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**IDAPA 02
TITLE 06
Chapter 40**

02.06.40 - RULES RELATING TO GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-1003, Idaho Code. (3-30-01)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.40, "Rules Relating to Ginseng Crop Management Area for Magic Valley". (3-30-01)

02. Scope. This chapter has the following scope: (3-30-01)

a. Establish definitions; (3-30-01)

b. Provide for licensing and registration of persons growing, purchasing and selling ginseng; (3-30-01)

c. Provide for inspections and accounting for all ginseng exported from Idaho; (3-30-01)

d. Specify the records to be kept by ginseng growers and dealers; and (3-30-01)

e. Provide a schedule of fees for services performed in implementing these rules. (3-30-01)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-30-01)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-30-01)

004. DEFINITIONS.

The Idaho State Department of Agriculture adopts the following definitions: (3-30-01)

01. Cultivated Ginseng. Means any part of a ginseng plant that is growing or grown in managed beds under artificial or natural shade and cultivated according to recognized ginseng horticultural practices. Cultivated ginseng includes woodsgrown ginseng. (3-30-01)

02. Dealer. Means anyone who buys ginseng for resale, or grows and sells it for export. This definition does not apply to persons who buy ginseng solely for the purpose of final retail sale to consumers in the United States. (3-30-01)

03. Dealer Registration. Means an annual registration issued by the department authorizing a dealer to buy, collect, or otherwise acquire ginseng for resale or export. (3-30-01)

04. Department. Means the Idaho state department of agriculture. (3-30-01)

05. Director. Means the director of the Idaho state department of agriculture. (3-30-01)

06. Dry Weight. Means the weight in pounds and ounces of harvested or collected ginseng root that is dried and is no longer viable. (3-30-01)

07. Export. Means outside the boundaries of the United States. (3-30-01)

08. Ginseng. Means any and all parts of the plant known as American ginseng (*Panax quinquefolius*)

- including but not limited to: (3-30-01)
- a. Plants; (3-30-01)
 - b. Whole roots; (3-30-01)
 - c. Essentially intact roots; (3-30-01)
 - d. Root chunks; (3-30-01)
 - e. Slices; (3-30-01)
 - f. Seeds; and (3-30-01)
 - g. Tissue. (3-30-01)
- 09. Green Ginseng.** Means a ginseng root from which the moisture has not been removed by drying. (3-30-01)
- 10. Green Weight.** Means the weight in pounds and ounces of freshly harvested or collected ginseng root that is not dried and is still viable. (3-30-01)
- 11. Grower.** Means a person who grows “cultivated,” “wild simulated,” and or “woodsgrown” ginseng, and sells it to a dealer. (3-30-01)
- 12. Grower Registration.** Means an annual registration issued by the department which enables a grower to sell cultivated ginseng that the grower has produced. (3-30-01)
- 13. Out-Of-State Ginseng.** Means ginseng that is grown or originated outside the state of Idaho. (3-30-01)
- 14. Person.** Means an individual, partnership, corporation, firm, association or agent. (3-30-01)
- 15. Wild Ginseng.** Means ginseng growing naturally within its native range. (3-30-01)
- 16. Wild Simulated Ginseng.** Means wild ginseng seeds or roots planted in natural habitat, within the natural range, in suitable ginseng habitat that is not further cultivated. (3-30-01)
- 17. Woodsgrown Ginseng.** Means ginseng grown in managed beds under natural shade. (3-30-01)

005. FINDINGS.

Ginseng growers in the Magic Valley petitioned the department to establish a ginseng crop management area. Pursuant to Section 22-1003, Idaho Code, a public hearing, conducted by a Hearing Officer, was held in Burley, Idaho. These new rules are based on the decision of the director to establish a Ginseng Crop Management Area for Magic Valley as recommended by the Hearing Officer. The trade in threatened and endangered species is controlled by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the United States Fish and Wildlife Service (USFWS). Species, such as ginseng although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival. The adoption of IDAPA 02.06.40, “Rules Relating to Ginseng Crop Management Area for Magic Valley,” will satisfy the USFWS rules and allow ginseng growers in Idaho to export their product. (3-30-01)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (3-30-01)

007. -- 049. (RESERVED).

050. REGULATED PRODUCTS.

American ginseng (*Panax quinquefolius*). (3-30-01)

051. MANAGEMENT AREA.

Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls Counties, state of Idaho. (3-30-01)

052. -- 099. (RESERVED).

