

ARTICLE 19. RESEARCH, COLLECTION, QUOTAS, AND SALES OF PLANTS

Rule 1. Ginseng

312 IAC 19-1-1 Definitions

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 1. The following definitions are in addition to those contained in 312 IAC 1 and apply throughout this rule:

- (1) "Buy" includes offer to buy, trade, or barter.
- (2) "Collect" means dig, pick, pull up, cut, uproot, harvest, or otherwise remove a ginseng plant from its habitat.
- (3) "Cultivated ginseng" means ginseng that is planted and cultivated according to standard ginseng cultivation practices.
- (4) "Division" means the division of nature preserves of the department.
- (5) "Export" means transport, ship, carry, haul, take, or otherwise move ginseng collected in Indiana outside the state of Indiana.
- (6) "Ginseng" means American ginseng (*Panax quinquefolius* L.). The term does not include ginseng ready for consumption, sold, or bought at retail. The term includes cultivated ginseng and wild ginseng.
- (7) "Ginseng dealer" means a person who buys ginseng roots from a ginseng harvester or another ginseng dealer for resale or exportation. The term does not include a person who sells solely for domestic consumption.
- (8) "Ginseng harvester" means a person who collects ginseng.
- (9) "Harvest season" means September 1 through December 31 of each year.
- (10) "License year" means September 1 of one (1) year through August 31 of the following year.
- (11) "Sale" includes trade, barter, and an offer to sell, trade, or barter.
- (12) "Selling season" means September 1 of one (1) year through March 31 of the following year.
- (13) "Wild ginseng" means ginseng in, or harvested from, its native habitat. The term applies regardless of whether the ginseng occurs naturally in the habitat or was introduced or increased in abundance by sowing ginseng seeds or by transplanting ginseng plants from another area.

(Natural Resources Commission; 312 IAC 19-1-1; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4193; filed Oct 1, 1999, 1:05 p.m.: 23 IR 297; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)

312 IAC 19-1-2 Dealer's license; annual issuance

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 2. Licenses to purchase ginseng are issued annually to ginseng dealers for the period from September 1 of one (1) year through August 31 of the following year. *(Natural Resources Commission; 312 IAC 19-1-2; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4193; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)*

312 IAC 19-1-3 Application for license; fee

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 3. As prerequisites to the issuance of a ginseng dealer's license, a person must file with the division both of the following:

- (1) A completed application for ginseng dealer's license.
- (2) A fee payable to the department in the amount of one hundred dollars (\$100).

(Natural Resources Commission; 312 IAC 19-1-3; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4193; filed May 11, 2004, 9:00 a.m.: 27 IR 3065; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)

312 IAC 19-1-4 Selling season; retention by ginseng dealer

Authority: IC 14-31-3-14

Affected: IC 14-31-3-10

Sec. 4. (a) A person must not buy or sell ginseng except during the selling season.

(b) Notwithstanding subsection (a), a ginseng dealer may retain for resale ginseng lawfully acquired during the ginseng season if the dealer has certified the ginseng under section 5 of this rule. (*Natural Resources Commission; 312 IAC 19-1-4; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4194; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA*)

312 IAC 19-1-5 Certification of shipments

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 5. (a) A dealer must receive a certification from the department under this section in order to ship ginseng to any of the following:

- (1) Another ginseng dealer.
- (2) A ginseng exporter.
- (3) Directly for export.

(b) A dealer must complete in triplicate and deliver to the department a certificate of ginseng shipment for ginseng purchased from diggers. The department shall examine the certificate and the shipment and, if approved, sign and date the certificate. The department shall retain one (1) copy of the certificate, one (1) copy shall accompany the ginseng shipment, and one (1) copy shall be returned to the ginseng dealer.

