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**IDAPA 02
TITLE 06
CHAPTER 33**

02.06.33 - ORGANIC FOOD PRODUCTS RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-1103, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.33, "Organic Food Products Rules". (4-2-03)

02. Scope. These rules govern: (4-2-03)

a. Definitions; (4-2-03)

b. The requirements for production and handling of organic plant and animal products; (4-2-03)

c. Labels and labeling of organic plant and animal products; (4-2-03)

d. General requirements for certification of producers and handlers of plant and animal products; (4-2-03)

e. Fee structure; and (4-2-03)

f. Penalty provisions for violation of organic law and rules. (4-2-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-2-03)

003. ADMINISTRATIVE APPEAL.

Section 22-1108, Idaho Code, provides for an appeal process. (4-2-03)

004. INCORPORATION BY REFERENCE.

The December 21, 2000 Code of Federal Regulations (CFR) 7 CFR Part 205 Subchapter M-Organic Foods Production Act Provisions, except sections 205.620 through 205.642, is incorporated by reference. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701 and are also available at the state law library. (4-2-03)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-2-03)

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (4-2-03)

03. Street Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (4-2-03)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (4-2-03)

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Department.** The Idaho State Department of Agriculture. (4-2-03)
- 02. Director.** The director of the department of agriculture or the director's designee. (4-2-03)
- 03. 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)
- 04. Handler.** Any person or organization who processes, packages, resells, transports or stores organic food products or nonorganic food products. (4-2-03)
- 05. Livestock.** Cattle, swine, sheep, goats, ratites, domestic cervidae and bison. (4-2-03)
- 06. 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)
- 07. 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)
- 08. 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)
- 09. Person.** Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (4-2-03)
- 10. Producer.** Any person or organization who: (4-2-03)
- a.** Grows, raises or produces a food product; and (4-2-03)
 - b.** Sells the food product as, or offers it for sale as, an organic food. (4-2-03)
- 11. Vendor.** Any person who sells organic food products to the consumer or another vendor. (4-2-03)
- 011. FINDINGS.**
The adoption of IDAPA 02.06.33, "Organic Food Products Rules" will facilitate domestic and international marketing of fresh and processed food that is organically produced and assure consumers that such products meet consistent, uniform standards. (4-2-03)
- 012. -- 099. (RESERVED).**
- 100. RECERTIFICATION.**
- 01. Eligibility.** In addition to the requirements outlined in 7 CFR Part 205 Subchapter M-Organic Foods Production Act Provisions "Continuance of Certification," all producers and handlers shall attend one seminar annually to be eligible for recertification. (4-2-03)
- 02. Request for Approval.** A producer or handler attending a seminar that is either in or out of state or the organizer of a seminar shall submit to the department a request for approval of a seminar not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the department. Under exceptional circumstances, as described in writing by the producer or handler requesting approval, the thirty (30) day requirement may be waived. (4-2-03)

- 03. List of Attendees.** The organizer of an approved seminar shall submit to the department a list of attendees. (4-2-03)
- 04. Official Approval.** Official approval shall be given only for those seminars that deal with: (4-2-03)
- a.** Organic production; (4-2-03)
 - b.** Integrated pest management; (4-2-03)
 - c.** Sustainable agriculture practices; (4-2-03)
 - d.** Organic handling; or (4-2-03)
 - e.** Processing practices. (4-2-03)

101. -- 199. (RESERVED).

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.

FIGURE 1



(4-2-03)

02. Utilization of Seal. The Idaho organic certification seal as approved by the director and as shown in Figure 1, 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)

c. Seals are available at the Department at the cost of two and one-half cents (\$.025) each plus Idaho sales tax. (4-2-03)

201. -- 299. (RESERVED).

300. REGISTRATION AND CERTIFICATION - FEE SCHEDULE.

01. Deadlines for Applications of Registration. All organic food producers and organic handlers in Idaho, shall register with the Department by April 30th of each year. The application and fees shall be forwarded to

the Department on forms furnished by the Department. Applications received after April 30th will be considered late applications. (4-2-03)

02. Deadlines for Applications of Certification. All organic food producers and organic handlers in Idaho shall be certified with the Department or another certifying agent accredited under the National Organic Program, except those production or handling operations exempted in Section 205.101 of 7 Code of Federal Regulations (CFR). All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. All applicants applying for certification with the Department, shall submit the application and fees to the Department on forms furnished by the Department. Applications for certification received prior to April 30th will be given priority scheduling for on-site inspection services. Applications received after April 30th will be considered late applications. Late applicants may lose the opportunity to have their on-site inspection scheduled in conjunction with other applicants in the area, which could result in substantially higher inspection fees. Applications for producer certification received after July 1 will not be accepted. (4-2-03)

03. Annual Registration Fees. (4-2-03)

a. Organic producer with annual gross income of more than five thousand dollars (\$5,000) - One hundred dollars (\$100). (4-2-03)

b. Organic producer with annual gross income of less than five thousand dollars (\$5,000) - Twenty-five dollars (\$25). (4-2-03)

c. Organic handler with annual gross income of more than five thousand dollars (\$5,000) - One hundred dollars (\$100). (4-2-03)

d. Organic handler with annual gross income of less than five thousand dollars (\$5,000) - Twenty-five dollars (\$25). (4-2-03)

e. A person who produces and handles their own organic food products shall pay only one (1) registration fee of one hundred dollars (\$100) or twenty-five dollars (\$25) based on gross annual income. (4-2-03)

04. Inspection Fees. (4-2-03)

a. The hourly rate is twenty-five dollars (\$25) including travel time. (4-2-03)

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. (4-2-03)

c. There will be a minimum charge of twenty-five dollars (\$25) plus mileage for any inspection. (4-2-03)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (4-2-03)

e. The costs for chemical residue analysis of organically grown food products may be assessed against the producer or handler. (4-2-03)

f. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of thirty-seven dollars and fifty cents (\$37.50) including travel time with a minimum charge of one (1) hour plus mileage. (4-2-03)

05. Graduated Gross Sales Fee Schedule. (4-2-03)

a. In addition to the fees prescribed above, all producers and handlers shall remit with their registration application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time registrant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars (\$10). The graduated gross organic sales fee structure is as follows:

| | |
|-------------------|-----------------------------|
| 0 - 2,000 | \$ 10 |
| 2,001 - 5,000 | \$ 25 |
| 5,001 - 10,000 | \$ 50 |
| 10,001 - 15,000 | \$ 75 |
| 15,001 - 20,000 | \$ 100 |
| 20,001 - 25,000 | \$ 125 |
| 25,001 - 30,000 | \$ 150 |
| 30,001 - 35,000 | \$ 175 |
| 35,001 - 50,000 | \$ 250 |
| 50,001 - 75,000 | \$ 375 |
| 75,001 - 100,000 | \$ 500 |
| 100,001 - 150,000 | \$ 750 |
| 150,001 - 200,000 | \$1,000 |
| 200,001 - 280,000 | \$1,400 |
| 280,001 - 375,000 | \$1,875 |
| 375,001 - 500,000 | \$2,500 |
| 500,001 and up | 0.5% of gross organic sales |

(4-2-03)

b. Registration and application fees are non-refundable.

(4-2-03)

301. -- 399. (RESERVED).

400. PENALTY FOR VIOLATION -- CIVIL PENALTY.

Any person violating these rules may be assessed a civil penalty as set forth in Section 22-1104, Idaho Code.

(4-2-03)

401. -- 999. (RESESRVED).

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