

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
Idaho Barley Commission:

IDAPA 53.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
53-0101-2000F).

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: Idaho Barley Commission

IDAPA 53.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 53-0101-2000F)

Summary and Stated Reasons for the Rule

The Idaho Barley Commission submits notice of proposed fee rule. According to the commission, the rulemaking republishes the following temporary rule chapters that were previously submitted: IDAPA 53.01.01, Rules of the Idaho Barley Commission.

The commission states that the fee rules do 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 commission notes that fees are provided for in Section 22-4015, Idaho Code.

Negotiated Rulemaking/Fiscal Impact

The commission notes that negotiated rulemaking was not conducted because engaging in negotiated rulemaking for all previously existing rules would inhibit the commission from carrying out its ability to protect health, safety, and welfare. The commission 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 22-4009, Idaho Code.

cc: Idaho Barley Commission
Laura Wilder

*** 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 53 – IDAHO BARLEY COMMISSION
DOCKET NO. 53-0101-2000F (FEE RULE)
NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-4009, 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 53, rules of the Idaho Barley Commission:

IDAPA 53

- IDAPA 53.01.01, *Rules of the Idaho Barley Commission.*

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 following is a specific description of the fees or charges:

Idaho barley growers pay a Barley Tax that is currently three cents (\$.03) per hundredweight of barley marketed, which is collected at point of first purchase and remitted to the Idaho Barley Commission. Section 22-4015, Idaho Code, allows for the Barley Tax of up to four cents (\$.04) per hundredweight.

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 Laura Wilder, Executive Director, Idaho Barley Commission at (208) 608-4519.

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.

Laura Wilder, Executive Director
Idaho Barley Commission
821 W. State Street
Boise, ID 83702

(208) 334-2090 Office
(208) 608-4519 Office Mobile (preferred)
lwilder@barley.idaho.gov

IDAPA 53 – IDAHO BARLEY COMMISSION

53.01.01 – RULES OF THE IDAHO BARLEY COMMISSION

000. LEGAL AUTHORITY.

In accordance with Section 22-4009, Idaho Code, the Idaho Barley Commission has promulgated rules implementing the provisions of Chapter 40, Title 22, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 53.01.01, “Rules of the Idaho Barley Commission,” IDAPA 53, Title 01, Chapter 01. These rules provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 22-4003, Idaho Code, apply to this chapter ()

011. -- 099. (RESERVED)

100. FIRST PURCHASER RULES.

In accordance with Section 22-4015(1), Idaho Code, the Commission will designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. ()

01. Designated Quarters. The quarters designated by the Commission for payment of tax are: ()

a. The Commission’s first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter barley tax is due on or before the fifteenth day of October. ()

b. The Commission’s second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter barley tax is due on or before the fifteenth day of January. ()

c. The Commission’s third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter barley tax is due on or before the fifteenth day of April. ()

d. The Commission’s fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter barley tax is due on or before the fifteenth day of July. ()

02. Barley Tax Return (Form Number 1). The first purchaser of barley is required to complete and send the Barley Tax Return (Form Number 1) to the commission office each and every quarter on or before the dates specified in these rules. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission and, at a minimum, require the following legible information: ()

a. The tax reporting period. ()

b. The name and address of the barley purchaser. ()

c. The net weight of the barley purchased (if any) in pounds or hundredweights. ()

d. The total amount of tax deducted (if any) from sellers by the purchaser. ()

e. The tax withheld by Commodity Credit Corporation loans. ()

f. The total amount of tax due the Commission (if any). ()

03. Delivery of Documents to Commission (Form Number 2). The first purchaser of barley shall complete and return the Report of Tax on Barley (Form Number 2), or equivalent, to the commission office each and every quarter on or before the dates specified in these rules. The Commission shall provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, will, at a minimum, require the following legible

information: ()

a. The name and address of the purchaser. ()

b. The quarter the barley was purchased. ()

c. The name or names and address or addresses of the grower and seller. ()

d. The number of pounds of barley purchased. ()

e. The total barley tax withheld from each purchase. ()

04. Deduction of Tax on Net Weight of Barley. The first purchaser shall deduct the barley tax on the NET weight of the barley after deduction of dockage. ()

05. Late Payment Penalty (As specified in Section 22-4018 (2), Idaho Code). Any person or firm who makes payment to the Commission at a date later than prescribed in Section 22-4015, Idaho Code, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. ()

101. -- 199. (RESERVED)

200. EXEMPTIONS.

In accordance with Section 22-4015, Idaho Code, the barley assessment shall be imposed on all barley grown, delivered into or stored within, and sold or contracted in Idaho. If a barley assessment that serves a comparable purpose to the Idaho assessment was previously paid in a jurisdiction outside Idaho, the seller of the barley is exempt from payment of the Idaho barley assessment. The Commission will determine jurisdictions outside of Idaho that collect an assessment that serves a comparable purpose, which includes, as a minimum, funding for research and market development programs. In order to qualify for the exemption, the seller must demonstrate to the first purchaser in the state of Idaho that an assessment has been previously paid to such a jurisdiction. ()

201. -- 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 Barley Commission

Agency Contact: Laura Wilder **Phone:** 208-608-4519

Date: August 19, 2020

IDAPA, Chapter and Title Number and Chapter Name:

[53.01.01, Rules of the Idaho Barley Commission, 100. First Purchaser Rules, Idaho Code 22-4015 \(1\)](#)

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 53-0101-2000F

STATEMENT OF ECONOMIC IMPACT:

Our fees are remaining the same as they were submitted for legislative review during the 2020 legislative session, and the fees are unchanged from the previous year's temporary fee rule.

The following is a specific description of the fees or charges:

Idaho barley growers pay a Barley Tax that is currently \$.03 per hundredweight of barley marketed which is collected at point of first purchase and remitted to the Idaho Barley Commission. Idaho statute 22-4015 allows for the Barley Tax of up to \$.04 per hundredweight.

The fees or charges, authorized in Section 22-4015, Idaho Code, are part of the agency's 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.