

Dear Senators RICE, Den Hartog, Jordan, and
Representatives BOYLE, Dayley, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho State Police - Idaho State Brand Board:

IDAPA 11.02.01 - Rules of the Idaho State Brand Board (Fee Rule) - Proposed Rule (Docket No.
11-0201-1801).

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 10/23/2018. 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 11/21/2018.

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: October 04, 2018

SUBJECT: Idaho State Police - Idaho State Brand Board

IDAPA 11.02.01 - Rules of the Idaho State Brand Board (Fee Rule) - Proposed Rule (Docket No. 11-0201-1801)

Summary and Stated Reasons for the Rule

The Idaho State Brand Board submits notice of a proposed fee rule at IDAPA 11.02.01 - Rules of the Idaho State Brand Board. According to the board, it has experienced a budget shortfall dating back to FY2016. The board notes that in the fall of 2017 it adopted a temporary rule increasing cattle brand inspection fees by twenty-five cents and the minimum brand inspection fee by ten dollars, moving the fees closer to the statutory fee cap of one dollar twenty-five cents set in Section 25-1160, Idaho Code. The board notes that it intended to have a pending rule reviewed during the 2018 Legislative Session for final approval. The board states that public hearing were requested and held and, based on ensuing discussions with constituents and legislators during the session, the rule was vacated and a new rulemaking was initiated, with the temporary rule being extended. The board notes that a shortfall still exists and that FY2018 and FY2019 budget line items include increases in personnel costs, health care and benefit costs, cyber security liability insurance costs and increased personnel and equipment costs, all of which have eroded the board's sustainable operating revenue which will result in a loss of required regulatory services.

The board indicates that this proposed rulemaking would increase the brand inspection by twenty-five cents (from ninety-four cents to one dollar nineteen cents), and the minimum brand inspection fee from ten dollars to twenty dollars. The board also states that the courtesy brand inspection fee would increase from ninety-four cents to one dollar nineteen cents and the Idaho livestock to pasture fee would increase from forty-seven cents to sixty cents. The board adds that it has not increased inspection fees since FY2006.

Negotiated Rulemaking / Fiscal Impact

The board notes that negotiated rulemaking was conducted. In addition, the board states that an estimated \$473,000 will be generated to the Brand Board from the Idaho livestock industry.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 25-1160, Idaho Code.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

cc: Idaho State Police - Idaho State Brand Board
Amy Jordan

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must 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 11 – IDAHO STATE POLICE
IDAHO BRAND BOARD**

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-1801 (FEE RULE)

NOTICE OF RULEMAKING – 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.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0201-1801
(Only Those Sections With Amendments Are Shown.)

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)~~

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: IDAHO STATE POLICE/IDAHO STATE BRAND BOARD

Agency Contact: CODY BURLILE/DEBBIE NEIDER Phone: 208-884-7070

Date: May 3, 2018

IDAPA, Chapter and Title Number and Chapter Name:

11.02.01.034 Schedule of fees for the Idaho State Brand Board

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 11-0201-1801

STATEMENT OF ECONOMIC IMPACT: This will not have a negative fiscal impact on the State General Fund, as we are dedicated funds. An estimated \$473,000 will be generated by the Idaho Livestock Industry.