(c) A dealer must obtain a certification the first time ginseng is shipped under subsection (a) and not again. (*Natural Resources Commission; 312 IAC 19-1-5; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4194; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA*)

312 IAC 19-1-6 Annual summary reports

Authority: IC 14-31-3-14

Affected: IC 14-31-3-9

Sec. 6. Within thirty (30) days of the last day of the selling season, a ginseng dealer must file a completed ginseng dealer's annual summary report listing all ginseng bought or sold during the preceding year. The listing shall include ginseng bought outside Indiana and must indicate the state where the ginseng was purchased. (*Natural Resources Commission; 312 IAC 19-1-6; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4194; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA*)

312 IAC 19-1-7 Records; maintenance and inspection

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 7. (a) A ginseng dealer must do both of the following:

- (1) Maintain true and complete records of the dealer's commerce in ginseng.
- (2) Provide a report, completed on a departmental form, for each quarter of the calendar year.

(b) The records required in subsection (a) must include a log that includes the following information, written legibly, on a departmental form:

- (1) The name and address of each person who bought ginseng from the dealer or sold ginseng to the dealer.
 - (2) The weight of wild ginseng and cultivated ginseng bought or sold.
 - (3) The number and date of shipments and the county or counties from which the ginseng was taken.
- (c) The department may, at any reasonable time, inspect the following:
- (1) Records required under this section.
 - (2) A dealer's business premises.

(*Natural Resources Commission; 312 IAC 19-1-7; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4194; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA*)

312 IAC 19-1-8 Harvesting quota

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 8. A person must not harvest or possess harvested wild ginseng unless the ginseng plant is harvested under the conditions of the quota established as follows:

(1) Each individual ginseng plant must demonstrate at least one (1) of the following:

(A) At least three (3) prongs and a flowering or fruiting stalk. Except as provided in subdivision (2), the entire stalk and leaves must be retained with the plant until the plant is taken to the ginseng harvester's residence or place of business. As used in this clause, "prong" means a true compound leaf, including five (5) leaflets (three (3) large leaflets and two (2) small leaflets).

(B) At least four (4) internodes on the rhizome. As used in this clause, "internode" refers to a section containing a stem scar.

(2) Mature fruits and any seeds from a harvested plant must be planted in the vicinity where the plant was taken in a manner that encourages the germination and growth of new plants.

(3) Mature fruits and seeds must not be sold or removed from the vicinity where the plant was taken except under a license issued by the division under this subdivision.

(Natural Resources Commission; 312 IAC 19-1-8; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4194; filed Oct 1, 1999, 1:05 p.m.: 23 IR 297; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)

312 IAC 19-1-9 False representations

Authority: IC 14-31-3-14

Affected: IC 14-31-3

Sec. 9. (a) A ginseng dealer must not represent, in a report, log, certificate, or other document required or maintained under this rule, that a substance is ginseng if the dealer knows or should know that all or a portion of the substance is other than ginseng.

(b) A ginseng dealer must not knowingly include a false or incorrect statement in a document, log, or record required under this rule. *(Natural Resources Commission; 312 IAC 19-1-9; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4195; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)*

312 IAC 19-1-10 Sanctions

Authority: IC 14-31-3-14

Affected: IC 4-21.5-3; IC 14-10-2-6; IC 14-31-3

Sec. 10. The department may seek the sanctions described in this section for a violation of IC 14-31-3, this rule, or a license issued under IC 14-31-3 and this rule:

(1) A license suspension or revocation following a completed proceeding with the commission under IC 4-21.5-3 and 312 IAC 3-1. A revocation issued under this subdivision may order that a new license not be issued for a period not longer than five (5) years.

(2) The issuance of a notice of violation under IC 14-10-2-6 against a ginseng dealer or a ginseng harvester.

(3) Any other remedy provided by law.

(Natural Resources Commission; 312 IAC 19-1-10; filed Jul 10, 1998, 10:29 a.m.: 21 IR 4195; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed May 26, 2010, 10:36 a.m.: 20100609-IR-312100060RFA)

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