



STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

DNR INFORMATION
(612) 296-6157

June 28, 1994

Ms. Maryanne Hruby, Executive Director
Legislative Commission to Review
Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby,

The Department of Natural Resources is proposing game and fish rules regarding fish transportation, labeling and packing of fish under a fish packer license, wildlife management areas, state game refuges, controlled hunting zones, big game, small game, pelting fees, predator control, turkeys, geese, game farms, rough fish, whitefish and ciscoes, Lake Superior fishing regulations, Lake Superior fishing guides, minnows, amphibians, and crayfish.

Please find enclosed copies of the SONAR and Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received.

The proposed rule will be published in the State Register on July 5, 1994.

Sincerely,

Kathy A. Lewis

Kathy Lewis, Attorney
Division of Minerals

Eric Hyland

6.5555

Encl.

State of Minnesota
Department of Natural Resources

Proposed Permanent Rules relating to game and fish.

DUAL NOTICE - Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing and Notice of Hearing if 25 or More Requests for Hearing are Received.

Introduction: The Minnesota Department of Natural Resources intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedures Act, Minnesota Statutes, sections 14.22 to 14.28. If, however, 25 or more persons request a hearing on these rules by August 5, 1994, 4:30 pm, a public hearing will be held on August 16, 1994. To find out whether these rules will be adopted without a public hearing or if a public hearing will be held, you should contact Mike Grupa at (612) 297-2447 between August 5, 1994 and August 16, 1994.

Subject of Rules and Statutory Authority: The proposed rules are about fish transportation, labeling and packing of fish under a fish packer license, wildlife management areas, state game refuges, controlled hunting zones, big game, small game, pelting fees, predator control, turkeys, geese, game farms, rough fish, whitefish and ciscoes, Lake Superior fishing regulations, Lake Superior fishing guides, minnows, amphibians, and crayfish. The

Statutory authority to adopt the rules is Minnesota Statutes, sections 97A.137, 97A.091, 97A.092, 97B.311, 97B.411, 97B.505, 97B.515, 97B.301, 97A.091, 97A.401, 97B.305, 97A.485, 97B.301, 97A.137, 97B.605, 97B.711, 97B.911, 97B.915, 97B.921, 97B.925, 97B.715, 97B.621, 97B.631, 97B.635, 97B.625, 97A.055, 97B.671, 97B.721, 97A.095, 97B.811, 97B.803, 97A.105, 97A.418, 97A.551, 97C.865, 97C.345, 97C.375, 97C.401, 97C.311, 97C.505, 97C.601, 97C.871, 97A.418, 97C.205, and 97A.045.

Modifications: The proposed rule may be modified if the modifications are supported by data and views submitted to the agency or as a result of the rule hearing process if they do not result in substantial change in the proposed rule as noticed. If you are potentially affected in any manner by the substance of the proposed rules, you are encouraged to participate in the rulemaking process.

Request for Hearing: In addition to submitting comments, you may also request a hearing be held on these rules. Your request for a public hearing must be in writing and must be received by the agency by 4:30 pm, August 5, 1994. Your request for a public hearing must include your name, address, and phone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held

unless a sufficient number withdraw their requests in writing.

Cancellation of Hearing: The hearing scheduled for August 16, 1994 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on these rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Mike Grupa at (612) 297-2447 after August 5, 1994 to find out whether a hearing will be held.

Agency Contact Person: Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to Mike Grupa, Department of Natural Resources, 500 Lafayette Rd, St. Paul MN, 55155-4047, (612) 297-2447, no later than August 5, 1994, 4:30 pm.

Notice of Hearing: If 25 or more persons submit written requests for a public hearing on these rules, a hearing will be held pursuant to Minnesota Statutes, sections 14.14 to 14.20. The hearing will be held on August 16, 1994 at the Kelly Inn Best Western, at Interstate 94 and Marion Street, St. Paul, Minnesota, beginning at 9:00 am and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the Administrative Law Judge. The Administrative Law Judge assigned to conduct the hearing is Judge Phyllis A.

Reha. Judge Reha can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, (612) 341-7609.

Hearing Procedure: If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence should relate to the proposed rules. You may also mail written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 pm on the due date. No additional evidence may be submitted during the five day period. This rule hearing procedure is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative

Law Judge.

Statement of Need and Reasonableness: A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, should a hearing be held, is now available from the Office of Administrative Hearings. To review or obtain a copy of the Statement, contact Mike Grupa at the address listed above. The Statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

Small Business Considerations: The promulgation of this rule is the final step in the Department of Natural Resources' conversion from commissioner's orders to rules. Throughout this process, the department has maintained a policy of no substantive changes, which means that the proposed rule contains the same provisions as the commissioner's orders it was derived from. Since this rule is only a codification of commissioner's orders which existed prior to the department's conversion to rules, there are no impacts to small businesses.

Expenditure of Public Money by Local Bodies: For the reasons stated above, this rule will not require the expenditure of public money by local public bodies, thus no fiscal note is

required.

Other notices: For the reasons stated above, this rule will not affect agricultural land.

Lobbyist Registration: Minnesota Statutes, Chapter 10A require each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at First Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, 55155, (612) 296-5148.

Adoption Procedure if No Hearing: If no hearing is required, upon adoption of the rule, the rule and supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that form relates to legality. You may request to be notified of the date of the rule submission to the Attorney General or the Attorney General's decision on the rule. If you wish to be so notified, you must submit the written request to Mike Grupa at the address listed above.

Adoption Procedure After the Hearing: If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may request to be notified of the date on which the Administrative Law Judge's report will be available, after which date the agency may

not take any final action on the rules for a period of five working days. If you desire to be so notified, you may indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. You may request notification of the date on which the rules were adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rules are filed. If you want to be so notified, you may indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

Date: June 24, 1994

Rod Sando
Rod Sando
Commissioner
Deputy

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
DIVISIONS OF FISH AND WILDLIFE AND ENFORCEMENT

IN THE MATTER OF THE PROPOSED ADOPTION OF
GAME AND FISH RULES

STATEMENT OF NEED AND REASONABLENESS

JUNE 27, 1994

INTRODUCTION

In 1991, legislation passed which phased out the Department of Natural Resources' use of commissioner's orders to promulgate game and fish regulations. Laws of 1991, Chapter 259 removed the exemption for commissioner's orders, effective July 1, 1992, from the Administrative Procedures Act in Minnesota Statutes, Chapter 14 and provided for the expiration of commissioner's orders that had not been subjected to the Administrative Procedures Act. As a result, the department will now promulgate game and fish laws by rule.

After passage of the 1991 legislation, the department consolidated all existing commissioner's orders into one document. This consolidated document was promulgated as Commissioner's Order Number 2450 and published in the State Register on June 22, 1992. The department maintained a policy of no substantive changes throughout the consolidation process, which meant that the language of Commissioner's Order 2450 contained the same regulatory provisions as the individual commissioner's orders from which it was derived.

Language in Commissioner's Order 2450 was separated into five categories in preparation for legislative action in 1993:

- 1) Language that had specific statutory authority for rulemaking was included in a proposed game and fish

rule;

- 2) Language that did not have specific statutory authority for rulemaking was removed from the proposed game and fish rule and placed into a proposed emergency game and fish rule;
- 3) Language that repeated statutory language was removed;
- 4) Language that was more appropriate for statute was removed and placed in statute; and
- 5) Language that was no longer necessary was removed.

In 1993, legislation passed (Chapter 231) which exempted that category of game and fish rules having specific statutory authorization from further requirements under Minnesota Statutes, Chapter 14, and provided for the adoption of these rules by publication in the manner prescribed by Minnesota Statutes, section 14.18. This same legislation also provided statutory authority for the emergency game and fish rules, including emergency rulemaking.

The permanent game and fish rules and emergency game and fish rules were adopted on September 1, 1993. Commissioner's Order 2450 expired on the same date. The emergency game and fish rules were adopted in two parts depending on what the department's statutory authority was. One part was adopted as an emergency rule and one part was adopted as an expedited emergency rule. The emergency rule was extended once and is in effect until

August 25, 1994. The expedited emergency rule is in effect until March 1, 1995.

As a result of this process, the game and fish regulations which existed prior to the development of Commissioner's Order 2450 were maintained without substantive change throughout the entire conversion from commissioner's orders to rules. In order to permanently restore game and fish regulations which did not have clear specific statutory authority until passage of the 1993 legislation, it is now proposed that the existing emergency and expedited emergency game and fish rules be promulgated as one permanent rule. It must be emphasized that this proposed rule contains no substantive changes from the game and fish laws which were in effect prior to the department's conversion from commissioner's orders to rules.

