Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 78
"Ginseng Harvesting and Sale"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 456A.24
State or federal law(s) implemented by the rulemaking: 50 CFR Parts 13 and 23

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 23, 2025	6200 Park Avenue, Suite 200
1 to 2 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Karmin Klingenberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.326.0430
Email: karmin.klingenberg@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at karmin.klingenberg@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov.

Purpose and Summary

Proposed Chapter 78 contains rules related to ginseng propagation, harvest, and sale of root to allow and maintain the lawful take of American Ginseng. Pursuant to Iowa Code section 456A.24(11), the Department is charged with establishing rules to govern its ginseng program in a manner that is compliant with federal law. This is because American Ginseng is a federally regulated species subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

This chapter has been reviewed and edited consistent with Executive Order 10 (2023). In an attempt to reduce and simplify regulatory burdens, the new chapter defines, clarifies, and minimizes the redundancies found in the previous version.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Persons who propagate, harvest, or sell American Ginseng as a CITES-protected species will bear the costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons who propagate, harvest, or sell American Ginseng as a CITES-protected species will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Those who propagate, harvest, or sell ginseng other than "wild" ginseng will have a clear outline of ginseng root classifications and the rules that apply to each.

- **Qualitative description of impact:**

This rulemaking provides clearer rules for propagation and harvest of ginseng and makes the program more efficient and easier to enforce.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Department staff will continue to administer this program without bearing additional costs.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There should be no changes to costs to outweigh the improved clarity provided.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods are possible. Much of this chapter ensures compliance with federal law.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This chapter is being revised to clarify and simplify the regulations in order to reduce the burden on the public, including small businesses involved with the ginseng trade.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 78 and adopt the following **new** chapter in lieu thereof:

CHAPTER 78
GINSENG HARVESTING AND SALE

571—78.1(456A) Definitions. All words and phrases used in these rules shall have their ordinary and customary meaning, except that the following words and phrases shall be defined as follows:

"Controlled conditions" means an environment that is manipulated by human intervention for the purpose of plant production. Characteristics of controlled conditions include but are not limited to tillage, fertilization, weed and pest control, irrigation, or artificial shade or light or nursery operations such as potting, bedding, or protection from weather.

"Cultivated or artificially propagated ginseng" means ginseng that is nurtured, propagated or maintained under controlled conditions from a seed, cutting, division, callus tissue, root, rhizome, other plant tissue, spore, or other propagule that has been derived from cultivated parental stock.

"Cultivated parental stock" means plants grown under controlled conditions that are used for reproduction and must be maintained in sufficient quantities for propagation.

"Cutting" or *"division"* means a plant grown from the root, rhizome, stem, or leaf of another plant and is considered to be artificially propagated if the specimen comes from cultivated parental stock.

"Dealer" means any person who deals in ginseng, which includes without limitation buying, selling, purchasing, holding, brokering, billing for, bartering, trading or otherwise receiving payment for wild or cultivated ginseng in Iowa for the purpose of selling or otherwise transacting wild or cultivated ginseng. "Dealer" includes any person, including without limitation a harvester, who sells ginseng to any person other than a dealer licensed pursuant to these rules or lawfully licensed in another state.

"Dealer's permit" means a permit issued to a dealer by the department under these rules.

"Department" means the Iowa department of natural resources.

"Director" means the director of the Iowa department of natural resources or a designee.

"Ginseng" means all parts of the American Ginseng (*Panax quinquefolius*) plant, including without limitation roots, rhizomes, leaves and seeds, which may be cultivated or wild. "Ginseng," for purposes of these rules, does not mean those parts of the American Ginseng plant that have been processed.

"Green ginseng" means a root of ginseng from which the moisture has not been removed by drying. For the purposes of these rules, the amount of dried ginseng rhizome that can be derived from green ginseng rhizome shall be calculated using a ratio of three and three-tenths to one (3.3:1) by weight.

"Grower" means a person who grows cultivated ginseng for the purpose of selling the ginseng.

"Grower's permit" means a permit issued under these rules to a grower.

"Harvester" means any person who harvests, possesses, transports, cuts, gathers, destroys, digs or uproots wild ginseng for the purpose of selling the ginseng or for personal use.

"Harvester's permit" means a permit issued under these rules to a harvester.

"Nonresident" means a person other than a resident as defined by Iowa Code section 483A.1A.

"Permits" means dealer's permits, grower's permits and harvester's permits issued under these rules.

