

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Beef Industry Self-Improvement Assessment Program

The attached legislative rule constitutes the official rule approved by the
Beef Industry Self-Improvement Assessment Board

on 14th day of June, 1985, and filed pursuant to law with the
West Virginia Secretary of State and the Legislative Rule Making Review
Committee.

Sam L. Tucker, Chairman

FILED

1985 JUN 14 PM 2:01

OFFICE OF THE
SECRETARY OF STATE

63

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Beef Industry Self-Improvement Assessment Board

Type of Rule: X Legislative Interpretive Procedural

Agency Beef Industry Self-Improvement Assessment Board Address Dr. M. R. McClung
1150 Charles Avenue,
Morgantown, WV 26505

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	NO EFFECT ON STATE APPROPRIATIONS				
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

NA

3. Objectives of these rules:

To implement the Beef Check-Off Act of 1983 (19-2f) by establishing how the Beef Industry Self-Improvement Assessment Board will function; to establish the assessment at \$1.00 per head; and, to provide for refunds upon request.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

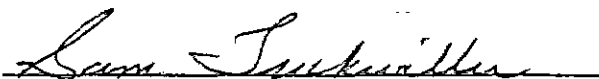
Will result in the payment of a \$1.00 per animal fee for each head of beef cattle sold. This fee was voted in by the citizens to be affected. The livestock dealers will collect the fee, but will receive a 5% commission.

C. Economic Impact on Citizens/Public at Large.

None

Date June 14, 1985

Signature of Agency Head or Authorized Representative



Chairman,
Beef Industry Self-Improvement Assessment Board

WEST VIRGINIA LEGISLATIVE REGULATIONS
BEEF INDUSTRY SELF-IMPROVEMENT ASSESSMENT BOARD
CHAPTER 19-2F
SERIES I

TITLE: Beef Industry Self-Improvement Assessment Program

	Page
Section 1. General.....	1
2. Definitions.....	1
3. Regulations.....	2
4. Assessments.....	2
5. Refunds.....	3

WEST VIRGINIA LEGISLATIVE REGULATIONS
BEEF INDUSTRY SELF-IMPROVEMENT ASSESSMENT BOARD
CHAPTER 19-2F
SERIES I

TITLE: Beef Industry Self-Improvement Assessment Program

Section 1. General

1.1 Scope - These legislative regulations establish general operating rules and procedures for the Beef Industry Self-Improvement Assessment Program.

1.2 Authority - W. Va. Code 19-2F-6.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Definitions

2.1 Buying Station - A place where livestock are received from producers and are assembled for resale.

2.2 Cattle - Bison or bovine animals of any age.

2.3 Livestock Dealer - Any person who buys, receives or assembles livestock for resale, either for his own account or that of another person.

2.4 Order Buyer - Any person buying or receiving animals or soliciting or negotiating the sale of animals for or on behalf of any other person, company, partnership, association or corporation.

2.5 Packer - A person engaged in the business of slaughtering or processing animals for resale.

2.6 Person - Any individual, partnership, corporation, association, fiduciary or other groups of persons whether organized or not.

2.7 Livestock Market - A place of business issued a permit by the West Virginia Department of Agriculture who act as agents between buyers and sellers of livestock.

2.8 Research and Promotion - Program activities of the board and/or its employees or authorized by the board through contract which enhances the sale and profit potential of the State's beef industry.

2.9 Fiscal Year - "Fiscal Year" shall be July 1 through June 30 of the following year.

2.10 Quorum - "Quorum" is a majority of the members of the board.

Section 3. Regulations

3.1 Beef Industry Self-Improvement Assessment Board - This program shall be administered by the West Virginia Beef Industry Self-Improvement Assessment Board consisting of nine (9) persons who will elect a chairman, secretary and treasurer.

3.2 Chairman: Duties - The chairman shall preside at all regular and special meetings of the board, shall appoint all committees, and shall have general supervision of the affairs of the board. A quorum must be present at all regular and special meetings of the board. The chairman shall further perform all duties usually pertaining to that office.

3.3 Secretary: Duties - The secretary shall keep accurate records of the proceedings of the board and record minutes at all meetings.

3.4 Treasurer: Duties - The treasurer shall collect and deposit all monies paid into the program and shall pay all bills and obligations of the board when properly certified and directed. The treasurer shall keep an accurate account of all monies received and paid out and shall be ready at all times to report on the condition of the treasury.

