

Chapter NR 28

WILD PLANTS

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Note: Chapter NR 28 was created by emergency rule, effective July 1, 1980.

NR 28.01 Definitions. As used in this chapter and in s. 29.611, Stats.:

(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.

(2) "Dealer" means any person buying more than 8 ounces of wild ginseng annually.

(3) "Department" means the Wisconsin department of natural resources.

(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.

(5) "Green ginseng" means a ginseng root from which the moisture has not been removed by drying.

(6) "Harvest" means cutting, gathering, rooting up, severing, injuring, destroying, removing or carrying away any wild plant or parts thereof.

(7) "Own land" means ownership interest in property by deed or land contract.

(8) "Transaction" means purchase, gift, exchange or sale of wild ginseng.

(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.

(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.

History: Emerg. cr. eff. 7-1-80; cr. Register, November, 1980, No. 299, eff. 12-1-80; emerg. am. (1), eff. 8-15-83; am. (1), Register, February, 1984, No. 338, eff. 3-1-84; r. (3), renum. (1) to (7) to be (2), (3) and (5) to (8), cr. (1), (4), (9) and (10), Register, August, 1991, No. 428, eff. 9-1-91; correction in (intro.) was made under s. 13.93 (2m) (b) 7., Stats., Register November 2001 No. 551.

NR 28.02 Scope and applicability. This chapter contains rules necessary to implement s. 29.611, Stats., and operate in conjunction with that statute to govern the harvest, transportation, possession, processing or sale of certain wild plants.

History: Emerg. cr. eff. 7-1-80; cr. Register, November, 1980, No. 299, eff. 12-1-80; correction was made under s. 13.93 (2m) (b) 7., Stats., Register November 2001 No. 551.

NR 28.03 Ginseng licenses. (1) **ISSUANCE.** (a) *Department action.* The department shall issue wild ginseng harvest licenses and wild ginseng dealer's licenses in accordance with the provisions of and for the purposes authorized in s. 29.611, Stats.

(b) *Applications.* 1. 'Content.' Wild ginseng harvest licenses and dealer's licenses shall be issued upon filing of an application accompanied by the appropriate license fee, and bearing:

- The applicant's signature;
- The applicant's residence and post office address;
- A description of the applicant;
- A statement that the applicant has complied with all of the laws regulating the issuance and purchase of the license applied for; and
- Such other facts as may be required by the department.

2. 'Free harvest license.' Applications for a free harvest license under s. 29.611, Stats., must contain a description to the quarter section, township and range of the property where the applicant's wild ginseng harvest will occur.

(2) **HARVEST LICENSE.** (a) *Valid period.* A harvest license shall be valid for and authorize the taking of wild ginseng during the period beginning September 1 and ending November 1, both dates inclusive.

(b) *Sales by harvesters.* 1. Wild ginseng harvested in a lawful manner and with a valid harvest license may be sold by the licensee to a licensed Wisconsin wild ginseng dealer from September 1 to March 31, both dates inclusive.

1m. Any wild ginseng not accompanied by a certificate of origin sold to licensed Wisconsin nonresident wild ginseng dealers shall be returned to the state for certification within 30 days of the sale.

2. Wild ginseng may be shipped out of state by licensees only if accompanied by a certificate of origin issued by the department and after inspection by an agent of the state.

(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.

(4) **DEALER'S RECORDS.** (a) *Requirements.* Each licensed wild ginseng dealer shall keep a complete and accurate record in the English language of each wild ginseng transaction. This record shall be on forms provided by the department and shall be kept intact for a period of 3 years after the expiration of the dealer's license.

(b) *Purchase records.* The dealer's record of each wild ginseng purchase shall include:

- Date of purchase;
- Name and address of seller;
- Harvest license number or dealer's license number of seller;
- Dry weight of wild ginseng root purchased;
- Name of the county where purchased ginseng was harvested if purchased from a licensed harvester; and
- Such additional information as may be requested by the department.

(c) *Sales records.* The dealer's record of each sale shall include:

- Date of sale;
- Name and address of buyer;
- Dry weight of wild ginseng roots sold;
- 3m. The serial number of the accompanying export certificate of origin if sold for export from the United States;
- Year in which ginseng sold was harvested; and
- Such additional information as may be requested by the department.

(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 submit-

ted to the department by 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.

(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 export 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.

