

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

Administration Division

02.01.04 – Rules Governing the Voluntary Idaho Preferred® Promotion Program

Who does this rule apply to?

Participants in the Idaho Preferred® Program.

What is the purpose of this rule?

Idaho Preferred® is a voluntary program developed by the Idaho State Department of Agriculture (ISDA) dedicated to identifying and promoting Idaho food and agriculture products. Fresh fruits, vegetables and meats; fine wines, beers and spirits; specialty foods, forest products and nursery plants and trees – are all products marketed through the Idaho Preferred® program. The program seeks to identify food and agriculture products in order to increase market share and opportunity for profitability for Idaho farmers, ranchers, growers and food and beverage processors.

The Rules Governing the Idaho Preferred Program outline eligibility requirements for participation in the program. The rules also outline product selection criteria and establishes the requirements for the use of the Idaho Preferred® logo and participation fees.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statute(s) passed by the Idaho Legislature:

- [22-112, Idaho Code](#) – Promotion and Certification of Idaho Agricultural Products

Who do I contact for more information on this rule?

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Table of Contents

02.01.04 – Rules Governing the Voluntary Idaho Preferred® Promotion Program

| | |
|---|---|
| 000. Legal Authority. | 3 |
| 001. Scope. | 3 |
| 002. -- 009. (Reserved) | 3 |
| 010. Definitions. | 3 |
| 011. -- 099. (Reserved) | 4 |
| 100. Application For Participation. | 4 |
| 101. Participation Duration And Renewal. | 4 |
| 102. -- 109. (Reserved) | 4 |
| 110. Participation Fees. | 4 |
| 111. -- 199. (Reserved) | 4 |
| 200. Product Qualification. | 4 |
| 201. -- 299. (Reserved) | 5 |
| 300. Logo. | 5 |
| 301. Other Idaho Promotion Programs. | 6 |
| 302. Distribution Of Promotional Material. | 6 |
| 303. -- 309. (Reserved) | 6 |
| 310. Self-Certification. | 6 |
| 311. Compliance. | 6 |
| 312. -- 314. (Reserved) | 7 |
| 315. Violation. | 7 |
| 316. -- 999. (Reserved) | 7 |

02.01.04 – RULES GOVERNING THE VOLUNTARY IDAHO PREFERRED® PROMOTION PROGRAM

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-112, Idaho Code. (3-23-23)

001. SCOPE.

These rules govern the participation in, and product selection criteria for the voluntary Idaho Preferred® program. (3-23-23)

002. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (3-23-23)

01. Agricultural Product. Any fresh or processed apicultural, aquacultural, avicultural, beverage, cervidae, dairy, horticultural, livestock, forestry, viticultural, or other farm or garden product. (3-23-23)

02. Apicultural Product. Products produced from or related to honey bees or honey. (3-23-23)

03. Aquacultural Product. Products produced from or related to fish, reptiles, or other aquatic animals. (3-23-23)

04. Avicultural Product. Products produced from or related to birds, including but not limited to, ratites or poultry. (3-23-23)

05. Beverage. Drinks including but not limited to wine, beer, distilled spirits, bottled water, or flavored drinks. (3-23-23)

06. Cervidae Product. Products produced from or related to fallow deer, elk, or reindeer owned by a person. (3-23-23)

07. Co-Packer. A co-packer is a food processor that processes and packages products for clients for a fee. (3-23-23)

08. Dairy Product. Products produced from or related to milk from cattle, goats, or sheep. (3-23-23)

09. Forest Products. All products made of wood fiber such as timber, wood chips, sawdust or shavings, including but not limited to lumber, paper, particleboard, fence or corral posts or rails, shingles, shakes, firewood or pellets, logs used in the construction of log homes or any other product sold commercially. (3-23-23)

10. Fresh Produce, Commodities, and Fresh Meat. Bulk or packaged agricultural products that have been cleaned, sorted, or otherwise prepared and are sold or distributed in an unprocessed or minimally processed condition. (3-23-23)

11. Horticultural Products. Plants, including but not limited to, fruits, vegetables, flowers, seeds, or ornamental plants. (3-23-23)