100. COLLECTION OF WILD GINSENG.

No grower's or dealer's registration will be issued for the collection, sale or distribution of wild ginseng. (3-30-01)

101. DEALERS AND GROWERS ANNUAL REGISTRATION WITH THE DEPARTMENT.

No person shall act as a dealer or grower without first registering with the department. Any person who acts as a dealer and a grower shall register as both. The department will assign a registration number to each person registered. Registration with the applicable fee shall be made annually no later than January 15 of each year on a form provided by the department and the registration will expire on December 31. (3-30-01)

102. -- 149. (RESERVED).

150. GROWER RECORDS.

A grower selling cultivated ginseng shall do all of the following when selling to a dealer: (3-30-01)

01. Record Of Sale. Provide to the dealer a record of sale containing all of the following information: (3-30-01)

a. Grower's name and address; (3-30-01)

b. Grower's registration number; (3-30-01)

c. Ginseng certificate number; (3-30-01)

d. Ginseng dry weight; (3-30-01)

e. Year harvested; (3-30-01)

f. County of harvest; and (3-30-01)

g. Date of transaction. (3-30-01)

02. Certificate Of Origin. Certify that the ginseng was grown in the state of Idaho. The certificate of origin shall be in the form prescribed by the department. (3-30-01)

03. Records. Maintain records of all ginseng production and sales. Records must be maintained for a period of three (3) years. (3-30-01)

151. -- 199. (RESERVED).

200. DEALER RECORDS.

Dealers shall keep true and accurate records of transactions, including both sales and purchase records, in a format prescribed by the department. Records must be maintained for a period of three (3) years. (3-30-01)

01. Purchase Records. Purchase records shall include: (3-30-01)

a. Dealer's name, address and registration number; (3-30-01)

b. Grower/seller name and registration number; (3-30-01)

- c. Ginseng weight in pounds and ounces; (3-30-01)
- d. Designation of green or dry ginseng; (3-30-01)
- e. Designation of wild or cultivated ginseng; (3-30-01)
- f. Harvest year of ginseng; (3-30-01)
- g. County in which the ginseng was harvested; and (3-30-01)
- h. Date of transaction. (3-30-01)
- 02. Sales Records Shall Include The Following Information:** (3-30-01)
 - a. Dealer's name, address and registration number; (3-30-01)
 - b. Buyer's name, address and registration number; (3-30-01)
 - c. Ginseng weight in pounds and ounces; (3-30-01)
 - d. Designation of green or dry ginseng; (3-30-01)
 - e. Designation of wild or cultivated ginseng; (3-30-01)
 - f. Harvest year; (3-30-01)
 - g. County in which the ginseng was harvested; and (3-30-01)
 - h. Date of transaction. (3-30-01)
- 201. -- 249. (RESERVED).**
- 250. OUT-OF-STATE GINSENG.**
 - 01. Certificate Of Origin.** No dealer may purchase, receive or import out-of-state ginseng unless it is accompanied by a valid certificate of origin issued by the state or country of origin. The certificate must include: (3-30-01)
 - a. The state or country of origin; (3-30-01)
 - b. The source (wild or cultivated); (3-30-01)
 - c. Year of harvest; and (3-30-01)
 - d. Dry weight of the out-of-state ginseng. (3-30-01)
 - 02. Recordkeeping.** The dealer shall retain for a period of three (3) years a copy of each written certificate of origin received. (3-30-01)
 - 03. Uncertified Ginseng.** If a dealer receives ginseng not accompanied by a valid certificate of origin, the uncertified ginseng must be returned within thirty (30) days to the state or country of origin. Failure to do so shall render the ginseng illegal for commerce. (3-30-01)
- 251. SELLING OR SHIPPING OF GINSENG - CERTIFICATES.**
 - 01. Export.** Except as described in Subsection 251.06, no person shall sell or ship ginseng out-of-state or export Idaho grown ginseng unless it is accompanied by a valid, prenumbered certificate of origin on a form issued

by the department. The department shall, upon request and receipt of the required fee(s), provide each registered grower or dealer with forms for certificates of origin. The department shall identify each certificate of origin form with a serial number, and the registration number of the grower or dealer. Registered growers or dealers may certify their own cultivated ginseng by filling out and signing a certificate of origin form. The certificate of origin shall contain the following information: (3-30-01)

- a. State of origin; (3-30-01)
- b. Serial number of certificate; (3-30-01)
- c. Dealer's and/or grower's state registration number; (3-30-01)
- d. Year of harvest of ginseng being certified; (3-30-01)
- e. Designation as cultivated roots or plants; (3-30-01)
- f. Designation as dried or fresh (green) roots, or live plants; (3-30-01)
- g. Weight of roots or plants (or number of plants) separately expressed both numerically and in writing; (3-30-01)
- h. Date of certification; and (3-30-01)
- i. Signature of grower or dealer making certification. (3-30-01)

