

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

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 (Fee Rule) - Proposed Rule (Docket No.  
51-0101-2000F).

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 10/16/2020. 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 11/13/2020.

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:** September 29, 2020

**SUBJECT:** Beef Council, Idaho

IDAPA 51.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 51-0101-2000F)

#### Summary and Stated Reasons for the Rule

The Idaho State Beef Council submits notice of proposed fee rule. According to the council, the rule-making republishes the following temporary rule that was previously submitted: IDAPA 51.01.01, Rules of the Idaho Beef Council.

The council states that the fee rule does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Legislature in the prior rules. The council notes that the fees are as reflected in Section 25-2907, Idaho Code.

#### Negotiated Rulemaking/Fiscal Impact

The council notes that negotiated rulemaking was not conducted because engaging in negotiated rule-making for all previously existing rules would inhibit the council from carrying out its ability to protect health, safety, and welfare. The department also confirms that the rulemaking is not anticipated to have any fiscal impact on the general fund.

#### Statutory Authority

The rulemaking appears to be authorized pursuant to Section 25-2906, Idaho Code.

cc: Beef Council, Idaho  
TK Kuwahara

\*\*\* PLEASE NOTE \*\*\*

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
www.legislature.idaho.gov

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. 51-0101-2000F (FEE RULE)**  
**NOTICE OF OMNIBUS 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 25-2906 (9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Opportunity for presentation of oral comments 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 the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary 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.*

**FEE SUMMARY:** This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The fees or charges, authorized in Section 25-2907 (1), Idaho Code, provide for assessments to 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).

**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 FY2021 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 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 proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact T.K. Kuwahara, (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 August, 2020.

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 – 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. ( )

### 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. ( )

### 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 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. ( )

### 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). ( )

### 004. -- 099. (RESERVED)

### 100. FUNDING.

#### 01. Assessments. ( )

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: ( )

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

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

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. ( )

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. ( )

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. ( )

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. ( )

**03. Refunds.** ( )

**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: ( )

i. Name and address of the producer; ( )

ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); ( )

iii. Number of head on which a refund is requested; ( )

iv. Total amount of refund requested; ( )

v. Date of assessment; ( )

vi. Producer's signature; and ( )

vii. Proof of payment of the assessment. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**301. -- 999. (RESERVED)**

## 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 Board of Dentistry

**Agency Contact:** T.K. Kuwahara

**Phone:** (208) 376-6004

**Date:** 8/31/2020

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**IDAPA, Chapter and Title Number and Chapter Name:**

IDAPA 51.01.01 Rules of the Idaho Beef Council

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**Fee Rule Status:** X **Proposed** \_\_\_\_\_ **Temporary**

**Rulemaking Docket Number:** 51-0101-2000F

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### **STATEMENT OF ECONOMIC IMPACT:**

Fee are unchanged from the previous year's temporary fee rule dockets. The fees or charges, authorized in Section 25-2907 (1), Idaho Code, provide for assessments to 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).