

AGRICULTURE COMMITTEE
ADMINISTRATIVE RULES REVIEW

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2013 Legislative Session

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1201 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 29, 2012. This pending fee rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Section 25-2710, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Add a section, 011. Exemptions, to define those feed products that will be exempt from registration. Exemptions are being added to the Rule in an effort to align with what is currently outlined in statute, and to provide a more transparent process in the future should exemptions need to be added or discontinued to meet changes in the feed industry or state needs. Based on public comment, ISDA chose to add Subsection 011.08 -- Byproducts or Production Waste in the exemptions. Such an exemption has previously existed in statute.

Add a section, 020. Registration & Fees, to set in rule a fee of \$40 per product. This increase in the registration fee will support a shift in program operating revenue from the termination of previously collected tonnage fees. This shift allows ISDA to better align revenue collection and services provided to registrants with the per-product regulatory activity expenses of the Commercial Feed Program. The revised fee was originally set at \$45 with a \$1,000,000 cap on the dedicated fund balance; after consideration of public comment, ISDA chose to decrease the fee to \$40 and remove the dedicated fund cap language. The dedicated fund cap would be difficult to manage in a timely and responsive manner outside the appropriation or rulemaking process.

Add a section 050.01.H, Inclusion of statements and promotion on company websites or other internet based customer interfaces into the definition of "labeling." Including websites and other internet based customer interfaces into the definition of "labeling" allows ISDA to ensure consistent and truthful information is disseminated by registrants where consumers are able to obtain decision-influencing information. This change also ensures that the Rules are consistent with the Commercial Feed Law.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been

made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, **Vol. 12-9, pages 17 through 21.**

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 25-2704(2), Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The registration fee included in this temporary rule is authorized in Section 25-2704(2), Idaho Code which authorizes the Director to set a registration fee in rule. This authorization is the result of SB 1236, which was passed by the 2012 Idaho Legislature. Changes to the statute included the authorization to set the registration fee in rule, as well as the elimination of the tonnage fee.

The registration fee is set at \$40 per product. This is an increase in the per product registration fee from \$5 or \$25. The new registration fee also replaces the former tonnage fee requirement.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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:

The commercial feed program is a dedicated fund program and there is no impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Kathryn Mink, Section Manager Feed, Fertilizer & Seed at (208) 332-8620.

DATED this 29th day of November, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **September 5, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-2710, 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 September 19, 2012.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Add a new section, 011 - Exemptions, to define those feed products that will be exempt from registration.

Add a new section, 020 - Registration & Fees, to set in rule a fee of \$45 per product.

Add a subsection, 050.01.h., to include in the definition of "labeling" all statements and promotion on company websites or other internet-based customer interfaces.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The agency facilitated three negotiated rulemaking meetings on July 11, July 18, and August 1, 2012. In these meetings, participants provided input on each of the new sections referenced above. The temporary rule is important in order to provide a registration fee for new and renewed products. Without the temporary rule, the program would be unable to register products and provide funding for program activities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The registration fee included in this temporary rule is authorized in Section 25-2704(2), which authorizes the Director to set a registration fee in rule. This authorization is the result of SB 1236, which was passed by the 2012 Idaho Legislature. Changes to the statute included the authorization to set the registration fee in rule, as well as the elimination of the tonnage fee.

The registration fee is set at \$45 per product. This is an increase in the per product registration fee of \$5 or \$25. The new registration fee also replaces the former tonnage fee requirement.

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:

The commercial feed program is a dedicated fund program and there is no impact to the state general fund.

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, 2012 Idaho Administrative Bulletin, **Volume 12-6, Page 14**.

