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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 Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (July 7, 2010), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b885492294d6e01d334ae6076da2c3c2&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7>. 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. (4-7-11)

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. 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. (3-27-13)
- 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)
- 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)
- 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)
- 13. Person.** Any individual, partnership, association, corporation, cooperative, or other entity. (4-2-08)
- 14. Producer.** A person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products. (4-2-08)
- 15. 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)

16. 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. -- 199. (RESERVED)

200. IDAHO ORGANIC CERTIFICATION SEAL.

01. Description of Seal. 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



(3-27-13)

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. (3-27-13)

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. (3-27-13)

01. Registration. Registration is voluntary. (3-27-13)

a. All applicants applying for registration of materials must submit the application to the Department on forms prescribed by the Department. (3-27-13)

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. (3-27-13)

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. (3-27-13)

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. (3-27-13)

04. Registration Fees. The Director may charge the following fees, which are nonrefundable and are not to exceed the stated amounts. (3-27-13)

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. (3-27-13)

b. All operations must pay initial and annual inspection fees to keep their product registered. (3-27-13)

05. Initial and Annual Inspection Fees. (3-27-13)

a. The hourly rate for inspections is fifty dollars (\$50), including travel time. (3-27-13)

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. (3-27-13)

c. There will be a minimum charge of fifty dollars (\$50) plus mileage for any inspection. (3-27-13)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-27-13)

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. (3-27-13)

f. Upon approval by ISDA, private inspectors may be utilized. The applicant or operator will bear the total cost of the private inspection. (3-27-13)

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



(3-27-13)

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. (3-27-13)

202. -- 299. (RESERVED)

300. REGISTRATION REQUIREMENTS, DEADLINES AND FEES.

01. Registration Requirements and Deadlines. All applicants applying for registration with the Department, shall submit the application to the Department on forms prescribed by the Department. (3-19-07)

a. All organic producers/handlers in Idaho with five thousand dollars (\$5,000) or less annual gross organic sales shall register with the Department by July 1st of each year. (3-29-10)

b. All organic producers/handlers in Idaho certified by agents other than the Department shall register with the Department within thirty (30) days of initial certification and by July 1st of each year thereafter. (3-29-10)

c. All agents certifying producers/handlers in Idaho shall register with the Department within thirty (30) days of issuing their first Idaho producer/handler certificate. (3-19-07)

d. Agents shall provide the Department, by January 2 of each year, a list of Idaho producers/handlers, addresses, and telephone numbers for each certificate issued during the prior calendar year. (3-19-07)

02. Registration Fees. (3-29-10)

a. The annual registration fee is fifty dollars (\$50). (3-19-07)

b. A person who produces and handles their own organic food products shall pay only one (1) annual registration fee. (3-19-07)

301. CERTIFICATION REQUIREMENTS AND FEES.

01. Certification Requirements. All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed or approved by the Department. (3-29-12)

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) shall be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-19-07)

b. Producers/handlers with annual gross organic sales of five thousand dollars (\$5,000) or less may select certification in place of registration. (4-7-11)

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-19-07)

d. Livestock producer and handler applications will be accepted throughout the year. (3-19-07)

02. Certification Fees. (3-29-10)

a. Organic producers/handlers with annual gross organic sales of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less requesting certification - One hundred twenty-five dollars (\$125). (4-7-11)

b. Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars (\$15,000) - Two hundred dollars (\$200). (4-7-11)

c. A person who produces and handles their own organic food products shall pay only one (1) annual certification fee based on gross annual organic sales. (3-19-07)

03. Certification Inspection Fees. (3-19-07)

a. The hourly rate is thirty-five dollars (\$35) including travel time. (3-19-07)

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. (3-19-07)

c. There will be a minimum charge of thirty-five dollars (\$35) plus mileage for any inspection. (3-19-07)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-19-07)

e. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents (\$47.50) including travel time with a minimum charge of one (1) hour plus mileage. (3-19-07)

f. Upon approval by the Department, private inspectors may be utilized. The applicant shall bear the total cost of the private inspection. (3-29-10)

302. GRADUATED GROSS SALES FEE SCHEDULE.

01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department and those registered by the Department with five thousand dollars (\$5,000) or less annual gross organic sales shall remit with their registration/certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, 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 up to \$5,000

(3-19-07)

02. Non-Refundable. Registration and certification application fees are non-refundable. (3-19-07)

303. -- 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. (RESERVED)

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