3.5 Meetings of the Board - The board shall meet four (4) times a year, once in each calendar year quarter. The dates shall be established at the first quarterly calendar year meeting. Additional meetings may be called by the chairman or by a majority of the board. Notices of all regular and special meetings of the board shall be made by mail to each member of the board at his or her home address. All meetings shall be open to the public.

3.6 Election of Officers - The officers of the board shall be elected by a majority vote of the members at the first meeting of each calendar year. The officers shall assume their duties immediately upon election.

3.7 Executive Committee - The chairman, secretary and treasurer shall constitute the executive committee of the board.

3.8 Employing Personnel - The board may employ personnel deemed necessary to carry out the provisions of this program. The board will be an equal opportunity employer.

3.9 Contracts - The board may contract for services and/or assistance. All such contracts shall meet legal requirements of the State Code.

3.10 Records - The board shall keep a complete and accurate record of all transactions as necessitated by State law. These records shall be open for public inspection at all reasonable times.

3.11 Business of Board - Business of the board shall be conducted on a fiscal year basis.

Section 4. Assessments

Beef In. Self-Imp. As. Bd.
Leg. Regs., 19-2F
Series I, Sec. 4

4.1 Assessment Fee - An assessment fee of one dollar (\$1.00) per head shall be collected on all fee eligible cattle purchased.

4.2 Forwarding Assessment - Persons collecting the assessment fee shall forward to the board on forms provided by the board, if they are regular filers, the number of cattle on which the assessments were made and the assessment less five percent (5%). All collections shall be remitted within thirty (30) days of the time collected. Occasional filers will file the same information on any type form.

Section 5. Refunds

5.1 Requests for Refunds - Requests for refunds shall be made on forms provided by the board.

5.2 Approval and Payment of Refunds - Requests received by the board for a refund shall be reviewed by those empowered to do so and if the request is found to be valid, the refund shall be processed within thirty (30) days.

5.3 Final Decision: Executive Committee - If a question arises regarding the validity of a refund request, the final decision shall be made by the executive committee.

Public Hearing 11:00 AM
May 21, 1985
Federal Rules of the
Steel Industry Self-

Improvement Assessment Program
Name address

1. M. K. Melting, 1150 Chaderon, Morgantown 26505

2. W. H. Gillespie, Charleston, W. Va.

3. Charles Wilfong Dunmore, WV

4. James M. Helmick Rt 1 Box 82 Buckhannon, WV

5. Earl R. Kelley Chas. WVDA

6. Jim R. Dugan Chas WVDA

7. A. H. Lewis Union, W. V

8. Bill Hall Weston WV (WVDA)

9. Sam Luckless Sundry WV

10. F. C. Tabb Kearneysville, W. Va.

11. Milbert McCorn Charleston W. Va

BEEF REFERENDUM HEARING

CHAIRMAN TUCKWILLER: I call the hearing to order for the West Virginia Beef Industry Self-Improvement Assessment Board this being May 21 at 11:15 a.m.

I would like to ask Dr. McClung now to explain briefly the purpose of the hearing, and if you would do that now Dr. McClung.

DR. MCCLUNG: Chairman Tuckwiller, my name is M.R. McClung, Secretary of the Beef Improvement Assessment Board. This public hearing today is not the last of the hearings we will have to have, but is approaching the last of what has been going on in meetings and in hearings for five years, the referendum approved April 6, 1984, has lead to a series of hearings. The board with the assistance of expertise help inaudible has put these West Virginia procedural regulations in form for the Beef Industry Self-Improvement Assessment Board and these are to establish the general operative rules and procedures for the Beef Industry Self-Improvement Assessment Board. How many people have familiarized themselves for the past two or three years with the law that was passed and then approved by the producers of this state and these rules are to clarify some definitions and put some additional definitions in things not current in the law or if in the law that might be of question that would be interpreted one way in the South Branch Valley, another way in Parkersburg, another way in Northern Panhandle. And the purpose of the procedure regulations is to avoid that if possible. When we started out somebody said that you ought to be able to write them on one page, well there pretty close that and I have passed these out to some people and given them to some people and they were amazed at how short and concise the form has been put into and generally pleased. Everybody I believe in the room has a copy of these and at this time Chairman Tuckwiller, do you want me to go over them one by one, or is that what you had in mind?

CHAIRMAN TUCKWILLER: Yes, but first I would like to ask Commissioner Douglass if he has any other comments to add to the purpose of the hearing that he would explain? You have not? Okay then, if we would go over them then, Dr. McClung, one by one.

DR. MCCLUNG: Does everybody have a copy?

CHAIRMAN TUCKWILLER: Okay, we need not distribute anymore then.