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:

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into the Rules Pertaining to the Idaho Commercial Feed law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathryn Mink, Section Manager Feed, Fertilizer & Seed at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0602-1201

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2012~~3~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. (~~3-29-12~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck

Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

011. EXEMPTIONS.

Exemptions from product registration shall include: ()

01. Unmixed Whole Seeds. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

02. Seed Mixtures. Seeds mixed and planted as such mixture, grown and harvested as one (1) crop and processed as one (1) mixture when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

03. Hay. All hay, except commercially dehydrated legumes and grasses and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

04. Straw. Whole or ground straw, stover, silage, cobs, husks, hulls, wet or pressed beet pulp, pea screenings and beet discard molasses when not mixed with other materials and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

05. Animals. Live, whole or unprocessed animals when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

06. Animal Remedies. Animal remedies when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

07. Minerals. Individual mineral substances when not mixed with another material and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. ()

08. Byproducts or Production Waste. Processing byproducts or production waste, which do not undergo further processing, received by the end user directly from the fuel or food processor, when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2707, Idaho Code. This may include wet or pressed beet pulp, pea screenings, and beet discard molasses. ()

012. -- 019. (RESERVED)

020. REGISTRATION AND FEES.

01. Product Registration Fee. Whenever a commercial feed is registered for distribution in the state of Idaho, a fee of forty dollars (\$40) per product shall be collected. ()

a. The Department shall utilize these funds for the operation of all program activities, including but not limited to, registration, label review, inspection and sampling, and laboratory analysis. ()

b. The fee shall be set by the Department such that all costs associated with the commercial feed program will be covered by the registration fee without the need for additional state general or dedicated funding. ()

02. Product Registration Fee Exemption. Sellers who are not regularly engaged in the business of manufacturing or selling commercial feed and whose total amount of gross annual sales does not exceed five hundred dollars (\$500) shall be exempt from payment of the registration fee. However, the Department retains the right to inspect any feed in the possession of those persons exempted by Subsection 020.02 at any time. ()

a. This exemption pertains to the registration fee only, and does not exempt a person or business from other sections of these rules and/or the Idaho Commercial Feed Law. ()

b. The Department reserves the right to review the records of sellers who are claiming or who have claimed that they are exempt from the payment of the registration fee, in order to ensure that they qualify for the exemption. ()

c. The Department further reserves the right to conduct any and all inspections allowed under Section 25-2709, Idaho Code, in order to ensure compliance with these rules and/or the Idaho Commercial Feed Law. ()

0~~21~~. -- 049. (RESERVED)

050. LABEL FORMAT.

01. Label Format. Commercial feeds shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following general format. (8-16-71)

a. Net Weight. (8-16-71)

b. Product name and brand name if any. (8-16-71)

c. If a drug is used: (8-16-71)

i. The word “Medicated” shall appear directly following and below the product name in type size, no smaller than one-half (1/2) the type size of the product name. (8-16-71)

- ii. The purpose of medication (claim statement). (8-16-71)
- iii. An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection 150.04. (8-16-71)
- iv. The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Sections 250 and 300 appear elsewhere on the label. (8-16-71)
- d. The guaranteed analysis of the feed as required under the provisions of Section 25-2705(1)(c) of the Commercial Feed Law include the following items, unless exempted in Subsection 050.01.d.viii., and in the order listed: (3-30-07)
 - i. Minimum percentage of crude protein. (8-16-71)
 - ii. Maximum or minimum percentage of equivalent protein from non-protein nitrogen as required in Subsection 150.05. (8-16-71)
 - iii. Minimum percentage of crude fat. (8-16-71)
 - iv. Maximum percentage of crude fiber. (8-16-71)
 - v. Minerals, to include, in the following order: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals. (8-16-71)
 - vi. Vitamins in such terms as specified in Subsection 150.03. (8-16-71)
 - vii. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content. (8-16-71)
 - viii. Exemptions. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent (6 1/2%) of Calcium, Phosphorus, Sodium, or Chloride. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses. (4-7-11)
- e. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 25-2705(1)(d) of the Commercial Feed Law shall be listed in decreasing order of predominance by weight: (4-7-11)
 - i. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Director. (8-16-71)

ii. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients within a defined group, that are or have been used at manufacturing facilities distributing in or into the state. (8-16-71)

iii. The registrant may affix the statement, “ingredients as registered with the State” in lieu of the ingredient list on the label. The list of ingredients must be on file with the Director. This list shall be made available to the feed purchaser upon request. (8-16-71)

f. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory. (8-16-71)

g. The information required in Section 25-2705 of the Commercial Feed Law must appear in its entirety on the principal display panel of the container. (4-7-11)

h. Labeling shall include all statements and promotion on company websites or other internet based customer interfaces. ()