GENERAL PROVISIONS

Statutory Authority

Statutory authority for the various provisions of the proposed rule is as follows:

6214.0200 and 6214.0300: 97A.551, subd. 4

6214.0400: 97C.865, subd. 1 and 2

6230.0200: 97A.137

6230.0400: 97A.091, subd. 2

6230.0500, 6230.0600, 6230.0700, 6230.0800, 6230.0900, 6230.1000,
and 6230.1100: 97A.092

6232.0100: 97B.311, paragraph (a); 97B.411; 97B.505; and 97B.515

6232.0300: 97B.311, paragraph (a) and 97B.301, subd. 6

6232.0900, 6232.1000, and 6232.1100: 97A.091, subd.2 and
97A.401, subd.4

6232.1800: 97B.311, paragraph (a)

6232.1600: 97B.305

6232.1900 and 6232.2450: 97A.485 subd. 2a, 97B.301 subd. 4, and
97B.305

6232.2550: 97A.137

6232.3600: 97B.505

6232.3900: 97A.091, subd. 2 and 97A.137

6232.4100: 97B.505

6232.4700: 97B.311, paragraph (a) and 97B.411

6234.0100: 97B.605; 97B.711, subd. 3; 97B.911; 97B.915; 97B.921;
and 97B.925

6234.0200, 6234.0300, and 6234.0500: 97B.711

6234.0400: 97B.711 and 97B.715

6234.1100: 97B.911 and 97B.915

6234.1200: 97B.605 and 97B.621

6234.1300: 97B.605 and 97B.631

6234.1400 and 6234.1700: 97B.605 and 97B.635

6234.1600: 97B.605 and 97B.625

6234.2800 and 6234.2900: 97A.055, subd. 4

6234.3000, 6234.3100, 6234.3200, 6234.3300, and 6234.3400:

97B.671

6236.0600, 6236.0700, 6236.0950, and 6236.1000: 97B.721,

paragraph (b)

6236.0900: 97A.091, subd. 2

6240.0200: 97A.095, subd. 2 and 97B.811, subd. 5

6240.1200, 6240.1500, 6240.1600, 6240.1700, and 6240.1800:

97B.803

6240.1850: 97A.091, subd. 2

6242.0500, 6242.0600, 6242.0700, 6242.0800, 6242.0900, 6242.1000,

6242.1100, 6242.1200: 97A.105, subd. 9

6252.0100 and 6252.0300: 97C.345, subd. 5

6252.0350: 97C.375

6252.0500: 97C.345, subd. 5 and 97C.401, subd. 1

6252.0600: 97C.345, subd. 5

6252.0900 and 6252.1000: 97C.311, subd. 2

6254.0100, 6254.0200, 6254.0400, and 6254.0600: 97C.505, subd. 1

6256.0100, 6256.0200, 6256.0300, and 6256.0400: 97C.601, subd. 6

6260.2500, 6260.2600, 6260.2700, 6260.2800, 6260.2900, and

6260.3000: 97C.871

6260.3100: 97A.418

6260.3200 and 6260.3300: 97C.871

6260.3400: 97A.418 and 97C.871

6262.0100: 97C.205

6262.0300: 97A.045, subd. 4

Scope

The proposed rule covers several areas related to game and fish regulations, including fish transportation, labeling and packing of fish under a fish packer license, wildlife management areas, state game refuges, controlled hunting zones, big game, small game, pelting fees, predator control, turkeys, geese, game farms, rough fish, whitefish and ciscoes, Lake Superior, minnows, amphibians, and crayfish.

Purpose

The purpose of this rule is to maintain the same regulatory framework for fish and game laws which existed prior to the department's conversion from commissioner's orders to rules. The primary purpose of the fish and game laws is to preserve, protect, and propagate desirable species of wild animals while ensuring recreational opportunities for people who enjoy wildlife related activities.

TRANSPORTATION OF FISH

6214.0200 Definitions

Dressed fish are defined because it is not a commonly used term and the definition is important regarding how fish may be legally

transported. Fillet is defined to clarify that fish cheeks are not included as a fillet.

6214.0300 Preparation and Packing of Fish for Transportation

Anglers are subject to possession limits for all game fish species to prevent depletion of the fisheries resource. Game fish may also be subject to size limits to restrict the taking of large fish, increase the average size of fish caught, provide a trophy fishery, or allow small fish to reach a certain size before being vulnerable to harvest. Possession limits are unenforceable unless an angler is required to transport fish so they can be readily counted and identified and size limits are unenforceable unless the fish being transported can be measured. The restrictions in this part require anglers to transport fish so that conservation officers can confirm that possession and size limits are not being violated.

The restrictions in subpart one primarily guard against several fish being frozen together which precludes separation and identification. Anglers can still easily preserve their catch by freezing fish separately.

The restrictions in subpart two ensure that a conservation officer can identify the species of fish being transported, since possession limits for different species vary. Anglers are

required only to leave a small patch of skin which can be easily removed at home.

Bullheads, sunfish, and crappies are exempted from this requirement because their fillets can be readily identified from other game fish species. Since possession limits for bullheads, sunfish, and crappie are relatively high, anglers are not required to leave a skin patch on large numbers of fillets.

On some waters in Minnesota sauger have a higher limit than walleye. Sauger fillets are indistinguishable from walleye fillets, even with a patch of skin, and dressed sauger and walleye may also be indistinguishable. Therefore, filleted or dressed sauger must be counted as walleye to prevent walleye from being counted as sauger in a possession limit. Anglers can easily avoid having to count sauger towards their walleye possession limit by transporting sauger whole with entrails and gills removed.

Subpart three provides that fish may not be reduced to more than two fillets to clearly identify how many fish an angler is transporting. The definition of fillets does not include fish cheeks, allowing anglers to transport cheeks without having to count them towards their possession limit.

Subpart four requires fish having statewide length limits to be

transported whole to enable verification that they are a legal catch. Fish with statewide length limits include stream trout, muskellunge, lake sturgeon, walleye, and northern pike. Walleye and northern pike were exempted from the provisions of this subpart by legislation passed in 1994 (Chapter 523). Muskellunge and lake sturgeon provide trophy opportunities for anglers and the maintenance of these fisheries in Minnesota is heavily dependent on a large minimum size limit. Muskellunge possession limits are one and lake sturgeon possession limits are one per season; therefore, anglers can easily transport their catch of these species whole. The stream trout possession limit varies somewhat, but is five on most waters. It is common practice to transport stream trout whole, with entrails and gills removed, so this provision is not an undue burden to anglers.

Subpart five provides that fish with length limits on specific waters must be transported whole for the same reasons that apply to statewide length limits. The specific waters referred to are part of the department's experimental fishing regulations program. The objective of this program is to improve fishing by providing higher catch rates or larger average size fish to anglers. The success of this program hinges on good compliance with the regulations in place. Studies have shown that even low rates of non-compliance can eliminate any potential benefits of experimental fishing regulations (Gigliotti and Taylor 1990). This provision is easily followed because it only applies while

on the specific water on which the regulation applies and anglers generally do not clean their catch until they leave the water.

6214.0400 Labeling and Packing of Fish Under a Fish Packer License

Anglers who stay at resorts often have their fish packed by the resort operators prior to leaving. A fish packer license allows resorts and other businesses catering to anglers to pack fish without being subject to some of the fish transportation regulations for individual anglers. The provisions of this part outline some of the requirements fish packer licensees must follow. Generally, the reasons for the various provisions are the same as those governing preparation and packing of fish by anglers.

Anglers are allowed to count filleted sauger as walleye between December 1 and March 14, to accommodate people who fish on some of the Minnesota-Ontario border waters in the winter. In particular, Lake of the Woods has a heavily used winter sauger fishery and it would create difficulty if resorts were not allowed to pack sauger as fillets. During other times, the sauger fishery is not as heavily utilized and it is reasonable to require that packed sauger have skin, dorsal fin, and tail intact so that they can be readily differentiated from walleye fillets.

Provisions requiring that fish not be reduced to more than two fillets and that fish having statewide length limits be packed undressed are needed for the same reasons as stated for part 6214.0300. Labeling requirements are specified to allow conservation officers to quickly determine if an angler is within his or her limit and to give officers the ability to check the contents against the label. These requirements are easily followed by licensed fish packers.