(5) **CERTIFICATION OF SHIPMENTS.** (a) *Requirements.* Shipments of wild ginseng to points outside the state of Wisconsin by licensed dealers or harvesters shall be accompanied by a certificate of origin. Licensed dealers shall complete all information required by the department on the certificate of origin. The original copy of each certificate of origin shall remain with the wild ginseng shipment until it reaches the U.S.D.A. port inspector at the authorized port of export, or until it reaches the domestic consumer. Certificates shall be based upon the licensees' harvest, purchase and sales records and made by licensees on forms provided by the department. A copy of each certificate of origin shall be kept by licensees as part of their records. A copy of each certificate of origin shall be sent to the department within 30 days of the shipment leaving the state.

(b) *Certificates.* Certificates of origin forms shall be issued by the department at no cost to any licensed dealer on request. Certificates are serially numbered and valid only for the time period stated on the certificate. Certificates of origin remain the property of the department until the time of state certification. Upon request, by the department, the dealer shall return all unused certificates of origin. Licensees accepting certificates from the department shall be required to account for the disposition of each form issued to them.

(c) *Domestic use.* Licensed dealers selling wild ginseng to persons solely for the purpose of direct consumption or retail sales to consumers within the United States shall accompany the sale with a combined certificate of origin/domestic sales record issued by the department. The dealer shall keep a record as provided in sub. (4) (c) and shall file a copy of their record with the department within 30 days of the transaction.

(d) *Certification.* 1. All dealers, including nonresident dealers, shall have their wild ginseng shipments for export certified at a department approved certification location or shall arrange for certification by a state conservation warden or the department's ginseng program manager before the shipment leaves the state.

2. A licensed dealer may purchase wild ginseng originating from another state from licensed harvesters if that ginseng is

returned to the state of origin and certified by that state within 30 days of purchase.

(6) **INSPECTION.** (a) *License.* Any license issued under and pursuant to s. 29.611, Stats., and this section shall be carried on the person of the licensee at the time of harvest or sale and shown to the department or its agents upon request.

(b) *Records.* Records required to be maintained or submitted pursuant to s. 29.611, Stats., and this section shall be produced for inspection upon request of the department or its agents and shall be retained for at least 3 years from the date of the transaction.

(c) *Inventory.* Dealers and harvesters of wild ginseng upon request of the department or its agents shall make available for inspection all wild ginseng in their possession or under their control for purposes of confirming proper record maintenance or submission under s. 29.611, Stats., and this section.

Note: Application forms for licenses, shipping certificates and reporting forms under this chapter may be obtained without charge from the License Section, Department of Natural Resources, Box 7921, Madison, WI 53707.

History: Emerg. cr. eff. 7-1-80; cr. Register, November, 1980, No. 299, eff. 12-1-80; emerg. am. (2) (b), (4) (c) (intro.) and (4) (d), r. (4) (e), renum. (5) to be (6) and am. (c), cr. (5), eff. 8-15-83; am. (2) (b), (4) (c) (intro.) and (d), r. (4) (e), renum. (5) to be (6) and am. (c), cr. (5), Register, February, 1984, No. 338, eff. 3-1-84; am. (2) (a), Register, July, 1989, No. 403, eff. 8-1-89; am. (2) (b) 1. and (4) (d), r. and recr. (3), cr. (4) (e), Register, August, 1991, No. 428, eff. 9-1-91; am. (2) (b), (4) (c) (intro.), (e), (5) (a) to (c), (6) (a) and (b), cr. (4) (c) 3m, and (5) (d) Register July 1996 No. 487, eff. 8-1-1996; corrections in (1) (a), (b) 2., (6) (a), (b), and (c) were made under s. 13.93 (2m) (b) 7., Stats., Register November 2001 No. 551; **reprinted to restore dropped copy Register November 2003 No. 575.**

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 flowering/fruit stalks. The entire stalk, minus the mature fruits, shall be kept with the plant until they are taken to the harvester's home or place of business to enable adequate enforcement.

(2) **SEED PLANTING.** When harvesting wild ginseng, harvesters shall plant all of the seeds from the harvested plants in the 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 except by express written permission from the department.

(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.

(5) **OTHER LANDS.** Persons possessing a valid wild ginseng harvest license may harvest wild ginseng on private lands or public lands not owned by the state only with the permission of the land owner or public land manager.

History: Cr. Register, August, 1991, No. 428, eff. 9-1-91; am (1) and (2), cr. (5) Register July 1996 No. 487, eff. 8-1-1996; **reprinted to restore dropped copy Register, November 2003, No. 575.**