



Minnesota Sustainable Foraging Task Force

Centennial Office
Building
St. Paul, MN 55155
Phone: 651-296-0099
www.ser.mn.gov

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To: Members of the Minnesota Sustainable Foraging Task Force

From: Nick Nero

RE: Minnesota Foraging Laws and Regulations

Memorandum

Below are brief summaries of the following topics:

- Foraging Regulations
- Wild Rice Harvesting Statutes
- Wild Ginseng Harvesting
- Forest Products
- Native Minnesotan Rights

Foraging Regulation History

First appears in the State Register in 1977. Revised in 2008 to the modern version.

Original state administrative rule for state forests ([2 SR 779](#)):

The forest campground and day use area environments are for the enjoyment of all. Therefore, no person shall disturb, destroy, injure, damage, molest or remove any state property including but not limited to wildflowers or vegetation of any kind dead or alive, ruins, wildlife, geological formations, signs, or facilities **except edible fruit, mushrooms,** and wild animals legally taken and vegetation unavoidably damaged or destroyed by the ordinary uses of the state forest campground or day use area as specifically permitted by these regulations. Collections for scientific and educational purposes may be made with the written consent of the Commissioner previously obtained. Damaging rock with rockclimbing equipment is forbidden.

Original state administrative rule for state parks ([2 SR 782](#)):

The park environment is for the enjoyment of all. Therefore, no person shall disturb, destroy, injure, damage, molest or remove any state property including but not limited to wildflowers or vegetation of any kind dead or alive, ruins, wildlife, geological formations, signs, or facilities **except edible fruit, mushrooms**, and wild animals legally taken and vegetation unavoidably damaged or destroyed by the ordinary uses of the state park as specifically permitted by these regulations. Collections for scientific and educational purposes may be made with the written consent of the Commissioner previously obtained. Damaging rock with rock-climbing equipment is forbidden.

Modern version (24 SR 208) [6100.0900](#):

Unless otherwise provided by law, no person in a state park or forest recreation area shall disturb, destroy, injure, damage, deface, molest, or remove any state property, including, but not limited to, wildflowers or vegetation of any kind dead or alive, ruins, wild animals, geological formations, historical or archaeological artifacts or sites, historic structures, signs, or facilities, **except edible fruit, mushrooms**, legally taken wild animals, and vegetation unavoidably damaged or destroyed by the ordinary recreational uses of these areas as specifically permitted by parts [6100.0100](#) to [6100.2400](#). Collections for scientific and educational purposes may be made only with the written permission of the commissioner. It is unlawful to damage vegetation or damage and deface rock formations with rock-climbing equipment.

Wild Rice Harvesting Statutory History

Wild rice harvesting (who, when, and where) has been a source of debate since territorial days. The U.S. government's [1837 Treaty with the Chippewa](#) protects their right to "gathering the wild rice" on the land ceded to the federal government under the Treaty (including approximately all of Minnesota east of the Mississippi River from Hastings to Mille Lacs). Rights under the [1854](#) and [1855](#) treaties have been the subject of recent or ongoing litigation.

Wild rice laws first appeared in Minnesota statutes in 1939 with a ban on non-Native Minnesotans harvesting on specific Native reservations (Mille Lacs, Fond du Lac, Leech Lake, White Earth, Grand Portage, and Bois Forte), a ban on use of a motorboat, a ban on harvesting green rice, and a license requirement. ([Laws of Minn. 1939, ch. 231](#)) The Native reservations listed above internally regulate the wild rice harvesting season by the respective tribe.

The 1939 law also created the legal hours for harvesting between 8 a.m. and 6 p.m. This was reduced in 1959 to between 9 a.m. and 3 p.m. ([Laws of Minn. 1959, ch. 684](#))

The wild rice season was established in 1996, running from July 15 to September 30. ([Laws of Minn. 1996, ch. 410 § 19](#)) The start date was pushed back to August 15 in 2009. ([Laws of Minn. 2009, ch. 176, art. 1 § 2](#))

Wild rice harvesting continues to be a contested issue, as recently as the [Governor's Task Force on Wild Rice in 2018](#), a 2021 lawsuit, and a lawsuit filed last week.

Wild Ginseng Harvesting History

Wild ginseng was first protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1973. CITES restricted the sale and export of wild ginseng. First enters state law in 1986 ([1986 c 386 art 4 s 12](#)) establishing commissioner's power to "establish rules including seasons for harvesting to conserve wild ginseng." [Minn. Stat. § 84.093](#). This law has not been altered since. Doesn't appear in the State Register until 2008 (18 SR 83). See [Minnesota Administrative Rules Chapter 6282, Ginseng](#).

Forest Product Laws

The DNR regulates the taking of any parts of a tree (sap, boughs, tops, etc.) under [Minn. Stat. § 88.642](#). "No person shall cut, harvest, remove, transport, or possess for decorative purposes or for sale [list of tree types, sizes, and amounts] without the written consent of the owner or authorized agent of the private or public land on which the decorative materials were cut or harvested."

"Decorative materials" is defined in [Minn. Stat. § 88.641](#) as "forest products that are collected or harvested from growing coniferous or deciduous trees, bushes, saplings, seedlings, shrubs, or herbaceous plants, including the tops, branches, or other parts cut from any of the foregoing, untrimmed or in their natural condition, intended to be sold or used for decorative purposes. Nursery stock is not included in this definition."

Native Minnesotan Rights

Native Minnesotans are accorded  rights to gathering due to previous treaties. In territory ceded by the 1837 Treaty, an individual just needs their valid tribal ID card for "wild plant gathering for

subsistence use” as long as the tribe consults with the land manager where the gathering will occur.¹

In the 1854 Treaty Area, an individual needs a Valid Ceded Territory Identification card to gather wild plants or forest products on public lands. Gathering can only be for subsistence.²

The Mille Lacs Band of Ojibwe allows Band members to apply for permits to take plants for religious or ceremonial purposes that are not otherwise allowed to be harvested.³

Please reach out with any comments or questions. I can be reached at nick.nero@lcc.mn.gov or (651) 296-6033.

¹ <https://glifwc.org/exercising-treaty-rights/seasonal-harvest-regulations/general-gathering>

² 1854 Treaty Authority Ceded Territory Conservation Code § XII
<https://www.1854treatyauthority.org/management/biological-resources/fisheries/seasons/134-2018-codecorrectpgs/viewdocument/134>

³ [Mille Lacs Band of Ojibwe Band Statutes, title 11, ch. 3, subch. 1 §§ 2007](#)