12. Livestock. Domestic animals including but not limited to cattle, sheep, pigs, goats, domestic cervidae, domestic bison, camelids, or horses. (3-23-23)

13. Livestock Product. Products produced from or related to livestock. (3-23-23)

14. Non-Food Agricultural Products. Products not intended for human consumption, including but not limited to, animal feed, compost, hides, or skins. (3-23-23)

15. Supporting Organization. Any commission, association, or incorporated group supporting the efforts of the Idaho Preferred® program. (3-23-23)

16. Nursery Stock. All botanically classified plants or any part thereof, such as aquatic or herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees, and shrubs, berry plants, and all trees, shrubs, vines, and plants collected in the wild that are grown or kept for propagation or sale. Nursery stock does not include field and forage crops, seeds of grasses, cereal grains, vegetable crops and flowers, bulbs and tubers of vegetable crops, vegetables or fruit used for food or feed, cut trees or cut

flowers unless stems or other portions thereof are intended for propagation. (3-23-23)

17. Participant. A person who has applied to the Department and been approved for participation in the Idaho Preferred® program. (3-23-23)

18. Processed Food. Any food product which has been transformed from its natural state by methods including but not limited to freezing, cutting, heating, drying, treating, or adding ingredients. (3-23-23)

19. Processor. A person engaged in the manufacturing of processed food. (3-23-23)

20. Producer. A person engaged in the business of growing or raising food, fiber, feed, or other agricultural products. (3-23-23)

21. Viticultural Products. Products produced from or related to grapes and wine. (3-23-23)

011. -- 099. (RESERVED)

100. APPLICATION FOR PARTICIPATION.

01. Application Requirement. Applications will be made on a form prescribed by the Department, must be complete and may be submitted any time of the year. (3-23-23)

101. PARTICIPATION DURATION AND RENEWAL.

01. Duration. Participation is on an annual basis, coinciding with the calendar year beginning January 1 and ending December 31. (3-23-23)

102. -- 109. (RESERVED)

110. PARTICIPATION FEES.

01. Fee. Participation is offered on a one-year basis. Fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000) per year. (3-23-23)

111. -- 199. (RESERVED)

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director has sole authority in determining the eligibility of a product for participation in the program. (3-23-23)

02. Fresh Produce and Commodities. Fresh produce and commodities are one hundred percent (100%) Idaho grown or raised. (3-23-23)

03. Processed Foods and Beverages. Processed foods and beverages: (3-23-23)

a. Contain a minimum of twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho; and (3-23-23)

b. Be processed in the state of Idaho. (3-23-23)

c. If a company registered in Idaho uses a co-packing facility and an acceptable co-packing facility is not available in Idaho, the company may request an exception from the Director under section 200.15 (3-23-23)

04. Non-Food Agricultural Products. Non-food agricultural products must be at least twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and processing must occur in Idaho. (3-23-23)

05. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred® program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, and provide proof of such permission prior to making application with the Department. (3-23-23)

06. Wine. Wines contain a minimum of ninety-five percent (95%) Idaho grapes. (3-23-23)

07. Beer. Beer will be brewed in Idaho and at least one (1) Idaho agricultural product such as malt, wheat or hops, or soluble remnant thereof, but excluding water. (3-23-23)

08. Distilled Spirits. Distilled spirits will be distilled in Idaho; and contain at least one (1) Idaho agricultural product such as grains, potatoes or fruit, but excluding water. (3-23-23)

09. Water. Water must be extracted from an Idaho water source. (3-23-23)

10. Nursery Stock. Nursery stock will have been grown in Idaho a minimum of one (1) growing season or growing cycle. (3-23-23)

11. Livestock Products. Livestock products come from livestock that: (3-23-23)

a. Were born, raised and harvested in the United States. No livestock that originate from outside the United States may qualify. (3-23-23)

b. Are raised, grazed, fed, or processed in Idaho. (3-23-23)

12. Poultry and Poultry Products. Poultry and poultry products will come from fowl that: (3-23-23)

a. Are hatched, raised and harvested in the United States. No fowl that originate from, or reside for any portion of their life outside the United States may qualify. (3-23-23)

b. Are raised and processed in Idaho. Fertile eggs, also known as hatching eggs, or chicks less than three (3) days of age that originate outside of Idaho, but are raised or processed in Idaho, may qualify for Idaho Preferred®. (3-23-23)

