



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**2 VAC 5-321 – Regulation of the Harvest and Purchase of Wild Ginseng**  
**Department of Agriculture and Consumer Services**  
August 2, 2012

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### **Summary of the Proposed Regulation**

The Virginia Board of Agriculture and Consumer Services (Board) proposes to promulgate new regulations to regulate the harvest and purchase of wild ginseng.

### **Result of Analysis**

Benefits likely outweigh costs for these proposed regulations.

### **Estimated Economic Impact**

Prior to 2008, the General Assembly set dates for the harvest of wild ginseng and allowed such harvest between August 15<sup>th</sup> and December 31<sup>st</sup> of each year. In 2008, the General Assembly passed §3.2-1007 which declares wild ginseng a threatened species and allows the Board to set dates for the harvest of wild ginseng. As allowed by that legislation, the Board now proposes to set this harvest season to begin on September 1<sup>st</sup> and end on December 31<sup>st</sup> each year. The Board proposes a slightly smaller harvest window than was allowed by the legislature on the advice of the federal Fish and Wildlife Service which believes that the modified dates will allow wild ginseng to fully fruit (and therefore, allow the propagation of the plants that are being harvested. The Board also proposes to require that people may not harvest wild ginseng that 1) is younger than five years of age or 2) has fewer than four stem scars on its rhizome or 3) has fewer than three prongs. Harvesters will also have to plant the seeds of the harvested plants at the harvest site and at the time the plant is harvested. These proposed requirements will provide a benefit to both harvesters and buyers of wild ginseng as they will require behavior that will better ensure the survival of this species on public land where no individual has either the incentive to limit his own harvest to certain times of year, because anything not harvested by him might be

lost to another harvester, or to replant the seeds of the wild ginseng, because his might not be able to recoup the value of his time and effort if someone else gets to harvest the fruits of that replanting. Harvesters will incur whatever costs would be associated with a harvest season that is two weeks shorter than they currently enjoy.

These rules will not apply to individuals who are harvesting wild ginseng on their own property or to individuals who, pursuant to §3.2-1004 of the Code of Virginia, have a permit from the Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS) for the buying or selling of wild ginseng “for scientific, biological, or educational purposes or for propagation to ensure their survival”.

The Board also proposes to limit dealers to purchasing wild ginseng not certified by the Board: Under these proposed regulations, dealers may only buy green uncertified wild ginseng from September 1<sup>st</sup> to January 14<sup>th</sup> of each year and may only purchase dry uncertified wild ginseng root from September 15<sup>th</sup> of each year to March 31<sup>st</sup> of the following year. These proposals will help ensure that dealers licensed by the Board will likely not be buying wild ginseng that was illegally harvested and will also encourage private land owners not to harvest wild ginseng until it has a chance to fruit and reseed. Licensed dealers will incur whatever costs would be associated with a buying season for wild ginseng that has not been certified by VDACS that is shorter than what they currently enjoy.

## **Businesses and Entities Affected**

VDACS reports that these regulations will affect all 50 licensed wild ginseng dealers in the Commonwealth as well as all harvesters of wild ginseng.

## **Localities Particularly Affected**

No locality is likely to be particularly affected by these proposed regulations.

## **Projected Impact on Employment**

There is currently insufficient information to project the impact that these proposed regulations may have on employment in the Commonwealth.

## **Effects on the Use and Value of Private Property**

These proposed regulations are unlikely to affect the use or value of private property.

## **Small Businesses: Costs and Other Effects**

Licensed dealers, who are all small businesses, will incur whatever costs would be associated with a buying season for wild ginseng that has not been certified by VDACS that is shorter than what they currently enjoy.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

There is likely no alternate method for meeting VDACS' goals that would further minimize costs.

## **Real Estate Development Costs**

These proposed regulations are unlikely to affect real estate development.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.