DR. MCCLUNG: Now, some of you have been through numbering systems here that are different, now Rheba Dolin helped us get these in shape and she had them in complete shape on time and the new Secretary of State changed procedures and then you'll notice they don't have 1.01, 1.2, this is the new system of the Secretary of State. And the Section 1 gives the general scope there. Section 2 gives a group of definitions that we thought needed to be explicitly spelled out there and some of those are in the log. 2.6 down there is exactly written in the laws as it is there and 2.7 is the general definition used in West Virginia by the Department of Agriculture of the people, 2.8 Research and Promotion Program activities, this board and/or its employees are authorized by the board through contract, which enhances the sale and profit of the State's beef industry. Before we leave here today we ought to get some of

the people with expertise to brief us on this contract or tell us where we can get a copy of it as to how we will have to structure things to get money out. This year the board adopted the fiscal year July 1 through June 30, because the legislature will be wanting the board to report to them and we wouldn't want to try to close the year December 31, and report to the legislature in January. A quorum is the majority of the members of the board, Section 3 is regulations, 3.1 is how it will be administered by the non-member board that was selected. 3.2 will give the duties of the chairman, 3.3 gives the duties of the Secretary, 3.4 gives the duties of the treasurer, 3.5 gives the meetings of the board, the board shall meet four times a year, once in each calendar year quarter. The dates of this shall be established at the first quarterly calendar year meeting so that they can plan on it and get less conflicts. The people we have on this board have many, many duties and are involved in many things. We have board members this morning that are in Denver, and others, we probably do now know where some of them are. The Executive Committee is set up, the chairman, secretary and treasurer so that we can act promptly. The board has employed personnel being it necessary to carry out for means of this program and of course its modern day Equal Opportunity Employer. 3.9 Contracts.--The board may contract for service and/or assistance all such contracts to meet the new formal State code and we need to get the information on that before we leave here today. 3.10 Records.--the board shall keep a complete and accurate record of all transactions as necessitated by State law. These records shall be opened for public inspection at all reasonable times. 3.11 Business of Board.--shall be conducted on a fiscal year basis. Section 4 Assessments--the assessments that is spelled out in law that is what the people go through is listed here again. The assessment fee of one-dollar-per-head shall be collected on all fee eligible cattle purchased for an assessment. Persons collecting the assessment fee shall forward to the board the number of cattle and calves on which the number of assessments were made and the assessment less 5%. Some states say keep the 5%, some say that they don't. The Section 5. Refunds--requests for refunds or request for a refund shall be made on forms provided by the board until we get a date established when we are going to be taking off we have looked at some forms that could be adapted to that, and now I want to make them as simple as possible. Approval and Payment of Refunds--Request refunds by the board for refunds shall be reviewed by those who are empowered to do so and if the request is found to be valid, the refund shall be made within 30 days. 5.3 Final Decision--Executive Committee question arises concerning the validity of a refund request, the final decision shall be by the Executive Committee. Now that is hurriedly going over the rules and regulations. If there are questions or omissions which I have left out Mr. Chairman, we should take those up at this time maybe.

CHAIRMAN TUCKWILLER: Maybe they could be adhered at the comments that anyone might have. Thank you Doctor for going over those for us and at this time I would like to open the floor for anyone here in attendance to have comments

on these proposed rules and regulations of the Beef Industry Self-Improvement Assessment Board. And as you come forward, would you come forward and state your name and who you represent when you make your comment. Okay, the floor is now open for comment

WILLIAM GILLESPIE: My name is William Gillespie, I am the Assistant Commissioner of Agriculture. My comment is in reference to a telephone call received yesterday from a county agent of Monongalia County, Asel Kennedy, who said that they had three meetings with interested citizens to consider your new regulations, and they found them to be very good.

They pointed out that there were two things that you might wish to consider. One, the regulations do not specifically delineate when the collectors are to send the money in. Of course, that is addressed somewhat in the law. And their cattlemen's association felt that you might wish to address that, of course you do specify refunds within 30 days and if they haven't sent the money in, it might get you in a cash bind initially.

The second thing was that they were very pleased to see that there was nothing there to attempt to collect on cattle sold outside the state. And I explained to them that if they took their cattle to Waynesburg and West Virginia attempted to collect a dollar and Pennsylvania also attempted to collect a dollar since it was sold there it was really double jeopardy and that was probably the reason this was not done. But they take about 10% of their cattle to Waynesburg, however, there is not too many in that particular area and they just wanted to make sure they were not ever going to be charged double. So they said to tell you that they were very pleased with them, glad that you had foreseen that one. Thought that you might like to check the other one. Thank you chairman.

