

VERMONT REGULATIONS FOR THE COLLECTION, CULTIVATION AND  
SALE OF AMERICAN GINSENG

~~SECTION I.—Statutory Authority~~ STATUTORY AUTHORITY.

~~Under 6 V.S.A. § 1129, the Commissioner of Agriculture, may prescribe and adopt regulations for the collection, sale, or distribution of American ginseng.~~

This rule is established by the Agency of Agriculture, Food and Markets under the authority granted the Secretary at 6 V.S.A., § 4029 "Rules; distribution; penalties", 6 V.S.A. § 4031, 'Plants taken from the wild', and 6 V.S.A., § 1 (a) (10), 'General powers of agency; secretary of agriculture, food and markets'.

~~SECTION II. Definitions~~ DEFINITIONS.

1. "Agency" means the Vermont Agency of Agriculture, Food and Markets.

~~1. 2.~~ "Collecting" means cutting, gathering, rooting, severing, injuring, destroying, removing, or carrying away any ginseng plants or parts thereof for the purpose of selling, or offering for sale.

~~2. "Commissioner" means the Commissioner of Agriculture, or his designee.~~

~~3. "Department" means the Vermont Department of Agriculture.~~

~~4. 3.~~ "Ginseng" means the roots in whole, part, or in any form, of American Ginseng (*Panax quinquefolius* *Panax quinquefolius* L.).

~~5. 4.~~ "Cultivated Ginseng" means ginseng growing from seed, roots, or rootlets planted in prepared beds either in woods or under the shade of artificial structures, wild ginseng transplanted from its original location, or ginseng otherwise manipulated by horticultural practices, and collectively includes ginseng defined or described as 'artificially propagated', 'woods-grown', 'woods-cultivated' or 'field grown'.

5. "Ginseng Collector" means a person who collects wild ginseng.

6. "Green Ginseng" means a ginseng root from which the moisture has not been removed by drying.

7. "Wild Ginseng" means ginseng growing ~~or~~ living or found in a natural state.

8. "Ginseng Dealer" means any person ~~engaged in the business of buying ginseng roots from collectors of wild ginseng for the purpose of resale to other ginseng dealers, exporters, or to any person who sells ginseng in any form in interstate commerce~~ selling certified ginseng, or moving certified ginseng interstate for commercial gain.

9. "Foreign Ginseng" means ginseng not originating from within the borders of the State of Vermont.

10. "~~Ginseng~~ Ginseng Collector's Permit" means ~~that annual the permit issued by the Commissioner~~ Secretary which enables a person to collect wild ginseng within this state between ~~August 20 and October 10~~ September 1 and October 31 of a given year when done in ~~accordance~~ accordance with these ~~regulations~~ rules and 6 V.S.A. § ~~1129~~ Chapter-206.

11. "Ginseng Dealer's Permit" means ~~that annual the permit issued by the Commissioner~~ Secretary which enables a person to act as a ginseng dealer within this state when done in accordance with these regulations and 6 V.S.A. § ~~1129~~ Chapter-206.

12. "Person" means any individual, partnership, corporation or other business entity.

13. "Secretary" means the Secretary of the Agency of Agriculture, Food and Markets or his or her designee.

14. "Wild-Simulated Ginseng" means ginseng grown from cultivated seeds planted in hardwood forests without any other human intervention (e.g. removal of vegetation, application of fertilizers, pesticides), has wild ginseng-like characteristics, and therefore is for all practical purposes, indistinguishable from wild ginseng.

### SECTION III. COLLECTING WILD GINSENG PERMITS ISSUED BY THE VERMONT AGENCY OF AGRICULTURE.

#### 1. Ginseng Collector's Permit

(A) Every person engaged in the collection of ginseng in Vermont shall apply for and have in their possession prior to collecting wild ginseng a ginseng collector's permit. Applications for permits shall be made on forms supplied by the Secretary.

A permit shall be issued by the Secretary only after receipt of the completed forms and payment in full of applicable fees as established in statute at the time of application.

#### (B) Term of Permit

Ginseng collector's permits shall be valid for a period of three years from the date of issuance, from January 1 to December 31, inclusive, and

Permits issued during a calendar year shall be good through the end of that calendar year, and for the two complete subsequent calendar years following.

#### 2. Ginseng Dealer's Permit

(A) A dealer in ginseng shall be required to have a valid dealer's permit prior to engaging in trade in Vermont wild ginseng, applied for and received in compliance

with these rules. Applications for permits shall be made on forms supplied by the Secretary.

Persons engaging in trade in cultivated ginseng will be considered dealers and shall apply for and receive a ginseng dealer's permit prior to submission of cultivated roots for certification under Section V.

(B) Term of Permit

Ginseng collector's permits shall be valid for a period of three years from the date of issuance, from January 1 to December 31, inclusive, and

Permits issued during a calendar year shall be good through the end of that calendar year, and for the two complete subsequent calendar years following.

SECTION IV. COLLECTION, CULTIVATION AND SALE OF AMERICAN GINSENG.

1. Collecting Wild Ginseng

1.(A) Season

a. (i) Wild ginseng shall only be collected yearly between August 20 and October 10 September 1 and October 31.

b. The purchase or sale of green ginseng between the 20<sup>th</sup> day of October and the 19<sup>th</sup> day of August shall be prima facie evidence of a violation of this section.

e. (ii) No person shall purchase ginseng, knowing the same to have been harvested between the 11<sup>th</sup> day of October first (1<sup>st</sup>) day of November and the 19<sup>th</sup> day of August 31<sup>st</sup> day of August.