WILDLIFE MANAGEMENT AREAS

6230.0200 SPECIAL PROVISIONS FOR WILDLIFE MANAGEMENT AREAS

Subp. 9. Areas closed to firearms deer hunting.

The purpose of this subpart is to close a portion of the Timber Lake Wildlife Management Area (WMA) in Jackson County to firearms deer hunting. This section is necessary because this is a small tract located on the edge of town where safety is a primary consideration. Also, this tract was acquired by gift and it was the desire of the donor that firearms deer hunting not occur on the property. This is reasonable because other types of hunting are still allowed and this area was never before open to unrestricted public hunting. Also, Minn. Stat. Sec. 97A.135, subd. 1 provides that at least two-thirds of the area of WMAs acquired in a county must be open to public hunting. This 20 acre parcel plus a 100 acre sanctuary closed during the waterfowl

season are the only portions of WMAs closed in Jackson County, representing approximately 3% of the total WMA acreage in the county.

STATE GAME REFUGES

6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES

Subps. 1-50. State Game Refuges open to hunting and trapping.

State Game Refuges are established by the process described in Minn. Stat. 97A.085 and are closed to hunting unless opened by the commissioner. The purpose of subparts 1-50 is to open all or portions of some State Game Refuges to various types of hunting and trapping as provided in Minn. Stat. 97A.091, subd. 2. This is necessary because harvestable surpluses of some species occur in these refuges and, in some cases (particularly for deer, bear, and beaver) the species are also causing substantial damage to agricultural or forest crops in the refuges or nearby vicinity. These provisions are reasonable because there is no longer a need for established "refuge" areas to allow populations of most game species to expand and increase. In fact, problems now more commonly result when actual or "de facto" refuge situations become too prevalent and overpopulation and damage to property and habitats results. All provisions in these subdivisions provide for continuing regulations that have

previously been in effect in these refuges.

CONTROLLED HUNTING ZONES

6230.0500 GENERAL REGULATIONS FOR CONTROLLED HUNTING ZONES

A. Controlled hunting zones are established for Canada goose hunting in areas on or adjacent to wildlife management areas and state game refuges where it is necessary to limit the distribution of geese hunters. This is necessary where there are large concentrations of geese that fly out of refuges to feed, when large numbers of hunters congregate around the perimeter of the refuge to hunt geese leaving the refuge. The purpose of this section is to limit the taking of waterfowl to within ten feet of designated hunting stations. It is necessary because these widely spaced stations are intended to limit hunter densities and to maintain safe distances between hunting parties. Further, this restriction is necessary because, without it, "firing line" situations can develop where hunters stand almost shoulder to shoulder. This can lead to over-harvest of geese, be detrimental to the quality of hunting recreational experiences, and creates obvious safety risks. This rule presents a reasonable approach because it allows for a desirable harvest and hunting experience while promoting public safety and reducing unsportsmanlike conduct.

B. The purpose of this section is to limit occupants of designated hunting stations to a single group of no more than three hunters. As stated above, this provision is necessary and reasonable to limit the density of hunters surrounding waterfowl concentration areas. It is also a safety provision to prevent larger groups from attempting to shoot from an overcrowded hunting station.

C. The purpose of this section is to limit hunting station occupancy to only those persons properly licensed to take waterfowl. This section is necessary to make limited hunting opportunities available to the maximum number of people by assuring that unlicensed individuals do not take up available spaces. It is reasonable because demand for these areas exceeds supply and the purpose of the designated stations is to provide hunting opportunity.

D. The purpose of this section is to prohibit leaving refuse, offal, or feathers in a controlled hunting zone or parking lot. It is necessary and reasonable to maintain sanitation in the zones and parking lots.

E. The purpose of this section is to limit the possession and consumption of alcoholic beverages at the hunting stations. This is a necessary and reasonable safety provision.

F. The purpose of this section is to prevent hunters from loitering in the areas between stations. This is needed to promote safety and to minimize disturbance and disruption of hunting for people in adjacent stations. This is a reasonable approach to maximize opportunity and promote safety.

G. This section provides that dogs must be on a leash when more than ten feet from a station and must be under control at all times. This is needed and reasonable for the same reasons as cited under item F.

H. This provision requires parties to promptly leave the designated stations when they have bagged their limit or expended their limit of shells. It is necessary to assure that parties who have finished hunting do not preempt hunting opportunities for others who may want to use the station, and is reasonable because demand for hunting opportunity exceeds supply.

I. This section prohibits leaving trailers of any kind in designated parking lots. This provision is necessary because parking spaces in designated lots are limited and are sometimes used to reserve hunting stations. Trailers could, therefore, be used to occupy parking stalls, thus preempting blind locations. It is necessary to limit occupancy of designated lots to passenger vehicles so that a party in one vehicle may not preempt more than one station. This is a reasonable means to prevent

that type of preempting because it permits practical usage while preventing abuse of the reservation system.

6230.0600 DESCRIPTIONS OF CONTROLLED HUNTING ZONES.

Subp. 1. Establishment of controlled hunting zones.

As explained above, controlled hunting zones are established to limit hunter densities and harvests around wildlife management areas and game refuges where geese concentrate and are vulnerable as they fly out to feed. This section establishes controlled hunting zones within the areas on or adjacent to WMAs and refuges as described in the following subparts. This part is needed and reasonable for the same reasons as provided above for Section A.

Subps. 2-8. Thief Lake, Lac qui Parle, Elm Lake, Roseau River, Rochester, Talcot Lake, and Orwell Zones.

These subparts provide legal descriptions of areas on or adjacent to the named WMAs and Refuges that are included in the controlled hunting zones. This is needed to define those areas where special restrictions are applicable. To facilitate public use, the legally described areas are also clearly posted. Also, it is necessary to carefully delineate these areas to assure that hunter densities are controlled in areas where their activities could have detrimental effects on goose populations or create safety hazards. This part is reasonable because it allows

reasonable harvest while promoting public safety and quality hunting experiences.

6230.0700 THIEF LAKE (EARLY) AND LAC QUI PARLE SPECIAL PROVISIONS.

Subp. 1. Time periods for special provisions.

This section establishes time periods when the special provisions in this part apply. This is necessary because hunting pressure at the Thief Lake area declines later in the season and the need to limit hunter access diminishes, whereas demand at Lac qui Parle remains high throughout the season. It is reasonable to relax restrictions when the management purpose no longer dictates a need for their application.

Subp. 2. Hunting stations.

This section requires that hunters reserve stations according to the procedures available at the special hunt headquarters and that reservation dates may not be changed. This is necessary to provide for the fair and impartial selection of hunters for the limited number of stations available. This is reasonable because it maximizes recreational opportunity while maintaining equitability.

Subp. 3. Back tag permit required.

The purpose of this section is to prevent people from

hunting in the controlled hunting zone who have not registered and received a back tag permit. It is necessary so that enforcement personnel and other hunters can readily identify persons authorized to be in the zone. It is reasonable because it protects the rights of authorized hunters while preventing unauthorized hunters from entering the zone and taking geese or creating disturbance and safety problems. This section also creates a \$3 daily fee for the Lac qui Parle Zone. This is necessary to help pay for the labor-intensive nature of this hunt, and is reasonable because the fee is based on the estimated cost of conducting the controlled hunt as provided in Minn. Stat. 97A.401, subd. 4.

Subp. 4. Limitation on number of shells possessed.

The purpose of this section is to limit persons hunting in the zones to no more than six shells. It is necessary to encourage hunters to carefully select their shots so that they are not shooting at geese out of range or only marginally within range. This is reasonable because it allows a hunter adequate opportunities to harvest a goose while promoting good sportsmanship and reducing ineffective shooting.

Subp. 5. Firearms must be cased.

This section requires guns to be cased except within 10 feet of hunting stations and is necessary for safety purposes and to reduce disturbance near adjacent blinds. This is a reasonable

measure to promote safety.

Subp. 6. Actions after taking bag limit.

This section requires hunters to return entry permits and to submit any geese taken for inspection at the check station within one hour after completing their hunt. It is necessary so that an accurate accounting can be made of the harvest in the zone and so that vacant stations can be reassigned to waiting hunters. It is a reasonable process to maximize hunting opportunity and gain needed harvest information while minimizing administrative burdens.

Subp. 7. Limitation on number of trips.