CHAIRMAN TUCKWILLER: Thank you, sir. Other comments at this time?

COMMISSIONER DOUGLASS: Chairman, I'm Gus R. Douglass, Agriculture Commissioner, and I make reference also to 4.2 in the general area and I do think you need to go back and state what is in the law, the reference made there thirty days and to clean that up a little bit, but my real point I want to bring forth on 4.2 is you state refunds are on forms provided by you so that you do have uniformity. I think the board should consider forms for any type of reports that are forthcoming, whether its refunds or reporting sales.

CHAIRMAN TUCKWILLER: Thank you Commissioner for your comments. Those comments shall hopefully be helpful to this Board and the final regulations. Are there further comments at this time for anyone in attendance here?

DR. MCCLUNG: Chairman Tuckwiller, I have a comments on Section 5.

CHAIRMAN TUCKWILLER: State your name please.

DR. MCCLUNG: My name is M. R. McClung, Secretary of the Beef Board, I am a producer. I have a comment on Section 5 Refunds. Number 5.2 on approval and payment of refunds. It reads now as follows: Requests received by the board for a refund shall be reviewed by those empowered to do so and if the request is found to be valid, the refund shall be made within 30 days. Now

we have, or know I guess at this time that our funds are going to run through the general treasury, State of West Virginia. The assessment account will not turn over as I understand it, it will not terminate at the end of each calendar year. Sort of being a non-reverting fund. An in view of that, I think that we'd better change that refund so that it pays within 30 days. At the end of fiscal years, sometimes these, the non-reverting fund account, gets laid back for more than the 30 day period in order to get the ones processed that are reverting. Sometimes we have a chief executive that, a crises in the State of West Virginia freezes funds for a period of time, and that theoretically could include the freezing funds like this for a period of time. So I would suggest that we change that, the refunds shall be made within 30 days to something like this: shall be processed within 30 days, we hope that we paid it. I checked with the paymaster on this, one of the people involved in this, and they said right now it would be made withing 28 days whether going direct or something like that on the average whereas if they went to the Beef Board paid, so I suggest we change the work, the refunds will be made within 30 days to the fact it will be processed within 30 days. That way the board can make sure there processed promptly, and we hope to be paid promptly. There's other people in here that are more knowledgeable on this than I am so they need to speak to it.

CHAIRMAN TUCKWILLER: I thank you for your comment there, but in making these regulations we had the understanding that the processing could be done within 30 days reasonably if the right procedures were taken and we thought that if you would ask the assessment to be sent in 30 days, it was only fair to ask for a refund to be given the equal amount of time. And we were pretty well-assured that we could work within the structure of the Secretary-Treasurer to get that done within 30 days without any problem.

But we do thank you for the comments and we'll use those in consideration. Is there any other counter comments to what Dr. McClung has said? I possibly should have not said that, this is just a hearing for the people to express their view on certain items in here. I did want to give you a little background information on why that wording was so made in these proposed regulations. Are there other people in attendance here that would like to speak about these rules and regulations? Have any comments of sorts to make upon them why the floor is still open for further comments.

WILLIAM GILLESPIE: No, Mr. Chairman, except I'm Bill Gillespie again, except to state that the Department of Agriculture has a file that they will turn over to you at the conclusion of this meeting which has the clip service materials proving that you did advertise the hearing the way it was supposed to be and I don't imagine you have collected those statewide as we have so there yours for your files, if you so desire.

CHAIRMAN TUCKWILLER: Thank you for that comments, and I should have stated that at the onset of the hearing. Thank you for that injunction Mr. Gillespie.

Anyone else in attendance have any comments, I noticed someone has just come in. Do you have any comments?

MR. TABB: No, but sorry I was a little late, its a longer distance than I thought it was. I left a little before six; but I've been driving hard as I could, even had to hit the speed limit a little heavy, I'm Lyle Tabb from over in Jefferson County. I missed the other two meetings your have had here, I'm glad to be here.

CHAIRMAN TUCKWILLER: Thank you, Mr. Tabb. If there are no further comments at this time, I think the proper thing to do would be to leave this hearing open for any written comments to come in from the advertisements that we have had of holding this hearing and well, I don't know the proper term, but we will hold this hearing open for a few days yet until--I've been advised possibly the best date would be June 1 to leave this open for any written comments to be received by the board. Being no further comments, then we can close the hearing at this time.