02. Customer Formula Invoice and Tag Requirements. (8-16-71)

a. Bulk shipments of customer-formula feed shall be accompanied by an invoice, delivery slip or other shipping documents identifying the shipment as customer-formula feed and the name and address of the customer to whose order it is made. (8-16-71)

b. Bagged customer-formula feed will be labeled with a tag identifying each bag as such. The total bags in each customer’s shipment will be segregated from other bagged feed and identified with the name and address of the customer to whose order it is made. (8-16-71)

c. Nutritional guarantees and guarantees of other analytes, and a list of ingredients, in descending order of predominance by weight, of a customer-formula feed may be used in lieu of specific weights or volumes of each ingredient, as required in Section 25-2705(2)(d), Idaho Code, when so ordered by the customer. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCT RULES

DOCKET NO. 02-0633-1201 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-1103, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rule provides industry with a new optional seal for promotion purposes, and a new optional registration of branded materials for organic use.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 56 through 60](#).

IDAHO CODE SECTION 22-101A STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1106, Idaho Code:

ISDA may charge fees no greater than the following amounts to those persons desiring to register branded materials with the Organic Foods Program:

\$200 initially, and annually thereafter, to persons already accredited by another qualifying materials entity;

\$500 initially, and from \$500 to \$5000 annually relative to the amount of annual sales of the registered materials.

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: No impact on the general fund. The Organic Food Program Fund 0332-10 will have increased annual revenue estimated at \$10,000 to \$20,000 to cover estimated costs of providing services to industry.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Brandon Lamb, Program Manager, (208) 332-8675.

DATED this 30th day of October, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

**THE FOLLOWING NOTICE WAS PUBLISHED
WITH THE PROPOSED FEE 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 22-1103, 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, 2012.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule provides industry with a new optional seal for promotion purposes, and a new optional registration of branded materials for organic use.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

ISDA may charge fees no greater than the following amounts to those persons desiring to register branded materials with the Organic Foods Program:

1. \$200 initially, and annually thereafter, to persons already accredited by another qualifying

- materials entity;
2. \$500 initially, and from \$500 to \$5000 annually relative to the amount of annual sales of the registered materials.

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:

No impact on the general fund. The Organic Food Program Fund 0332-10 will have increased annual revenue estimated at \$10,000 to \$20,000 to cover estimated costs of providing services to 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 July 4, 2012 Idaho Administrative Bulletin, [Vol. 12-7, Page 27](#). A negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on July 16.

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 Brandon Lamb, Program Manager at (208) 332-8675.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Brandon Lamb and must be delivered on or before October 24, 2012.

Comments can be delivered via email to Brandon.Lamb@agri.idaho.gov or via regular mail to Brandon Lamb's attention at the address listed below.

DATED this 31st day of August, 2012.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 02-0633-1201

010. DEFINITIONS.

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. (3-19-07)

02. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule who has more than five thousand dollars (\$5,000) annual gross

- organic sales. (3-19-07)
- 03. Department.** The Idaho State Department of Agriculture. (4-2-03)
- 04. Director.** The director of the department of agriculture or the director's designee. (4-2-03)
- 05. Educational Activity.** Seminar, conference, farm tour, class, or research. (3-19-07)
- 06. Food Products.** Shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. (4-2-03)
- 07. Handler.** Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. (4-2-08)
- 08. Livestock.** Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural- based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products. (4-2-08)
- 09. Materials.** Any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling. ()
- ~~09~~**10. Organic Certification Seal.** The design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and all other conditions of the provisions of that chapter have been met. (4-2-03)
- ~~10~~**11. Organic Food Product.** Any food product that is marketed using the term organic, or any derivative of the term organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides. (4-2-03)
- ~~11~~**12. Organically Grown Food Products.** Food products which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown food products are produced under the standards and rules established in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and by other qualified agencies. (4-2-03)
- ~~12~~**13. Person.** Any individual, partnership, association, corporation, cooperative, or other entity. (4-2-08)

