic Lane
Boise, ID 83705
Phone: (208) 376-6004
Fax: (208) 376-6002

**IDAPA 51
TITLE 01
CHAPTER 01**

IDAPA 51 – IDAHO BEEF COUNCIL

51.01.01 – IDAHO BEEF COUNCIL RULES

000. LEGAL AUTHORITY.

The Idaho Beef Council is authorized under Section 25-2906(9), Idaho Code, to adopt rules concerning the administration of the Beef Promotion Act. (7-1-93)

001. TITLE AND SCOPE.

These rules are titled IDAPA 51.01.01, "Idaho Beef Council Rules," IDAPA 51, Title 01, Chapter 01. These rules provide for a coordinated federal and state program of beef promotion and research funded by a one dollar and fifty cents (\$1.50) assessment on each head of cattle marketed in the state of Idaho. (3-29-10)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has 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 and copying at cost in the office of the Idaho Beef Council. (7-1-93)

003. ADMINISTRATIVE APPEALS.

All contested cases will be governed by the procedures set forth by the National Beef Promotion and Research Order, 7 CFR 1260, issued by the United States Department of Agriculture. All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Chief Executive Officer of the Idaho Beef Council. All such documents are considered filed when the original and one (1) copy of each document is received by the Chief Executive Officer of the Idaho Beef Council. (7-1-93)

004. INCORPORATION BY REFERENCE.

The Idaho Beef Council operates under the rules and regulations of the National Beef Promotion and Research Order, 7 CFR 1260 (Federal Register July 18, 1986). (3-29-10)

005. -- 006. (RESERVED)

007. OFFICE ADDRESS – OFFICE HOURS.

The Idaho Beef Council is located at 1951 W. Frederic Lane, Boise, Idaho, 83705, telephone (208) 376-6004, FAX (208) 376-6002. The Idaho Beef Council office is open from 8 a.m. to 5 p.m., Monday through Friday. (4-6-05)

008. -- 099. (RESERVED)

100. FUNDING.

01. Assessments. (7-1-93)

a. Each producer shall pay an assessment of one dollar and fifty cents (\$1.50) per head of cattle at the time the cattle are sold. This assessment consists of: (3-29-10)

i. One dollar (\$1) required by the National Beef Promotion and Research Order, and (3-29-10)

ii. Fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code. (3-29-10)

b. Producers selling or marketing cattle in interstate commerce will pay only one (1) assessment per individual sale of cattle. When cattle leave Idaho for the purpose of sale or slaughter, the assessment will be made at the time of brand inspection. When cattle leave Idaho for feeding or pasture where no change of ownership occurs, the promotion assessment will not be made. (7-1-93)

c. When cattle enter Idaho for sale or slaughter, the assessment will be made only if the assessment has not been paid when the cattle left their state of origin. These cattle will be assessed by the Idaho Brand Inspector, but they will be considered cattle from their state of origin. All assessments will be remitted to the Idaho Beef Council, with these cattle indicated by their state of origin. The Idaho Beef Council will pay to the originating state the assessments due them in a timely manner after payment has been received from the State Brand Inspector. (7-1-93)

d. The assessment implemented by this rule does not apply to the seller of cattle if the seller certifies that the seller's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee or other service fee; or if the seller certifies that he acquired ownership of cattle to facilitate the transfer of ownership of such cattle to a third party, establishes that such cattle are being resold not later than ten (10) days from the date on which the person acquired ownership and certifies that the assessment was collected from the seller when the person acquired ownership. A completed certificate of "non-producer status" must be given to the brand inspector or his agent at the time of inspection. If no certificate is produced the assessment will be levied. (7-1-93)

02. Collection. The State Brand Inspector shall collect the assessment in addition to and at the same time and manner as the fee charged for state brand inspection. The assessment will be submitted each month to the Beef Council, less collection fee. In addition, the State Brand Inspector will submit monthly, a written accounting of total number of head marketed, number of cattle assessed and not assessed (along with copies of the appropriate non-producer exemption forms), total collections, and state of origin documentation. (3-29-10)

03. Refunds. (3-29-10)

a. Any person from whom an assessment is collected has the right to request a refund of not more than fifty cents (\$.50) per head (Section 25-2907, Idaho Code). Refund requests must be mailed to the Idaho Beef Council within ninety (90) calendar days of payment of the assessment. The refund request must include the: (3-29-10)

- i. Name and address of the producer; (3-29-10)
- ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); (3-29-10)
- iii. Number of head on which a refund is requested; (3-29-10)
- iv. Total amount of refund requested; (3-29-10)
- v. Date of assessment; (3-29-10)
- vi. Producer's signature; and (3-29-10)
- vii. Proof of payment of the assessment (such as the brand inspection slip). (3-29-10)

b. The Idaho Beef Council will process the requested refunds on a calendar quarterly basis. Any refund request that is received by the Idaho Beef Council less than fifteen (15) days from the end of the calendar quarter shall be paid at the end of the next quarter. (3-29-10)

101. -- 199. (RESERVED)

200. DISBURSEMENTS.

01. Collection Fee, Brand Inspector. The Idaho Beef Council shall reimburse the State Brand Inspector for the reasonable and necessary expenses incurred in the collection of the assessment in an amount determined by the Beef Council and the State Brand Inspector, not to exceed five percent (5%) of gross collections. (7-1-93)

02. National Beef Promotion and Research Board. The Idaho Beef Council shall forward fifty cents (\$.50) credit per head of cattle assessed to the Cattlemen's Beef Promotion and Research Board. (3-29-10)

03. Idaho Beef Council. Assessment funds remaining after payment of collection fee and disbursement to the National Beef Promotion and Research Board shall be retained by the Idaho Beef Council and used to fund its activities and operations. (3-29-10)

201. -- 299. (RESERVED)

300. PERSONNEL.

There will be a full time administrator whose title will be "Chief Executive Officer." Additional staff will be hired based upon Idaho Beef Council program needs and budget. (7-1-93)

301. -- 999. (RESERVED)