"Resident" means a resident as defined by Iowa Code section 483A.1A.

"Root" means the ginseng rhizome and its roots.

"True leaves" or *"prongs"* means compound leaves that include five leaflets consisting of three large leaflets and two small leaflets.

"Wild ginseng" means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng, which is growing in or has been collected from its native habitat, including wild ginseng plants that have arisen from a wild seed that is planted in the wild or that have been transplanted into native habitat. Wild ginseng is ginseng that has not been grown or nurtured by a person beyond planting of seeds or plant.

"Wild simulated" ginseng means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng that is propagated, planted or collected in an environment with some level of human intervention for the purpose of plant production. All "wild ginseng" rules shall apply to this classification.

571—78.2(456A) Season for legal harvest. The season for legally harvesting ginseng is September 1 through October 31.

571—78.3(456A) General prohibitions.

78.3(1) *Harvest.* From November 1 through the following August 31, no person shall harvest, dig, cut, uproot, gather, intentionally disturb, or destroy ginseng, whether the ginseng is wild, wild simulated, or cultivated ginseng. This prohibition shall not apply to the transplantation or intentional disturbance of cultivated ginseng when such activities are incidental to the cultivation and growing of cultivated ginseng in a nursery business.

78.3(2) *Sale.* A person, other than a dealer licensed pursuant to these rules, shall not sell ginseng from March 16 through August 31.

78.3(3) *Sale and possession of green ginseng.* A person shall not possess or transact business in green ginseng from November 21 through August 31 unless otherwise provided for by these rules.

78.3(4) *State-owned and state-managed lands.* In an effort to conserve and protect native stands of wild ginseng, the introduction of nonnative ginseng stock on state-owned or state-managed lands under the jurisdiction of the commission is prohibited, except in narrow circumstances as described in these rules. As such, a person shall not, at any time, possess, harvest, dig, cut, uproot, gather, plant, propagate, intentionally disturb or destroy ginseng or ginseng seed on state-owned or state-managed lands under the jurisdiction of the commission. Nothing in this chapter shall prohibit the department from taking measures on state-owned or state-managed lands under the jurisdiction of the commission to conserve and protect native wild ginseng, which may include without limitation planting and possessing seeds, or from carrying out other land management practices in areas where ginseng may be present.

571—78.4(456A) Ginseng permits. The department shall issue a dealer's permit upon receipt of a signed and complete application. An application shall be submitted on the form provided by the department, and payment of the appropriate fee shall be included with the application. Grower's and harvester's permits are available for sale through the department's electronic licensing system. The department shall not issue a permit if the department determines that the permit will be detrimental to the survival of ginseng or will otherwise be in contravention of the laws of this state or applicable federal laws. A person shall not carry, possess or use any other person's permit issued pursuant to these rules, except as specifically provided by these rules.

78.4(1) *Duplicate permits.* A duplicate grower's permit, harvester's permit or dealer's permit may be issued upon application to the department and the payment of a $4.50 fee plus any charges associated with the department's electronic licensing system.

78.4(2) *Grower's permits.*

a. A person must obtain a permit from the department to legally grow cultivated ginseng and make the permit available upon request by any peace officer. There is no fee for the permit, except for the charge associated with the department's electronic licensing system.

b. A grower's permit shall be valid for five years from the date of issuance.

78.4(3) *Harvester's permits.*

a. Any person who harvests wild ginseng must have a valid harvester's permit issued by the department and shall produce such permit upon request to any peace officer or the owner or person in lawful control of the land upon which the permittee may be harvesting wild ginseng while the person is engaged in harvesting activities, including the person's moving to or from the harvest site, transporting ginseng and selling of the harvested ginseng.

b. A harvester's permit may be obtained through the department's electronic licensing system for a fee of $35 for residents and $65 for nonresidents plus any charges associated with the department's electronic licensing system.

c. A harvester's permit shall be valid from September 1 through March 15 of the following year.

d. A harvester who has a valid harvester's permit may sell wild ginseng from September 1 through March 15 of the following year.

e. A harvester with a valid harvester's permit may retain no more than four ounces of dry wild ginseng for personal consumption for one year beyond the expiration date of the permit. All wild or wild simulated ginseng possessed pursuant to this paragraph shall be for the harvester's personal use only and cannot be lawfully sold.

f. No person may sell, barter or otherwise offer for sale any ginseng that has been unlawfully collected, obtained or possessed in violation of this chapter, the Iowa Code, or the Code of Federal Regulations.

