



CR 91-22

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES)

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. ER-8-91 was duly approved and adopted by this Department on April 25, 1991. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 3rd
day of July, 1991.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING
AND CREATING RULES

.....
. IN THE MATTER of repealing ss. NR 28.01(3); renumbering .
. ss. NR 28.01(1) to (7); amending ss. NR 28.03(2)(b) and .
. (4)(a); repealing and recreating ss. NR 28.01(3) and .
. 28.03(3); and creating ss. NR 28.01(1), (4), (9), (10), .
. 28.03(4)(e) and 28.04 of the Wisconsin Administrative Code . ER-8-91
. pertaining to wild ginseng regulations. .
.....

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 29.547 and 227.11(2)(a), Stats.

Statutes interpreted: s. 29.547, Stats.

The proposed rule:

1. Brings the definition of "wild ginseng" in line with the definition in the statutes (29.547, Stats.).
2. Creates definitions for "carry-over roots", "woods-grown ginseng", and "engage in business".
3. Limits the time frame for legal wild ginseng sales by harvesters.
4. Allows for paid employees and family members of licensed dealers to conduct wild ginseng transactions at the dealer's primary place of business.
5. Changes the due date for the annual report required of all licensed dealers.
6. Requires licensed wild ginseng dealers to annually submit inventory reports of all ginseng still in their possession as of March 31 of each year.
7. Limits wild ginseng harvest to only larger and mature plants.
8. Requires harvesters to plant all seed from harvested plants in the vicinity of the original plants.
9. Clarifies that "woods-grown ginseng" is technically cultivated ginseng and may not be bought or sold under the pretext of a wild ginseng license.
10. Clarifies that ginseng may not be harvested on any lands owned or administered by the state.

SECTION 1. NR 28.01(3) is repealed.

SECTION 2. NR 28.01(1) to (7) are renumbered to be:

NR 28.01 (2) "Dealer"

NR 28.01 (3) "Department"

NR 28.01 (5) "Green Ginseng"

NR 28.01 (6) "Harvest"

NR 28.01 (7) "Own land"

NR 28.01 (8) "Transaction"

SECTION 3. NR 28.01(1) is created to read:

NR 28.01(1) "Carry-over roots" are those wild ginseng roots still in the possession of licensed dealers or harvesters after March 31 of the year following the harvest season.

SECTION 4. NR 28.01(4) is created to read:

NR 28.01(4) "Engage in business" in this chapter includes but is not limited to purchasing, selling, holding, brokering, billing or receiving payment for, contracting for or advertising wild ginseng either for cash or on consignment.

SECTION 5. NR 28.01(9) is created to read:

NR 28.01(9) "Wild ginseng" means dry root, live root, seed or other parts of American ginseng (Panax quinquefolius) that is not grown or nurtured by a person.

SECTION 6. NR 28.01(10) is created to read:

NR 28.01(10) "Woods-grown ginseng" means ginseng that has been nurtured in any way by humans, including but not limited to watering, weeding, use of pesticides, soil tillage and fertilization.

SECTION 7. NR 28.03(2)(b)1. is amended to read:

NR 28.03(2)(b)1. Wild ginseng harvested in a lawful manner and with a valid harvest license may be sold by the licensee ~~at any time~~ from September 1 to March 31, both dates inclusive.

SECTION 8. NR 28.03(3) is repealed and recreated to read:

NR 28.03(3) DEALER'S LICENSE. All persons who engage in business with wild ginseng in Wisconsin shall have a valid Wisconsin wild ginseng dealer's license in their own name, except for paid employees or family members of a licensed dealer who are working at that dealer's primary place of business as indicated on the dealer's license.

SECTION 9. NR 28.03(4)(d) is amended to read:

NR 28.03(4)(d) Annual report. An annual report of all transactions shall be made to the department by each licensed wild ginseng dealer on forms provided by the department. The reports shall be submitted to the department by ~~July 10~~ April 15 following the end of the license year. These reports shall cover all transactions from April 1 of the year of harvest through March 31 of the year following harvest.

SECTION 10. NR 28.03(4)(e) is created to read:

NR 28.03(4)(e) Inventory report. An inventory report of all wild ginseng remaining in the dealer's possession after March 31 of each year shall be made by each licensed wild ginseng dealer on forms provided by the department. Any carry-over roots shall be weighed and certified by department officials except that permission may be granted by the department to allow certification of carry-over roots by a certified public accountant familiar with wild ginseng. The report shall be submitted to the department by

April 15 each year even if the dealer has no carry-over roots in his or her possession. Dealers shall retain a copy of the inventory report and record on it all information requested by the department regarding all further sales of carry-over roots. An amended report shall be submitted to the department within 30 days after all carry-over roots are sold or upon request by the department.

SECTION 11. NR 28.04 is created to read:

NR 28.04 Limitations and restrictions. (1) **LIMIT OF PLANTS TO BE HARVESTED.** Wild ginseng plants shall be harvested only if they possess 3 or more true leaves and mature fruit. The entire stalk, minus the mature fruits, shall be left attached to the plant until they are taken to the harvester's home or place of business.

(2) **SEED PLANTING.** When harvesting wild ginseng, harvesters shall plant all of the seeds from the harvested plants in the immediate vicinity of the parent plants in a manner which will encourage their germination and growth. Wild seed may not be sold or transported away from the site of the parent plant.

(3) **WOODS-GROWN GINSENG.** No person may harvest, sell or purchase woods-grown ginseng under the auspices of a wild ginseng license. All woods-grown ginseng is considered 'cultivated ginseng' and is regulated by the cultivated ginseng program under the department of agriculture, trade and consumer protection under s. 94.50, Stats.

(4) **STATE-OWNED LANDS.** No person may harvest wild or woods-grown ginseng from any properties owned or administered by the state of Wisconsin.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 25, 1991.

The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin July 3, 1991.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

BY Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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July 3, 1991

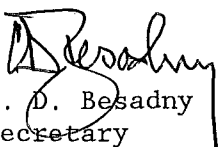
Mr. Gary L. Poulson
Assistant Revisor of Statutes
119 Martin Luther King, Jr., Blvd.

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. ER-8-91. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Environmental Resources and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

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