This section limits hunters to three trips per year to the stations, unless vacancies exist. It is necessary because demand for these opportunities far exceeds the number of available stations on most days of the season. It is reasonable because without this restriction some individuals would be able to hunt many times as either guests or successful applicants, while others would have difficulty getting a station at all.

6230.0800 THIEF LAKE (LATE) SPECIAL PROVISIONS

Subpart 1. Time period for special provisions.

The need and reasonableness for this section is the same as that outlined for section 6230.0700, subp. 1.

Subp. 2. Designated hunting station.

This section allows for use of stations on a first-come first-served basis and limits hunters to one visit per day to a hunting station. This is necessary because demand for stations declines later in the season and reservations are no longer necessary to limit hunter use equitably. Only one trip per day is allowed to distribute recreational opportunity and to prevent illegal over-bagging. This part is reasonable because it allows equitable public use while preventing abuse of laws or the controlled hunt system.

Subp. 3. Revocation of permit.

This section provides for revocation of the permit for violation of permit conditions or hunt regulations. It is necessary to assure that these conditions are complied with or the privileges allowed by the permit will not be granted. It is reasonable because violations impair the efficiency and effectiveness of the controlled hunt system.

Subp. 4. Firearms must be cased.

The need and reasonableness for this provision is the same as that provided for section 6230.0700, subp. 5.

6230.0900 ELM LAKE SPECIAL CONDITIONS

Subpart 1. Time period for special provisions.

See explanation for 6230.0700, subp.1. Hunting demand at Elm Lake also declines later in the season.

Subp. 2. Designated hunting stations.

See explanation for 6230.0700, subp. 2 for the need for these stations. Hunting stations are reserved by parking in a stall having a number corresponding to the hunting station number. This is reasonable because these hunts are at remote locations and are un-staffed and this procedure provides a simple method for assigning blinds on a first-come first-served basis without creating disturbances at the actual blind locations.

Subp. 3. Restrictions on entry to zone.

This section prohibits persons other than those occupying designated parking lots from being in the zone and prohibits occupancy of the parking lot if not hunting at a designated station. These provisions are necessary to keep unauthorized persons from being in the zone and creating problems of over-harvest of geese or disturbance of adjacent hunters. They also prevent persons not hunting from occupying the parking lot and pre-empting opportunity from those who desire to hunt. This is reasonable because it allows legitimate use without unnecessary burden.

Subp. 4. Firearms must be cased.

The need and reasonableness for this provision is the

same as that provided for section 6230.0700, subp.5.

Subp. 6. Restrictions on occupancy of designated parking lot and hunting stations.

This section prohibits occupying parking lots on any two consecutive days or during closed hours. This is necessary to provide equitable distribution of hunting opportunity and to provide a time when all people must leave the lot. It is needed so that hunters do not leave vehicles in a parking lot to reserve a station for the next day. It is a reasonable means to provide equitable distribution of recreational opportunity while preventing abuse of the system.

6230.1000 ROSEAU RIVER AND ROCHESTER REGULATIONS

Subpart 1. Time period for special provisions.

This section is necessary to designate the time that the special provisions apply. For Roseau and Rochester the provisions apply during the open goose season because there is high demand for hunting opportunities at these areas throughout the season. These are reasonable to maximize public recreation while ensuring public safety, quality, experiences and continued wild populations.

Subp. 2. Limitations on persons hunting.

This section provides a method for the local manager to

limit hunting to one day in every three if the manager finds that it is necessary to provide equitable hunting opportunity. This is necessary because hunting pressure and demand at these areas are variable and somewhat unpredictable depending on the numbers of migrant geese present in the refuge and the number of hunters. By allowing for flexibility based on need, this system avoids imposing the more restrictive regulations unless they are necessary. This is a reasonable process to maximize public opportunity while maintaining a quality hunt.

Subp. 3. Restrictions on occupancy of designated parking lot and hunting stations.

The need and reasonableness for this provision is the same as that provided for section 6230.0900, subp.6.

6230.1100 TALCOT LAKE SPECIAL PROVISIONS

Subpart 1. Time period for special provisions.

This section is necessary to designate the time that the special provisions apply. For Talcot Lake it is needed during the open goose season because there is high demand for hunting opportunities at this area throughout the season. It is reasonable to balance public use with quality recreational experiences.

Subp. 2. Hunting prohibited.

This section prohibits all hunting, other than waterfowl, in the West Side Zone. This provision is necessary because this area also contains good pheasant hunting. It is reasonable because this area would otherwise be open to pheasant hunting, leading to potential disruption and disturbance of waterfowl hunters and to safety concerns.

Subp. 3. Limitations on persons hunting.

The need and reasonableness for this provision is the same as that provided for section 6230.1000, subp.2.

Subp. 4. Designated hunting stations.

The need and reasonableness for this provision is the same as that provided for section 6230.0900, subp.2.

Subp. 5. Restrictions on entry to zone.

The need and reasonableness for this provision is the same as that provided for section 6230.0900, subp.3.

Subp. 6. Restrictions on occupancy of designated parking stall and hunting stations.

This section prohibits occupying parking lots or hunting stations during closed hours. This is necessary to provide equitable distribution of hunting opportunity and to provide a time when all people must leave the lot and stations. It is needed so that hunters do not leave vehicles in a parking

lot to reserve a station for the next day. It is a reasonable measure to allow equitable public use while preventing abuse of the system.

BIG GAME GENERAL RESTRICTIONS

6232.0100 GENERAL RESTRICTIONS FOR TAKING BIG GAME.

Subp. 7. Legal bows.

This section provides that bows having a draw weight of less than 40 pounds may not be used for taking big game. It is necessary because bows with lighter draw weights impart less energy to the arrows and are less effective for killing big game. It is reasonable to impose a minimum draw weight to assure that bows inadequate for big game are not used for this purpose. Many other states also impose minimum requirements on archery equipment. An unpublished 1993 survey of states conducted by the American Archery Council found that 31 states responding require minimum draw weights.

DEER

6232.0200 DEFINITIONS.

Subp. 5. Deer management permit.

This section exempts qualifying landowners from paying

a fee for a deer management permit. This provision is necessary to comply with statutory language in Minn. Stat. 97A.441, Subd. 7.

Subp. 8. Regular firearms season.

This section defines the regular firearms season. It is necessary because this term is used elsewhere in rule and it is necessary to distinguish this season from the muzzleloader and archery seasons.

6232.0300 GENERAL RESTRICTIONS FOR TAKING DEER.

Subp. 1. This section clarifies the choice of zone and date options available to a person purchasing a firearms deer license. It is necessary because one license is used to allow a hunter to choose any one of several options for firearms deer hunting. This provision is reasonable because it makes it clear that the regular firearms season and its various sub-options is distinct from the muzzleloader season.

Subp. 3. Party hunting.

This section provides a cross-reference to the party hunting exception contained in statute. It is necessary to be consistent with Minn. Stat. 97B.301.

Subp. 7. All-terrain vehicle or snowmobile use by licensed

hunters.

A. This section makes regulation of hours of snowmobile use by licensed deer hunters consistent with those for ATVs. It is reasonable because both types of vehicles are using the same trails when there are snow conditions during deer season. It is reasonable because the purpose of the regulation is to minimize disturbance of deer and disruption of hunts by the operation of motor vehicles in the woods during primary shooting hours, and snowmobiles can cause the same types of problems as ATVs.

B. This section allows the use of snowmobiles and ATVs to retrieve and transport deer after sunset on Wildlife Management Areas in extreme northwest Minnesota by licensed hunters who do not possess a firearm. It is necessary because many of the WMAs in this area of the state are large and contain remote hunting areas where retrieval of deer is difficult. It is reasonable because prior to 1990 many of these areas were classified as Consolidated Conservation area lands and had a history of motor vehicle use by deer hunters.

C. This section exempts the provisions in item B. from the application of this subpart and exempts a person using a snowmobile on the person's own land and not in possession of a firearm from the restrictions in this subpart. This is necessary to prevent an adverse impact on a person's occupation simply

because they were licensed to hunt deer. It is reasonable because the issues of disruption and disturbance of others are much less significant on private land.

TAKING DEER BY ARCHERY

6232.0900 CAMP RIPLEY ARCHERY HUNT.

Subpart 1. Deer season and hunter quota.