78.4(4) *Dealer's permits.*

a. A dealer in Iowa must have a valid dealer's permit issued by the department and make the permit available upon request by any peace officer. A dealer's paid employees and family members who work at a dealer's primary place of business as identified on the dealer's permit may operate legally under the dealer's permit. For purposes of this subrule, family members include a dealer's spouse, domestic partner, parents, siblings, and children.

b. In order to be considered, an application for a dealer's permit shall be made on the form provided by the department, be complete, and be executed by the person seeking the dealer's permit.

c. Dealer's permits shall be issued that authorize a person to deal in any amount of ginseng in a license year. The permit application shall be accompanied by a $250 permit fee for Iowa residents and a $500 permit fee for nonresidents plus any charges associated with the department's electronic licensing system.

d. A dealer's permit shall be valid for a license year, from April 1 until March 31 of the following year.

e. A dealer's permit must be shown to the department when the department is certifying ginseng and must be shown to harvesters or other dealers when the dealer is buying ginseng.

571—78.5(456A) Dealers—prohibitions. A dealer shall not buy, deal, purchase, sell, or otherwise transact business of ginseng, its seeds, or its parts:

1. If the dealer knows or should have known that the ginseng was harvested illegally.
2. Without inspecting the permit of the harvester or dealer.
3. If the dealer knows or should have known that the harvester or dealer has violated this chapter.

571—78.6(456A) Dealers—recordkeeping.

78.6(1) *Contents of records.* Each permitted ginseng dealer shall keep individual, accurate, legible and complete records of each ginseng transaction. The records shall be on forms prescribed by the department and completed in their entirety by the ginseng dealer or a representative of the department. The department will provide a reasonable number of these forms at no cost to the dealer. The dealer's record of each ginseng transaction shall include:

a. The date of transaction;

b. The name and address of the buyer or seller, whichever is applicable for the transaction;

c. The harvester's permit number or dealer's permit number if a dealer is buying ginseng in the transaction;

d. A description of the ginseng transacted, including the actual weight of the ginseng transacted and whether the ginseng is dried or green. If the ginseng is green ginseng, the weight shall also be converted to the dried weight of ginseng according to the ratio in 571—78.3(456A);

e. The name of the county or counties where the ginseng was harvested if the ginseng is purchased from a harvester;

f. A copy of the ginseng's certificate of origin, signed by the seller, if applicable;

g. The year of harvest for the ginseng bought or sold; and

h. Any additional information as requested by the department and included on the department's form.

78.6(2) *Monthly reporting.* Each dealer shall submit to the department copies of all records required by 78.7(1) on a monthly basis, no later than the fifteenth day of each month.

78.6(3) *Carryover report.* The dealer must complete an inventory of any roots remaining in the dealer's possession in Iowa as of April 1, including the roots' certified weight and designation as either wild, wild simulated, or cultivated ginseng, or a statement that the dealer has no roots remaining in the dealer's possession. Any certification regarding a root's weight as required by this subrule shall be completed through the department's agent upon appointment. Any roots carried over from one license year to the next shall be documented on the following license year's reports.

571—78.7(456A) Dealer locations.

78.7(1) *Transact business.* Ginseng dealers shall transact business only at the location specified on the dealer's permit or at the place of business specified on the permit of any other dealer who holds a dealer's permit in Iowa and is involved in the transaction.

78.7(2) *Location permits.*

a. A dealer who wishes to transact business at a location other than the locations provided for in 78.8(1) may obtain a location permit from the department. Each location permit shall be valid only for the location specified, on the dates and times listed on the location permit, and shall entitle the dealer to operate at that location in addition to the location specified on the corresponding dealer's permit.

b. The department shall, upon application and payment of the applicable location permit fee, furnish a location permit to the dealer. The location permit fee shall be $5 for residents and $50 for nonresidents plus any charge associated with the department's electronic licensing system.

78.7(3) *Duplicate location permits.* A duplicate location permit may be issued upon application to the department and the payment of a $4.50 fee plus any charge associated with the department's electronic licensing system.

571—78.8(456A) Certificates of origin.

