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Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators BURTENSHAW, Bayer, Nelson and,
Representatives KAUFFMAN, Andrus, Toone

FROM: Katharine Gerrity - Deputy Division Manager

DATE: August 04, 2021

SUBJECT: Temporary Rule

IDAPA 51.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule \ Rescission of Previous Temporary Rule - Docket No. 51-0101-2100F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
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IDAPA 51 – IDAHO BEEF COUNCIL

DOCKET NO. 51-0101-2100F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE \ RESCISSION OF PREVIOUS TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking as listed in the descriptive summary of this notice is July 1, 2021. The rescission of previous temporary rule under docket 51-0101-2000F is effective July 1, 2021.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule and rescinded a previous temporary rule. The action is authorized pursuant to Section 25-2906 (9), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and rescinding a previous temporary rule:

This temporary rulemaking adopts and republishes the following existing rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 51, rules of the Idaho Beef Council:

IDAPA 51

- IDAPA 51.01.01, *Rules of the Idaho Beef Council.*

Rescission of previous temporary rule aligns this chapter wholly with the administrative code effective 7-1-21.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. The temporary rule implements the duly enacted laws of the state of Idaho, provides citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of this rule 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 this rule.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased are justified and necessary to avoid immediate danger and the fees are described herein:

The fees or charges, authorized in Section 25-2907 (1), Idaho Code, are part of the agency's 2022 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The following is a specific description of the fees or charges:

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), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the adoption of temporary rule and rescission of temporary rule, contact T.K. Kuwahara, 208-376-6004.

DATED this 1st day of July, 2021.

T.K. Kuwahara
Chief Executive Officer
Idaho Beef Council
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Boise, ID 83705
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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. (7-1-21)T

001. SCOPE.

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. (7-1-21)T

002. ADMINISTRATIVE APPEALS.

All contested cases are 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 need to 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. (7-1-21)T

003. 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). (7-1-21)T

004. -- 099. (RESERVED)

100. FUNDING.

01. Assessments. (7-1-21)T

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: (7-1-21)T

i. One dollar (\$1) required by the National Beef Promotion and Research Order, and (7-1-21)T

ii. Fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code. (7-1-21)T

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. (7-1-21)T

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. (7-1-21)T

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. (7-1-21)T

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. (7-1-21)T

03. Refunds. (7-1-21)T

a. Producers/owners of cattle 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 the assessment and include the: (7-1-21)T

i. Name and address of the producer; (7-1-21)T

ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); (7-1-21)T

iii. Number of head on which a refund is requested; (7-1-21)T

iv. Total amount of refund requested; (7-1-21)T

v. Date of assessment; (7-1-21)T

vi. Producer's signature; and (7-1-21)T

vii. Proof of payment of the assessment. (7-1-21)T

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. (7-1-21)T

101. -- 199. (RESERVED)

200. DISBURSEMENTS.

01. Collection Fee, Brand Inspector. The Idaho Beef Council will 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. (7-1-21)T

02. National Beef Promotion and Research Board. The Idaho Beef Council will forward fifty cents (\$.50) credit per head of cattle assessed to the Cattlemen's Beef Promotion and Research Board. (7-1-21)T

03. Idaho Beef Council. Assessment funds remaining after payment of collection fee and disbursement to the National Beef Promotion and Research Board will be retained by the Idaho Beef Council and used to fund its activities and operations. (7-1-21)T

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. (7-1-21)T

301. -- 999. (RESERVED)