This section provides for deer hunting by archery and establishes the season dates for hunting. It is necessary to control deer populations and because this is a statutory Game Refuge and a military reservation and hunting must be controlled and limited to manage harvests while not interfering with military training exercises. Also, the Department of Military Affairs does not want firearms used in this hunt for safety and security reasons.

Subp. 2. Permit required to hunt.

This section restricts entry to Camp Ripley to those persons properly licensed and with a valid permit. It is necessary because of the need to limit hunter densities and deer harvests and for military security reasons.

6232.1000 APPLICATION PROCESS FOR CAMP RIPLEY HUNT

Subpart 1. Preference drawing.

This section provides for a preference drawing for Camp Ripley permits. It is necessary because it provides an equitable method for distributing permits based on the previous success or lack of success by applicants in previous drawings. It is reasonable because it allows a person who is unsuccessful in the drawing to be assured of receiving a permit before someone who has previously been successful or who is applying for the first time.

Subp. 2. General drawing.

This section provides a procedure for those who have not previously applied or who were successful in their last application to enter a random drawing for the selection of permits.

A. Provides that applications must be made on an application form. This is necessary to assure that all necessary information is provided in a consistent way that can easily be entered and kept in a database. Without a standard form for collecting this information the efficiency of conducting the hunt would decrease and the chances for errors or omissions in applicant information would increase.

B. Allows group applications and provides for the selection of the entire group, if drawn. This is necessary to provide a process for people wanting to hunt together to be assured that either all of them will get drawn or none will.

C. Provides for the notification of all applicants of the results of the drawing. This is necessary so that applicants will know the status of their applications and can make appropriate plans.

Subp. 3. Application requirements.

This section sets forth criteria that applicants for permits must follow.

A. Applicants are required to personally sign the application so that they personally verify that the information provided is correct and that they have not submitted other applications. This is reasonable because there are legal and other consequences to supplying erroneous information and this provides the applicants protection against those consequences if the information was not supplied by them.

B, C, and D. Applicants are required to apply for only one drawing because each year there are far more applicants than permits available and this helps to assure an equitable distribution of permits.

E. Applicants are required to submit the application, with fee, by the specified deadline so that there is time for entering application data, conducting the drawing, notifying applicants, and providing appropriate permits to successful applicants well in advance of the first hunt dates. This is necessary to provide time for applicants to make plans for the hunt, if successful. The application fee is based on the cost of

conducting the special hunt, as provided in Minn. Stat. 97A.401, subd. 4. The fee is reasonable because this hunt requires significant financial and staffing resources by the DNR and Camp Ripley.

F. Applicants are required to pay by check or money order to reduce the risks of cash being lost in the mail and to avoid the need for special hunt personnel to handle large amounts of cash.

6232.1100 SPECIAL PROVISIONS FOR CAMP RIPLEY ARCHERY HUNT.

Subpart 1. Access to Camp Ripley.

A. Archers with valid permits are allowed to enter and leave Camp Ripley only through the designated entry point and during the time specified. This is necessary because Camp Ripley is a military reservation closed to entry by the public except as authorized. This procedure is reasonable because it authorizes hunter entry and provides for orderly and controllable access during standard hours that provide all hunters an equal opportunity.

B. Permittees are prohibited from entering closed areas as shown on maps provided, except as specifically authorized. This provision is necessary because there are artillery impact areas in the Camp containing unexploded ordinance that are hazardous to enter and because military training exercises may be going on in some areas.

C. Permittees are required to register at the department checkpoint prior to hunting each day so that special hunt personnel will know how many and who the permittees are who are active each day. This is necessary to monitor participation and success rates to evaluate the effectiveness of the hunt and to plan future hunts. It also provides a mechanism for assuring that all hunters are accounted for at the end of the day and is a safety consideration in the event someone gets lost or injured.

D. Permittees are allowed beyond the checkpoint only from one hour before sunrise to one hour after sunset. This provision is necessary because shooting hours extend only from one-half hour before sunrise to sunset and is reasonable to limit access to hunting areas during hours of darkness when hunting is not allowed, both for enforcement and safety reasons.

E. Hunters are not allowed to pursue wounded deer into closed areas without an official escort because of the hazards present in the impact areas, as discussed previously.

F. Persons or vehicles are not allowed to pass beyond any road or trail barrier or warning sign because these devices are used to delimit closed areas.

G. All-terrain vehicles (ATVs) and off-road use of vehicles are not allowed during this hunt because of potential damage to vegetation and soils and disturbance and disruption of hunting activities.

H. Permittees are required to stay with their vehicles in line at the checkpoint so that access to hunting areas is

equitable and people are not leaving empty vehicles in line to save a place.

Subp. 2. Tree stands and blinds in Camp Ripley.

This section allows only portable stands and blinds that do no damage to trees, and requires that they must be removed each day at the close of hunting. This is necessary because of the large number of hunters and the potential for significant damage to trees, and to prevent pre-emption of hunting locations by leaving stands or blinds in place.

Subp. 3. Transportation of deer.

This section provides that deer may not be removed from the Camp or transported beyond the checkpoint without being registered. This is required because it is necessary to gather harvest data to be able to monitor and evaluate the effectiveness of the hunt and to plan future hunts.

Subp. 4. Closing of season.

This section allows for the closing of the season without prior notice to accommodate military training priorities or in case of a weather emergency. This is necessary and reasonable because Camp Ripley is first and foremost a military training base and national security priorities take precedence, and because severe weather can render most of the Camp inaccessible or provide unsafe conditions for hunt participants

and staff.

Subp. 5. Taking of porcupines and coyotes allowed.

This section authorizes taking of porcupines and coyotes by hunters lawfully hunting deer. It is necessary to reduce damage and nuisance problems caused by these species and because unprotected animals cannot be taken in state game refuges unless authorized by the commissioner as provided in 97A.091, subd. 2. This provision is reasonable because both coyotes and porcupines are common in Camp Ripley and no other hunting seasons are authorized in this refuge.

TAKING DEER BY FIREARMS

6232.1600 SPECIAL HUNT PROCEDURES.

Subp. 5. Undersubscribed areas.

This section provides for the issuance of remaining special permits on a first come, first served basis after all demand from applicants has been fulfilled. It is necessary and reasonable because the primary purpose of these special hunts is to achieve harvest levels necessary to adequately manage deer populations. This requires issuance of as much of the available quota of permits as possible. This section provides another alternative method of distributing permits when the regular antlerless permit process, the landowner management permit

process, and the random management permit process do not result in distribution of all permits. This method allows efficient distribution of permits in the short time available from when the original drawing takes place and the start of the hunts.

6232.1800 ANTLERLESS PERMITS.

Subp. 3. Antlerless permit areas.

This section modifies the descriptions of registration blocks included in two antlerless permit areas. Antlerless permit areas are used to distribute and regulate harvest of antlerless deer in order to manage deer populations. It is necessary to adjust these permit area boundaries because of differences in land use, deer densities or hunter distribution across the blocks. This change is reasonable because it will improve the distribution of deer harvest and hunting pressure in these areas and improve population management.

6232.1900 FIREARMS DEER MANAGEMENT PERMITS.

Subpart 1. Undersubscribed antlerless permit areas.

This section authorizes deer management permits in "undersubscribed" antlerless permit areas (areas with fewer applicants than available permits). This is necessary because adequate harvests of antlerless deer are needed to effectively manage populations. If there are not enough hunters to take all

available antlerless permits then some hunters are authorized to take more than one antlerless deer to achieve the harvest objective. The number of management permits authorized is up to 1-1/2 times the difference between the number of permits available and the number issued, because experience in selling management permits has shown that only about two-thirds of permits authorized are actually purchased.

A. This section authorizes a landowner-tenant drawing for management permits in accordance with Minn. Stat. 97A.441, subd. 7. Preference is given to owners or tenants who live on at least 10 acres of agricultural land, as required by statute. The definition of agricultural land is needed to clearly define who is eligible. This definition is reasonable because it is based on the statutory definition in Minn. Stat. 97B.001. Family members who live on the qualifying property and are part of the farming operation also qualify as landowners or tenants for the purpose of this section, because this is consistent with other landowner-tenant drawings for moose and wild turkeys. Landowner-tenants are required to fill out an application and submit it by the antlerless permit deadline. This is necessary to identify eligible applicants for these permits in the computerized lottery system so that appropriate preference in the drawing can be given. Selected landowners are authorized to obtain management permits at no cost, as provided in statute, but must verify at the time they obtain the permit that they still qualify and will allow public hunting on their land. This is necessary because

Minn. Stat. 97A.441, subd. 7(b) requires that they allow public hunting, and there is a two-month period between the time they apply and the season, meaning their land ownership or residency status could change in that time.