78.8(1) *Shipments.* Every shipment of ginseng to a location outside the state of Iowa by a grower, harvester or dealer shall be accompanied by a certificate of origin, or shipping certificate, that certifies that the ginseng was lawfully harvested.

a. The department will issue a certificate of origin for cultivated ginseng to a grower or dealer on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

b. The department will issue a certificate of origin for wild or wild simulated ginseng to a harvester on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

c. The certificate of origin for cultivated, wild simulated, and wild ginseng will be issued by the department's agent after the roots have been weighed and certified upon appointment.

78.8(2) *Wild ginseng originating in another state.*

a. No person may ship in or out of this state to or from another state or foreign country any ginseng that originates in another state or foreign country without a valid certificate of origin issued by that other state or foreign country.

b. If a resident dealer receives wild ginseng that originated in another state and if a certificate of origin issued by that state does not accompany the wild ginseng, the dealer shall return the wild ginseng to the sender immediately upon its receipt.

c. A dealer shall maintain a copy of the certificate of origin with the record of the transaction.

d. It shall be lawful for any person to have in possession any ginseng lawfully harvested or purchased outside Iowa and lawfully brought into the state so long as the person possesses a valid certificate of origin for the ginseng.

571—78.9(456A) Records retention. Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request by the department, director, officer appointed by the department, or peace officer. All records under this chapter must be retained for a period of three years after the expiration of the grower's, harvester's, or dealer's permit. Failure to maintain records or to submit reports as required by these rules is a violation of these rules.

571—78.10(456A) Restrictions and prohibitions for harvesting wild ginseng.

78.10(1) No person shall harvest a plant unless the plant possesses three or more true leaves or prongs and a flowering or fruiting stalk with red berries. If, after a person removes a plant from the soil with the requisite leaves or prongs, it is determined the root has less than five stem scars, the person shall return the plant to the soil at the same location and make best efforts to return the plant and the surrounding area to their condition prior to harvest of the plant. In no event shall a person harvest or possess a wild ginseng root unless the root has at least five stem scars.

78.10(2) When a person harvests ginseng, the entire plant, except the fruit and seeds, shall be retained until the plant is taken to the harvester's residence or place of business, as identified in the harvester's permit.

571—78.11(456A) Additional restrictions and prohibitions for ginseng.

78.11(1) All persons harvesting wild or wild simulated ginseng shall plant all seeds collected from such plants within 100 feet of the parent plant. Seeds collected for planting pursuant to this subrule should be collected from the fruit by gently pressing the fruit of the ginseng.

78.11(2) A person shall use no tool other than the person's finger to plant ginseng seeds and shall not push seeds to a depth greater than one inch into the soil.

78.11(3) A person shall not possess or transport seeds of wild or wild simulated ginseng more than 100 feet from the site of the parent plant.

571—78.12(456A) Compliance with laws. A person shall not violate any state, federal or local laws in harvesting, dealing or shipping ginseng.

571—78.13(456A) Violations of this chapter.

78.13(1) A person violating this chapter shall be subject to a scheduled fine pursuant to Iowa Code section 805.8B(4) and permit suspension, modification and revocation pursuant to 571—78.17(456A).

78.13(2) Each ginseng plant or part thereof, including any ginseng, unlawfully harvested, dealt, or shipped shall be a separate offense. More than one person per plant may be guilty of violating this chapter.

78.13(3) Materials determined by the department's law enforcement personnel to be contraband or to have been taken in violation of this chapter may be seized and disposed of in conformance with Iowa Code chapter 809.

571—78.14(456A) Possession.

78.14(1) When a person is in possession of ginseng, including the shipping or transporting of ginseng, if one or more parts of ginseng are deemed unlawful, the entire contents of possession shall be deemed unlawful.

78.14(2) Any person or dealer who has in possession any ginseng or parts thereof shall upon request by the department, director, any officer appointed by the department, or peace officer show the ginseng to the department, director, or officer; a refusal to do so is a violation of this chapter.

571—78.15(456A) Valuation. The value of seized ginseng that was harvested or possessed in violation of these rules shall be based on the current market value, as determined by the department.

571—78.16(456A) Revocation of permits. Any permit issued pursuant to this chapter may be revoked, in whole or in part, by written notice if the department determines that the permit holder has violated any provision of this chapter and determines that continuation of the permit is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the permit holder may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

571—78.17(456A) Reciprocity. Nonresident harvesters, growers and dealers from states that regulate American Ginseng by allowing the harvesting, cultivating and dealing in American Ginseng but that prohibit Iowa harvesters, growers and dealers to lawfully operate in those states are not eligible for permits issued by the department.

These rules are intended to implement Iowa Code section 456A.24(11).