

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 11
ORGANIC FOOD PRODUCTS

22-1101. LEGISLATIVE INTENT. The legislature recognizes a public benefit and provides consumer protection in establishing standards for food products marketed and labeled using the term "organic", or a derivative of the term "organic." These standards will also facilitate the development of out-of-state markets for Idaho food grown by organic methods.

[22-1101, added 1990, ch. 145, sec. 1, p. 325.]

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "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.

(3) "Handler" means 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) "Livestock" means 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 nonplant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

(5) "Organic certification seal" means 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 this chapter and all other conditions of the provisions of this chapter have been met.

(6) "Organic food product" means 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.

(7) "Organically grown food products" means 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 this chapter and by other qualified agencies.

(8) "Person" means an individual, partnership, corporation, association, cooperative, or other entity.

(9) "Producer" means a person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

(10) "Vendor" means any person who sells organic food products to the consumer or another vendor.

[22-1102, added 1990, ch. 145, sec. 1, p. 325; am. 1992, ch. 314, sec. 1, p. 936; am. 1994, ch. 99, secs. 2 & 3, p. 224 and 225; am. 1999, ch. 136, secs. 1 & 2, p. 383 and 384; am. 2001, ch. 75, sec. 2, p. 181; am. 2007, ch. 53, sec. 1, p. 124.]

22-1103. ADMINISTRATION AND ENFORCEMENT -- RULES -- ANNUAL LIST DISTRIBUTION. (1) The administration and enforcement of the provisions of this chapter shall be under the director. The director is authorized, in conformance with [chapter 52, title 67](#), Idaho Code, to promulgate rules concerning, but not limited to:

- (a) Standards for agricultural crops and livestock produced for sale as organically grown food products.
- (b) Records required of organically grown food products producers.
- (c) The number of on-site inspections, announced and unannounced.
- (d) Chemical residue analysis of organically grown food products and fees for conducting such analysis.
- (e) Certification of private laboratories to conduct chemical residue analyses.
- (f) Standards that a producer must meet to be recognized as a producer under the provisions of this chapter.
- (g) Development and distribution of the organic certification seal and standards for its application for use on Idaho organically grown food products.
- (h) Development and implementation of labeling standards.
- (i) Rules establishing organic standards for poultry and poultry products, livestock and livestock products, milk and dairy products or aquaculture products, which will be promulgated in consultation with the appropriate agricultural or commodity organizations as determined by the director. No pending or temporary rule adopted by the department shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review pursuant to sections [67-5224](#) and [67-5291](#), Idaho Code.
- (j) Standards for health care and medical treatment for livestock qualifying as organically grown food products and for the prevention and control of infections or communicable diseases among such livestock.
- (k) Standards for prohibitions against denial of health care for or medical treatment of livestock in order to obtain or retain organic certification.

(2) An annual list of all certified organic producers, handlers and vendors shall be distributed to state regulatory authorities, and to other persons upon request.

[22-1103, added 1990, ch. 145, sec. 1, p. 326; am. 1992, ch. 314, sec. 2, p. 936; am. 1999, ch. 136, secs. 3 & 4, p. 385 and 386; am. 2000, ch. 190, secs. 1 & 2, p. 470 and 471; am. 2001, ch. 75, sec. 3, p. 182; am. 2011, ch. 50, sec. 1, p. 114.]

22-1104. VIOLATION OF RULES -- CIVIL PENALTY. Any person violating a rule promulgated by the director to implement provisions of this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each offense and shall

be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, [chapter 52, title 67](#), Idaho Code. If the department is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

Moneys collected for violation of a rule or regulation shall be deposited in the state treasury and credited to the organic food products administration account of the department.

[22-1104, added 1990, ch. 145, sec. 1, p. 326; am. 1993, ch. 216, sec. 2, p. 589; am. 2002, ch. 88, sec. 1, p. 209.]

22-1105. PROHIBITED REPRESENTATIONS. A producer, vendor or handler shall not sell or resell or offer for sale or resale any food product with the representation that the product is an organically grown food product if the producer, vendor or handler knows, or has reason to know, that the food product has not been grown, raised or produced as an organically grown food product as defined in this chapter. Violations of this section shall be punishable as provided in section [22-1104](#), Idaho Code.

[22-1105, added 1990, ch. 145, sec. 1, p. 327; am. 2001, ch. 75, sec. 4, p. 183.]

22-1106. FEES -- ORGANIC FOOD PRODUCTS ADMINISTRATION ACCOUNT. The director may adopt rules establishing a fee schedule that will provide for the recovery of the full cost of the certification program. Fees collected pursuant to this section shall be deposited in the organic food products administration account which is hereby created in the dedicated fund of the state treasury. Moneys in the account shall be used solely for carrying out the provisions of this chapter and may be expended only pursuant to appropriation. The director may employ as many personnel as are necessary to carry out the provisions of this chapter.

[22-1106, added 1990, ch. 145, sec. 1, p. 327; am. 2001, ch. 75, sec. 5, p. 183.]

22-1107. ORGANIC FOOD ADVISORY COUNCIL. (1) There is hereby created in the department of agriculture, the organic food advisory council which shall consist of seven (7) members who shall be appointed by the director. Organizations representing Idaho's organic food products industry shall nominate to the director one (1) member and one (1) alternate for each vacancy on the advisory council to represent the following categories of organic food products:

- (a) Cereals, grains and legumes;
- (b) Dairy and livestock;
- (c) Forage and feed;
- (d) Herbs; and

(e) Vegetables and row crops.

At least one (1) member shall be a purchaser, vendor or consumer of organic food products, and one (1) member shall represent conventional agriculture. Three (3) members of the council shall be originally appointed for a term of two (2) years and four (4) members of the council shall be appointed for a term of three (3) years. Thereafter all terms shall be for a period of three (3) years. If a vacancy occurs, the director may appoint a replacement for the remainder of the term.

(2) The organic food advisory council shall advise the director on matters relating to administration of the provisions of this chapter. A majority of the members of the council shall represent a quorum. The council shall meet at the call of the chairman or the director.

(3) Members of the council shall be compensated as provided in section [59-509](#)(b), Idaho Code.

[22-1107, added 1990, ch. 145, sec. 1, p. 327; am. 2001, ch. 75, sec. 6, p. 183; am. 2002, ch. 88, sec. 2, p. 210.]

22-1108. APPEAL PROCESS. Any person aggrieved by an agency action in the administration and enforcement of this chapter or rules promulgated pursuant thereto may, within sixty (60) days after the action is taken, petition the director for a hearing to determine the matter as provided for in relation to contested cases pursuant to [chapter 52, title 67](#), Idaho Code.

[22-1108, added 1994, ch. 99, sec. 1, p. 224.]