134. Producer. A person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products. (4-2-08)

145. Registration. (3-19-07)

a. A document issued by the Department to an organic producer/handler who has five thousand dollars (\$5,000) or less annual gross organic sales; or (3-19-07)

b. A document issued by the Department to an agent certifying organic producers/handlers in the state of Idaho; or (3-19-07)

c. A document issued by the Department to a producer/handler certified by an agent other than the Department. (3-19-07)

156. Vendor. Any person who sells organic food products to the consumer or another vendor. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

200. IDAHO ORGANIC CERTIFICATION SEAL.

01. Description of Seal. ~~The Idaho seal must replicate the form and design of the example in Figure 1 and must be printed legibly and conspicuously.~~ Certified operations that become certified for the first time prior to July 1, 2013 may continue to use the seal depicted in Figure 1. Certified operations that become certified for the first time July 1, 2013 and later may only use the seal in Figure 2.

FIGURE 1



FIGURE 2



(4-2-03)()

02. Utilization of Seal. The Idaho organic certification seal as approved by the director and as shown in Figure 1 and Figure 2, may be imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of this rule and all other conditions of the provisions of this chapter have been met. (4-2-03)()

a. Any container manufacturer may apply for authorization to imprint facsimiles of the ISDA organic certification seal on containers of organic products. (4-2-03)

b. Authorization granted to imprint facsimile seals shall be subject to review by the director on an annual basis, or more frequently if necessary. (4-2-03)

201. REGISTRATION OF APPROVED MATERIALS.

The director may establish a list of registered branded materials for use in organic production, processing, or handling. ()

01. Registration. Registration is voluntary. ()

a. All applicants applying for registration of materials must submit the application to the Department on forms prescribed by the Department. ()

b. An applicant for materials registration must demonstrate that the material meets the requirements and standards of the National Organic Program. Specifically, the material may not be a material prohibited for use in the production, processing, or handling of organic products by 7 C.F.R. Section 205.105, and may not be otherwise prohibited for use in organic production, processing, or handling by the National Organic Program. ()

02. Effect of Registration. The fact that a material is registered is not a guarantee that the registered material will be acceptable for use by certified organic producers, processors, or handlers or other organic certifying agencies other than ISDA. ()

03. Department Not Liable. The Department is not liable for any losses or damages that occur as a result of any person's use of any registered branded material. The Department is not liable for any losses or damages that result from delays that occur in the registration process due to lack of resources or expertise. ()

04. Registration Fees. The Director may charge the following fees, which are nonrefundable and are not to exceed the stated amounts. ()

a. Operations that hold a current approval from a reputable third party accredited material evaluation program such as the Environmental Protection Agency, an NOP Accredited Certifying Agent, or ISO Guide 65 for the material(s) which it is seeking to register in Idaho must pay two hundred dollars (\$200) for an initial registration application fee, and two hundred dollars (\$200) each year thereafter for renewal of the registration. ()

b. All other operations will be charged an initial registration application fee not to exceed five hundred dollars (\$500), and must pay an annual fee based on registered branded materials sales volume, not to exceed the following amounts:

Annual Sales	Annual Fees
\$0 to \$20,000	\$500
\$20,001 to \$75,000	\$2,500
\$75,000 and above	\$5,000

c. All operations must pay initial and annual inspection fees to keep their product registered. ()

05. Initial and Annual Inspection Fees. ()

a. The hourly rate for inspections is fifty dollars (\$50), including travel time. ()

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. ()

c. There will be a minimum charge of fifty dollars (\$50) plus mileage for any inspection. ()

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. ()

e. A per diem, lodging, and travel as allowed by state and ISDA rules, and any other out of pocket costs incurred by ISDA in conducting annual or initial certification inspections will be charged to the operation. ()

f. Upon approval by ISDA, private inspectors may be utilized. The applicant or operator will bear the total cost of the private inspection. ()

06. Seal for Registered Branded Materials. When a material is registered and added to the list of registered branded materials, the Director will approve the use of the seal in Figure 3

on the packaging and in the promotions for the sale of the registered material subject to the National Organic Program and Idaho state rules:

FIGURE 3



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07. Revocation of Registration. If at any time the registered material is determined to be not suitable for organic use, the Director may revoke the registration of the branded material, remove the material from the list of registered branded materials, and revoke authorization to use the seal shown in Subsection 201.06. ()

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