02. Idaho Certificate Of Origin. All of the following conditions must be met in order for an Idaho certificate of origin to be valid: (3-30-01)

- a. The grower or dealer whose registration number was entered on it by the department shall sign the certificate; and (3-30-01)
- b. The ginseng shall be cultivated ginseng grown in Idaho. (3-30-01)

03. Forms. Forms for certificates of origin are issued by the department in triplicate. The original is designated for the dealer's use in commerce; the first copy is for the dealer's records; and the grower or dealer shall send the second copy, within two (2) weeks of issuance, to the Division of Plant Industries, Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. (3-30-01)

04. Out-Of-State Issued Certificates. No person shall export ginseng grown in Idaho using an out-of-state issued certificate. (3-30-01)

05. Wild Ginseng Certificates. Certificates of origin shall not be issued for wild ginseng. (3-30-01)

06. Final Retail Sales. Subsection 251.01 shall not apply to a person who sells or ships cultivated ginseng out-of-state to a person who is buying or receiving it solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record for a period of three (3) years which includes: (3-30-01)

- a. Name and address of the buyer or receiver; (3-30-01)
- b. Weight of the ginseng in pounds and ounces; (3-30-01)
- c. Date of the sale or shipment; (3-30-01)
- d. County of harvest of the ginseng; and (3-30-01)
- e. Year of harvest of the ginseng. (3-30-01)

252. -- 299. (RESERVED).

300. MAINTAINING SEPARATE LOTS OF GINSENG.

Dealers shall maintain separation between lots of out-of-state ginseng and that harvested in Idaho until a certificate of origin has been issued for the ginseng harvested in Idaho. (3-30-01)

301. DEALER OR GROWER HOLDING GINSENG AFTER DECEMBER 31 OF THE YEAR.

Any grower or dealer holding ginseng on or after December 31 shall report all carryover stocks on a form provided by the department, which shall list: (3-30-01)

- 01. Name And Address Of The Grower Or Dealer;** (3-30-01)
- 02. Location Of The Lot;** (3-30-01)
- 03. Lot Identification;** (3-30-01)
- 04. County Of Harvest;** (3-30-01)
- 05. Dry Or Green Weight In Pounds And Ounces; And** (3-30-01)
- 06. Year Of Harvest.** (3-30-01)

302. -- 399. (RESERVED).

400. INSPECTION AND DISCLOSURE OF RECORDS.

01. Inspection. All records required to be kept under this chapter shall be made available to the department upon request for inspection and copying. (3-30-01)

02. Disclosure. The department shall not disclose information obtained regarding purchases, sales, or production of an individual ginseng dealer, except for providing reports to the United States Fish and Wildlife Service. (3-30-01)

401. -- 449. (RESERVED).

450. EXPORT PROCEDURES.

Valid federal Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents are necessary to export ginseng. (3-30-01)

451. FEES - HOURLY, OVERTIME.

Fees shall be charged to cover the department's cost of implementing these rules. (3-30-01)

01. Certification And Overtime Rate. Ginseng certification services shall be provided at an hourly and overtime rate as provided in Section 452 of these rules. The overtime rate shall apply for service provided subsequent to a regularly scheduled eight (8) hour week day shift or on Saturdays, Sundays, and state legal holidays. No service will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5 p.m., on the previous day. (3-30-01)

02. Minimum Charges. Charges shall be for a minimum of one (1) hour. Additional time shall be charged in one-half (1/2) hour increments. (3-30-01)

452. SCHEDULE OF FEES AND CHARGES.

The following schedule for ginseng certification services shall apply: (3-30-01)

- 01. Registration.** Registration (grower or dealer or grower and dealer), twenty-five dollars (\$25). (3-30-01)

- 02. Certificate Of Origin Form.** Certificate of origin form, each, ten dollars (\$10). (3-30-01)
- 03. Hourly Rate.** Hourly rate for certification services, twenty-eight dollars (\$28). (3-30-01)
- 04. Overtime Rate.** Overtime rate for certification services, thirty-three dollars (\$33). (3-30-01)

453. VIOLATIONS.

Any person violating any provisions of these rules shall be subject to the provisions of Section 22-1006, Idaho Code. (3-30-01)

453. -- 999. (RESERVED).

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