B. This section provides for distribution, by a random drawing, of any management permits remaining after the landowner-tenant drawing to other permittees who indicated an interest. This is necessary to comply with the statutory provision that landowners be given first preference for these permits and to assure that as many of the available permits are distributed as possible. Successful applicants in this process must pay the appropriate fee to obtain the permit. This is reasonable because only landowners are exempted by statute from paying a fee.

Subp. 2. Special hunt areas.

This section authorizes the issuance of management permits in special hunt areas and specifies that such permits are valid only in the area designated on the permit. This is necessary because hunter densities in special hunt areas must be limited for safety reasons, yet it is essential that adequate deer harvests occur to achieve management objectives. To accomplish this a limited number of hunters are allowed to participate, but some or all of them are authorized to take more than one deer. Making these permits available at the special hunt headquarters is reasonable because all participating hunters go to these areas to hunt.

TAKING DEER BY MUZZLELOADER

6232.2450 MUZZLELOADER DEER MANAGEMENT PERMITS.

This section authorizes the issuance of management permits for muzzleloader licensees in designated areas and provides for the purchase of these permits from authorized agents. It is necessary for the reasons outlined for 6232.1900, subp. 1.

6232.2550 ROTHSAY WILDLIFE MANAGEMENT AREA.

This section opens the Rothsay WMA sanctuary area to deer hunting. It is necessary because Minn. Stat. 97A.137, subd. 2 prohibits entry into areas posted except as authorized by rule or permit. It is reasonable because this area contains harvestable deer numbers and because the purpose of the sanctuary area is primarily to reduce disturbance to waterfowl.

MOOSE

6232.3600 SEASONS AND DATES FOR TAKING MOOSE.

This section provides for taking moose by licensed hunters using legal methods in those years when a season is authorized by the commissioner. It is necessary because historically moose hunts have not been authorized every year, but the current

practice is to do so.

C. This section provides that in the northeast moose zones the season is for the 16-day period beginning the Saturday nearest October 1. It is necessary because the season is timed to follow the peak of the late-September moose breeding season, but to open as early as possible in October and still begin on a Saturday when the most people are likely to have time off to be able to participate. It is also necessary because of moose harvests by Indians in the 1854 Treaty Area of northeastern Minnesota, which for one band (Fond du Lac) begin in late September or early October. The other two bands signatory to the 1854 Treaty (Bois Forte and Grand Portage) by agreement do not begin moose hunting before the state season opens. This provision is intended to allow all moose hunting in northeastern Minnesota to open at or near the same time.

6232.3700 GENERAL REGULATIONS FOR TAKING MOOSE.

Subp. 8. License requirements.

This section specifies the allowable moose party size as directed by Minn. Stat. 97A.431, subd. 1(2), and specifies that the license is valid only for the zone selected. This is necessary to allow for the distribution of a limited opportunity by requiring more than one person per license, and to properly distribute moose hunting pressure and harvest across zones. It is reasonable because the odds of being drawn for a moose license

in most zones are very low and because moose populations could easily be over-harvested in local areas without a mechanism to restrict hunters to zones.

Subp. 9. Bag limit.

This section provides that the bag limit is one moose per party. One essential part of managing moose seasons to avoid over-harvest is to limit the number that can be taken by a party. Because moose hunting opportunity is very limited relative to demand, and moose are large animals that can easily be shared among several individuals, a limit of one moose per party is reasonable.

6232.3800 APPLICATION PROCEDURES FOR A MOOSE LICENSE

Subpart 1. General procedures.

B. This section provides that a person may only apply once, in a party of four, and that all party members must apply for the same zone and personally sign the application. This is necessary because either all members of a party will be selected or none will and a license is valid for only one zone. It is reasonable that applicants personally sign the application to assure that all information provided is accurate and that someone else is not submitting an application on their behalf. This is particularly important now that applicants, once they successfully get a license, are ineligible for all future

drawings.

C. This section defines eligible family members for the moose hunt drawing as provided for in Minn. Stat. 97A.431, subd. 4(b). It is necessary because Minn. Stat. 97A.431, subd. 4(a) provides eligibility to family members of owners and tenants, but does not establish eligibility criteria. This provision is reasonable because it offers eligibility to any family members, as long as they are living on the qualifying property and are part of the farming operation.

6232.3900 MOOSE HUNTING ON REFUGES

This section authorizes moose hunting in the Clay County Refuge and the Rothsay WMA sanctuary during an authorized season. This is necessary because hunting is not allowed in these areas except as authorized under 97A.091, subd. 2 and 97A.137, subd. 2. It is reasonable because harvestable populations of moose occur in these areas and an open season will not have a detrimental effect on moose populations in these areas.

6232.4000 NUISANCE MOOSE

E. This section provides that authorization for taking nuisance moose may only be granted to parties of four with valid licenses, that preference be given to parties licensed for the zone, that authorization may be granted outside open hunting

zones, and that only one party may hunt under an authorization and is restricted to one location. This is necessary because moose in agricultural areas sometimes can cause significant damage to agricultural crops. It is reasonable because it gives first preference to hunters already licensed to hunt in a zone, but does not preclude others if no zone hunters are available. This greatly increases the chances that a moose damage problem can be resolved with hunting. It benefits licensed hunters by providing them an opportunity to hunt on private land and it benefits the affected landowner by removing a problem animal. It also benefits the department and moose management in general by providing a desirable resolution to a problem which is a necessary component of achieving landowner tolerance for maintaining moose populations in these areas.

6232.4100 MOOSE ZONES

Subps. 9a, 11, 26, 29a, and 29b. **Moose zone descriptions.**

These sections provide descriptions of zone boundaries for moose hunting. They are necessary because moose hunters must be able to determine the boundaries of their legal zone and because harvest must be distributed across the moose range at levels appropriate to local habitat conditions and moose densities. They are also necessary to collect harvest information from hunters to determine distribution of harvest within various geographic areas. This is reasonable because

these descriptions form the basis for constructing maps provided to all hunters, and without precisely described zones, the open hunting areas would be unenforceable and harvest data would be less useful.

DEER AND BEAR REGISTRATION BLOCKS

6232.4700 DEER AND BEAR REGISTRATION BLOCKS.

Subps. 73-75, 75a, 77, 91-93, 121, 129, 130a, 135, and 144-147. **Registration block descriptions.**

These sections describe deer and bear registration blocks. These blocks are used to build quota areas and as a basis for collecting harvest data for deer and bear management. They are necessary because hunters must be able to determine the boundaries of their legal quota area and because harvest must be distributed across the deer and bear ranges at levels appropriate to local habitat conditions and deer and bear densities. They are reasonable because these descriptions form the basis for constructing maps provided to all hunters, and without precisely described units, the quota area restrictions would be unenforceable.

SMALL GAME

6234.0100 GENERAL RESTRICTIONS FOR TAKING SMALL GAME.

Subp. 3. Wounded game included in bag limit.

This section provides that any captured or wounded game reduced to possession must be killed before being removed from the site and included in the daily bag limit. This provision is necessary to prevent people from capturing and attempting to keep, as pets, animals taken from the wild. Allowing the possession of live animals taken from the wild would also lead to problems with commercial breeding and sale of wild animals, which currently can only be obtained from properly licensed sources. This is reasonable because animals that have grown up wild can be a danger to humans, make poor pets and do not typically adapt well to captivity.

6234.0200 TAKING RUFFED GROUSE AND SPRUCE GROUSE

This section allows taking of ruffed and spruce grouse by firearms and bow and arrow and establishes the open season. It is necessary to provide for the use of effective methods of take and to establish a legal time period for hunting that offers protection against taking of grouse during the nesting and brood-rearing season. This is reasonable because it allows commonly used and effective grouse hunting methods and it provides for hunting harvest without jeopardizing grouse populations.

6234.0300 TAKING SHARP-TAILED GROUSE

Subp. 2. Open area.

This section describes the area of the state open to taking sharp-tailed grouse. It is necessary so that hunters will know where they can legally hunt sharptails. It is also necessary to provide protection to prairie chickens, which are less common than sharp-tailed grouse, and to some isolated, remnant sharp-tailed grouse populations in peripheral areas of their range. This provision is reasonable because it provides for hunting of sharp-tailed grouse in areas where their populations are still relatively secure and where similar-appearing prairie chickens are not present.