13. Apicultural Products. Products produced by honey bees including honey, wax, pollen, and propolis will be one hundred percent (100%) Idaho origin. Processed honey will be eighty percent (80%) Idaho origin. (3-23-23)

14. Forest Products. Forest products will: (3-23-23)

a. Contain a minimum of eighty percent (80%) of their wood fiber content from trees grown in Idaho; and (3-23-23)

b. Be manufactured in Idaho. (3-23-23)

15. Exceptions. The Director has the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-23-23)

201. -- 299. (RESERVED)

300. LOGO.

The Idaho Preferred® logo has been registered by the Department with the United States Library of Congress (Copyright registration), the United States Patent and Trademark Office (Certification Mark registration), the Idaho Secretary of State (Certificate of Trademark) and is afforded all protections provided for by law. The logo shall be used only by those participants in compliance with this chapter. The Department will provide a logo style manual

specifying approved colors, treatments, and fonts for the Idaho Preferred® logo. (3-23-23)

01. Approval for Use of Logo. Participants who wish to use the Idaho Preferred® logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the Department for approval. Requests for approval must be submitted to the Idaho State Department of Agriculture, Marketing Division not less than five (5) working days prior to the proposed date of use. Written approval from the Department for logo use must be issued prior to use of the logo. (3-23-23)

02. Repeal of Approval of Use of Logo. The Department reserves the right to repeal the approval of the use of the logo. The Department will provide notice in writing and the participant must cease use immediately. (3-23-23)

301. OTHER IDAHO PROMOTION PROGRAMS.

01. Commodity-Specific Promotion Programs. Commissions, boards, associations, or other organizations authorized by statute to promote or regulate agricultural products grown, packed, or processed in the state of Idaho shall be the primary and principal promotion and certification mark and trademark organizations for the particular commodity they are authorized to promote or regulate. (3-23-23)

02. Ownership of Marks. Any trademarks, certification marks, brands, seals, logos or other identification marks, that are established, owned or used by such commissions, boards, associations or organizations shall remain their sole property. Any use or infringement of their ownership right is prohibited unless written permission is obtained from an authorized representative of the commission, board, association or organization. (3-23-23)

302. DISTRIBUTION OF PROMOTIONAL MATERIAL.

01. Authorized Use. The Idaho Preferred® program has the authority to provide retail and food service outlets, farmers' markets, schools, media, fairs, and other such businesses, organizations, and venues the opportunity to promote Idaho food and agricultural products using the program logo and promotional materials. Open distribution of any and all point-of-sale materials, signage, advertising, identification placards, and other such promotional material, in accordance with this chapter and other applicable laws and precedent, is acceptable use and not considered an infringement on the ownership rights of any mark or seal of a supporting organization as defined in this chapter. (3-23-23)

303. -- 309. (RESERVED)

310. SELF-CERTIFICATION.

All participants shall self-certify that all products marked with the Idaho Preferred® logo meet the qualification criteria as set forth in this chapter. Self-certification is subject to verification through the application and compliance process. (3-23-23)

311. COMPLIANCE.

01. Authority of Director. The Director has the authority to enter upon the premises of any participant to examine and copy any of the following items: (3-23-23)

- a. Books, papers, records, ledgers, journals, electronically or magnetically recorded data: (3-23-23)
- b. Computers and computer records or memoranda bearing on the usage of the Idaho Preferred® logo; and (3-23-23)
- c. To secure all other information concerned in the enforcement of these rules. (3-23-23)

02. Random Compliance Inspection. The Director may perform random compliance inspections. (3-23-23)

03. Samples. The participant shall, upon the request of the Director, provide samples of the participant's labels, packaging, merchandising, and promotional materials featuring the Idaho Preferred® logo. (3-23-23)

312. -- 314. (RESERVED)

315. VIOLATION.
Any person found in violation of these rules is subject to termination of participation privileges. (3-23-23)

316. -- 999. (RESERVED)