2. (B) Maturity

a. (i) Only plants with at least three five-leaflet leaves (or three prongs or more) shall be collected.

b. (ii) Plants with green, unripe fruit (seeds) shall not be collected.

3. (C) Seeds

Any ripe seed which is found on any collected wild ginseng at the time of collections shall be planted in the immediate locale from which the root was taken.

SECTION IV. 2. Ginseng Collectors

1. No persons shall collect wild ginseng for the purpose of sale or distributing without first obtaining a permit to do so from the Commissioner on forms provided by the Department.

(A) No person shall collect wild ginseng without first obtaining a permit to do so from the Secretary.

2.(B) Collectors are responsible for obtaining permission to collect wild ginseng on property owned by persons other than themselves.

Collection of ginseng on State or Federal lands is prohibited.

~~3.(C)~~ Any collector who enters ginseng directly into interstate commerce shall be considered a ginseng dealer under Section II.

~~4.(D)~~ Upon application of the appropriate form which contains all requested information, ~~the Commissioner may issue a Ginseng Collector's Permit~~ receipt of completed forms and fees, the Secretary may issue a ginseng collector's permit. ~~Any such permit shall be valid only from August 20 to October 10 of the year of issue. Collector's permits shall be valid during the period September 1 to October 31 for three years from the date of issuance, including the year of issuance.~~ It shall further provide that any wild ginseng root collected must be certified by the Commissioner Secretary before December 31, of the year of collection by March 31 of the year following collection. ~~The Commissioner Secretary may refuse to grant, suspend, or revoke, or refuse to grant any collector's permit for any violation of 6 V.S.A. § 1129 Chapter 206, or these regulations rules.~~

#### SECTION V. Certification of Roots-CERTIFICATION OF ROOTS

1. All wild ginseng roots intended for export from Vermont shall be certified by the Secretary, using forms provided by the Agency. Certification must occur on or before on or before December 31 March 31 of the year of immediately following collection by the Commissioner Secretary before shipment export on forms provided by the Department. Certification shall include the weight of shipment roots submitted for certification. Inspection of roots to verify maturity shall be made at this time. Roots without crown or neck portion may not be certified unless age can be determined.

(A) The Secretary shall only certify wild ginseng roots ten (10) years of age or older for export, as determined by counting bud scale scars on necks or by other generally recognized and accepted means.

(B) No ginseng less than ten (10) years of age may be certified for export, with the exception of the following, which shall be confirmed through written oath or affidavit at the time of certification:

(i) A collector may harvest and submit for certification seven (7), eight (8), or nine (9) year old ginseng collected and harvested from land owned by the collector, and

(ii) The collector's own land from which 7-9 year old ginseng is harvested must be a minimum of five (5) contiguous acres in size or be presently enrolled in the Vermont use value appraisal program with the Vermont Department of Taxes.

(C) The Secretary shall have the right of entry to privately owned property from which 7-9 year old ginseng is collected and submitted for certification solely for purposes of verifying the identity of wild ginseng on those properties.

2. Foreign Ginseng may not be imported into Vermont without first being certified by the state of origin.

3. Certification of cultivated ginseng will be performed as requested or required to verify state of origin and non-wild status only. Vermont cultivated ginseng is not subject to either the minimum age or harvest season certification criteria.

4. Green (fresh) wild ginseng root will only be eligible for certification with the entire neck and annual bud portions attached, in order to verify harvest occurred during the dormant season. Any green root without attached dormant buds present will not be eligible for certification and will be subject to seizure.

Green root must be certified no later than December 31 of the year in which it was collected.

~~3.~~ 5. The Commissioner Secretary may seize any uncertified ginseng found not to be in compliance with subsections 1 or 2 of this Section with these rules.

#### SECTION VI. GINSENG DEALERS.

1. Permit - Any ginseng dealer who buys wild or cultivated ginseng in Vermont shall obtain a Ginseng Dealer's Permit from the ~~Commissioner~~ Secretary. This permit shall be valid for a period of ~~one year~~ three years, inclusive.

2. Records - All ginseng dealers shall keep records, on forms furnished by the ~~Department~~ Agency, of all commerce in ginseng. These records will include date of transaction, month  ~~dug~~ collected, status of roots (green or dry, wild or cultivated), county where  ~~dug~~ collected, weight of ginseng bought or sold, average age of roots, approximate number of roots per pound, collector's/seller's permit number, and signature of collector/seller. These records shall be kept for a period of three years and shall be made available to the ~~Department~~ Agency at the time of certification and upon request.

~~3. Annual Report – All ginseng dealers shall submit to the Department an annual report on their ginseng commerce. The report shall be made on forms furnished by the Department.~~

~~4.~~ 3. Certification - Ginseng dealers when dealing in Vermont ginseng shall handle only ginseng certified in accordance with Section V of these regulations rules.

~~5.~~ 4. Foreign ginseng - Ginseng dealers purchasing ginseng from outside of Vermont shall be responsible for documenting compliance with Section V.2 these rules. Information on improprieties should be reported to the Department of Agriculture within five working days Agency immediately upon observation of the impropriety.

~~6.~~ 5. Out of State Dealers – Ginseng dealers based outside Vermont dealing in Vermont wild ginseng shall have in their possession a valid Vermont Ginseng Dealer's Permit prior to requesting certification of their Vermont-sourced ginseng.

~~6. Revoking of Permits Denial, Suspension, or Revocation of Permits - The Commissioner Secretary may refuse to grant, suspend, or revoke, or refuse to grant any Ginseng Dealer's Permit for any violation of 6 V.S.A. § 1129 Chapter 206 or these regulations rules.~~

Statutory Authority: 6 V.S.A. § 1129-§ 4031