Subp. 3. Open season.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0200.

6234.0400 TAKING PHEASANTS

Subpart 1. Open season.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0200. Additionally hunting is restricted to males only because pheasants are sexually dimorphic and males are easily identifiable in the field. Harvesting males only allows for a higher harvest because pheasants are polygamous (one male breeding many females) and assures that hunting harvests will

have no detrimental effect on pheasant populations. It is a reasonable means to maximize public recreation while protecting long-term viability of pheasant populations.

Subp. 2. Firearm restriction.

This section prohibits taking pheasants with a rifle or handgun other than .22 caliber. It is necessary because pheasants in some intensively farmed areas of Minnesota live in very open habitats and in winter are extremely vulnerable to long-distance shooting using high-powered rifles. This is reasonable because it provides added protection to pheasants when they are in an extremely vulnerable situation and because pheasants shot with rifles of larger caliber are often not retrieved or are damaged so badly that they are almost unusable for human consumption.

6234.0500 TAKING GRAY PARTRIDGE

Subpart 1. Open Season.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0200.

Subp. 2. Rifle restriction.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0400, subp. 2.

FURBEARERS

6234.1100 TAKING MINK AND MUSKRATS

Subparts 1 and 2. Open season in North and South Zones.

These sections extend the open season for taking mink and muskrats to the end of February. They are necessary because muskrat and mink pelts remain prime well after the end of the year, and both species are commonly taken in similar trapping sets, including beaver sets under the ice in late winter. These sections are reasonable because they allow trappers who catch these species during this time to utilize them and because the harvest rate at that time of year is so low that there is no population effect on either species.

6234.1200 TAKING RACCOONS.

Subp. 2. Bag limits.

This section establishes an unlimited bag limit on raccoons for both residents and nonresidents. It is necessary and reasonable because nonresident limits were having negligible effects on harvest rates or populations and because this change makes the rule consistent with current statutory language (Laws of 1994, Chapter 623).

Subp. 3. Special provisions.

This section removes the nonresident tagging requirement for raccoon pelts. This is necessary and reasonable because Minn. Stat. 97A.541, which required tagging, has been repealed.

6234.1300 TAKING RED FOX AND GRAY FOX.

Subp. 2. Bag limits.

The rationale for this provision is the same as that provided in the explanation of 6234.1200, subp. 2.

Subp. 4. Special provisions.

There is no change in permanent rule in this subpart.

6234.1400 TAKING BADGER AND OPOSSUM.

Subpart 1. Open season.

This section expands the legal dates for taking badger and opossum. It is necessary because these species are captured using the same types of sets as for fox and raccoon and those seasons have been expanded recently. It is reasonable to overlap badger and opossum seasons with those for fox and raccoons to the greatest extent possible without extending into the young-rearing season, because these species will be caught by raccoon and fox trappers. This provision provides badger and opossum with protection during the season for rearing their young and will

have no detrimental population effect.

6234.1400 TAKING BOBCAT

Subp. 4. Tagging bobcats.

This section eliminates the site-tagging requirement for bobcats taken by nonresidents. It is necessary because Minn. Stat. 97A.541, which required tagging, has been repealed.

6234.1700 TAKING FISHER

Subp. 2. Bag limits.

This section increases the fisher bag limit from one to two. It is necessary because population and harvest data indicate that previous levels of harvest were well under sustainable levels, with current trapping pressure (DNR files). It is reasonable because season limits and dates are evaluated annually and are adjusted whenever necessary to either prevent an adverse effect on the population or to allow additional harvest within the limitations of the population's capacity to sustain it.

PELTING FEES

6234.2800 Payment of Pelting Fees

Pelting fees are payments made to persons who recover, treat, preserve, or transport pelts of wild animals accidentally killed or killed while doing damage. This provision provides an opportunity for the person providing these services to be compensated at 25% of the value of the pelt and for the state to recover the remaining 75% value of these pelts which would otherwise be lost. Pelts turned in to conservation officers are sold at auction either individually or in lots of fur of the same species. Compensation is based upon the sale price of the pelt or the lot of fur in which the pelt was sold.

Muskrats are excluded from the provision because the sale price generally does not justify the cost of administering the payments. This procedure has been in effect under Commissioner's Order authority for many years and has been easily understood and utilized by the public.

6234.2900 Pelting Fee Restrictions

These restrictions are necessary to ensure that pelts are properly cared for and are provided to the state while in good condition. The care requirements are those that any competent fur-taker would utilize to ensure the value of their own lawfully taken pelts and are reasonable for the compensation offered. Requirements for filing claims also serve to ensure the quality of the pelts and provide a simple method to ensure payment.

These procedures have been successfully used for many years under Commissioner's Order authority and do not unnecessarily inconvenience the public.

6234.3000 Certification for Predator Control

These requirements outline the qualifications, application procedures, and operating procedures for persons applying for a certification to control predators causing damage. They are necessary to ensure that persons applying for certification have the necessary skills and knowledge to be successful. Certified predator controllers are compensated based upon the number of the target species taken from the control area. This part also specifies revocation procedures, for cause or inactivity, to ensure that persons convicted of violations directly related to hunting and trapping or those who have not been active for two years cannot remain certified.

These restrictions are necessary to ensure that an adequate number of active certified controllers are available to alleviate damage situations. They also ensure that the certified controllers are not law violators.

6234.3100 Designated Control Areas and Dates of Operation

This part provides a procedure to open areas to the taking of

certain predators based upon a finding of legitimate damage by a Conservation Officer. This procedure is necessary to ensure that the correct species of predator is identified, an adequately sized geographical area is opened to ensure that predator numbers can be reduced, and an adequate amount of time is allowed for control activities. This allows an appropriate number of the target species to be taken without endangering the local population of that species. Species frequently controlled as target species in this program are also utilized by trappers during the appropriate trapping season.

Dates for control activities, specified in this part, ensure that predator control areas are opened during fall trapping seasons for limited duration (30 days) to minimize potential conflicts with hunters/trappers during hunting/trapping seasons. Control areas are open for longer durations outside the hunting/trapping season framework. This framework was previously in effect under commissioner's order authority and has worked well for both certified predator controllers and those suffering predator damage.

6234.3200 Use of Snares for Predator Control

The use of snares to take protected species is regulated by statute (Minn. Stat sec. 97B.951). This part allows their use by certified predator controllers at any time to facilitate the

taking of target species.

Since control areas, target species, and duration of control activities is limited there is little impact on non-target species and furbearer populations when snares are used. This provision allows certified predator controllers all available control means without having significant impacts on non-target species.

6234.3300 Prohibited Methods of Predator Control

This part specifies that predators cannot be taken from motor vehicles, snowmobiles, or airplanes or by the use of poison. The vehicle restrictions are necessary to ensure the safety of the public. Use of a firearm in, or from, a motor vehicle to take a wild animal is regulated by statute (Minn. Stat. Sec. 97B.055) to provide for public safety. Motor vehicles are prohibited from being used to chase or run-over wild animals by statute (Minn. Stat. Sec. 97B.091). There is no overriding need to provide an exemption from these prohibitions for predator control activity.

Similarly, the use of poison to take certain wild animals is prohibited by statute (Minn. Stat. Sec. 97B.655 and 97B.651) to ensure that non-target species, pets, and livestock are not killed. These restrictions do not seriously impact certified predator controller's ability to take target species.

6234.3400 Compensation for Predator Control

This part provides procedures to request compensation and sets compensation levels for specific species. The procedures are necessary to ensure that only target species from the open area are approved for compensation and to ensure that each animal is presented for compensation only once.

The payment schedule sets compensation levels for fox and coyote (brush wolf) species. A range of compensation for coyote (brush wolf) is set by statute (Minn. Stat. Sec. 97B.671) at not less than \$25.00 each and not more than \$60.00 each. The compensation levels in this part have historically been adequate to ensure interest on the part of knowledgeable hunters/trappers in becoming certified. The schedule adjusts the compensation for coyote from \$45.00 to \$30.00 October 1 through the last day of February. This decreased compensation relates directly to the fact that during this period pelts of furbearers have additional value and can be sold to licensed fur dealer. Predator controllers are allowed to keep the carcass of the animal once compensation requirements have been met.

These provisions provide an equitable compensation system with minimal requirements to document the accuracy of requests for compensation. The system has proved workable for many years,

prior to the conversion to the rule process, under commissioner's order authority.

TURKEY HUNTING

6236.0100 DEFINITIONS

Subps. 5 and 6. Legal bow and arrow and firearms.

These sections prescribe legal bows and arrows and legal firearms for hunting wild turkey. They are necessary because there are no statutory provisions governing legal weapons for wild turkeys and such provisions are needed to assure that only methods that will effectively and safely kill wild turkeys are used. This is necessary because wild turkeys have a large body size, but a very small effective killing area. It also prohibits the use of rifles, which have very long effective killing ranges. This is a safety provision for turkey hunting, which can be more dangerous than other types of hunting because of hunter camouflage and hunting techniques. These provisions are reasonable because: 1) subpart 5 is consistent with statutory provisions for big game, with the addition of blunt head designs which are very safe and are effective for head shots on turkeys; and 2) subpart 6 requires the use of larger gauges of shotguns and moderate sizes of fine shot that are necessary to get the dense shot pattern needed to effectively kill wild turkeys.

6236.0550 FIREARM AND BOW AND ARROW RESTRICTIONS

This section prohibits wild turkey licensees afield hunting turkeys from having firearms or bows and arrows other than those defined as legal in 6236.0100, subps. 5 and 6. This is necessary for enforcement purposes in the field so that 6236.0100 subps. 5 and 6 can be enforced without actually having to witness the person shoot a wild turkey. It is reasonable because it does not cause any significant hardship to persons legally hunting turkeys while facilitating effective enforcement.

6236.0600 SPRING TURKEY SEASON REGISTRATION

Subp. 4. Open areas.

This section establishes open zones for the spring wild turkey season. It is necessary so that hunters will know where they can legally hunt wild turkeys. This provision is reasonable because it provides for hunting of wild turkeys in areas where their populations are secure and it distributes hunting pressure across the wild turkey range to improve the quality and safety of the hunting experience.

Subp. 5. Registration.

This section requires that turkeys must be registered and establishes time limitations. It is necessary that turkeys be registered so that the harvest can be accurately monitored to

allow evaluation of current seasons and effective planning for future seasons. Registration also aids in the enforcement of season bag limits. The time period specified is reasonable because it gives hunters two hours after legal shooting hours each day to register any turkeys taken. This is a reasonable means to gather necessary biological data while minimizing burdens on hunters.

6236.0700 FALL TURKEY SEASON REGISTRATION

Subp. 4. Open areas.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0600, subp. 4.

Subp. 5. Registration.

The need and reasonableness for this provision is the same as that provided in the explanation of 6234.0600, subp. 5, except hunters are given 24 hours to register because fall shooting hours extend until sunset rather than noon.

6236.0800 TURKEY ZONE DESCRIPTIONS.

Subps. 5, 8, 10, 11, 12, and 13. Turkey zones.

These sections provide descriptions of zone boundaries for wild turkey hunting. They are necessary because turkey hunters must be able to determine the boundaries of their legal

zone and because harvest pressure must be distributed across the wild turkey range at levels appropriate to local habitat conditions and turkey densities. This is reasonable because these descriptions form the basis for maps provided to all hunters, and without precisely described zones, the open hunting areas would be unenforceable.

6236.0900 SPECIAL PROVISIONS FOR TAKING TURKEYS.

Subps. 4 and 5. Game refuges and wildlife management areas open to taking turkeys.

These sections authorize wild turkey hunting in the Lost Lake, Whitewater, St. Croix River, and Stillwater game refuges during the open seasons and in the Carlos Avery WMA sanctuary during the spring season. This is necessary because hunting is not allowed in these areas except as authorized under 97A.091, subd. 2 and 97A.137, subd. 2. It is reasonable because harvestable populations of wild turkeys occur in these areas and an open season will not have a detrimental effect on turkey populations in these areas.

6236.0950 TAGGING TURKEYS

This section requires that hunters immediately tag any turkey taken at the site it was taken. This provision is necessary to enforce the bag limit of one turkey by providing the

license invalid for another turkey. It is reasonable because it provides a simple method for the hunter to identify to enforcement personnel that the bird was taken under the proper licensing, even during transit.

6236.1000 TURKEY REGISTRATION.

This section provides specific instructions to hunters on how to register turkeys taken, including restrictions on dressing the birds or possessing unregistered turkeys outside the zone before they are registered. These restrictions are necessary so that accurate weights of harvested birds can be obtained for monitoring purposes and to aid enforcement of the registration requirement. They are reasonable because of the relatively short time required between harvest and registration and because registration stations are located throughout the turkey range to facilitate registration in all zones with a minimum of travel.

MIGRATORY GAME BIRDS

6240.0200 GENERAL RESTRICTIONS FOR TAKING AND POSSESSION OF
MIGRATORY GAME BIRDS.

Subp. 3. Blinds on public lands and public waters.

This section stipulates that an unoccupied blind on public lands and public waters is available for use by the public

and is not the property of the person who constructed it. This section is necessary because without this provision individuals could effectively "privatize" large areas of public land and water, precluding use by the public that has a legal interest in the use of the land or water. It provides a reasonable balance between private uses and public resources.

Subp. 4. Use of motorized watercraft.

This section provides for use of motorized watercraft in the South Heron Lake migratory waterfowl feeding and resting area during the early September goose season. This provision is needed because the feeding and resting area does not become necessary for migrating waterfowl until later in the fall (October) and there is use of motors by fishermen during this period. This provides a reasonable balance between public use and protection of migrating birds.

EARLY GOOSE SEASONS

6240.1200 SPECIAL PROVISIONS FOR TAKING GEESE DURING EARLY SEASONS.

Subpart 1. Taking near water.

There is no change in permanent rule in this subpart.

Subp. 2. Taking on public roads and rights-of-way.

This section changes the zone name where restrictions against taking geese on public rights-of-way do not apply because that zone has been expanded and renamed. It is necessary because this exception still applies to the expanded zone.

6240.1500 TAKING GEESE IN THE TWIN CITIES METROPOLITAN CANADA
GOOSE ZONE.

Subpart 1. Open season.

This section changes the opening date of the early season from September 1 to the first Saturday in September. September goose hunts are held, with federal approval, in early fall prior to the arrival of migrant geese from other sub-populations that nest outside the state. The objective of these hunts is to harvest locally breeding geese in order to stabilize or reduce their populations so that damage to crops and other problems are kept within levels that people are willing to tolerate. Because there is such a short window of time before migrant geese begin arriving in the state, it is important to achieve adequate harvests during the 10-day period allowed under federal regulation. Several years of harvest data have shown that goose harvest rates are higher on week-ends (DNR files). This provision is needed because, by moving the opener to a Saturday, there will always be 2 week-ends during the 10-day hunt, whereas a September 1 opener results in some years with only a single week-end during the season. Allowing two weekends

maximizes public recreation and facilitates goose population control. It is a reasonable proposal to maximize recreation within the 10-day framework.

Subp. 2. Daily limits.

There is no change in permanent rule in this subpart.

Subp. 3. Zone description.

This section provides descriptions of zone boundaries for early goose hunting. It is necessary because: 1) federal regulations restrict early goose hunting to only specified and approved areas within a state; 2) goose hunters must be able to determine the boundaries of their legal zone; and 3) harvest pressure must be distributed across the early goose hunting areas. This is reasonable because these descriptions form the basis for hunting zone maps provided to all hunters, and without precisely described zones, the open hunting area would be unenforceable.

6240.1600 TAKING GEESE IN SOUTHWEST ZONE.

Subpart 1. Open season.

The need and reasonableness for this provision is the same as that provided in the explanation of 6240.1500, subp. 1.

Subp. 2. Daily limits.

There is no change to permanent rule in this subpart.

Subp. 3. Zone description.

The need and reasonableness for this provision is the same as that provided in the explanation of 6240.1500, subp. 3.

6240.1700 TAKING GEESE IN FERGUS FALLS/ALEXANDRIA CANADA GOOSE ZONE.

Subpart 1. Open season.

The need and reasonableness for this provision is the same as that provided in the explanation of 6240.1500, subp. 1.

6240.1800 EARLY GOOSE HUNT APPLICATION AND PERMIT.

Subp. 1. Application process.

This section eliminates the application deadline for early goose hunt permits. It is necessary because the application process has been streamlined to allow rapid return of permits without having to do the data entry first, and because applications can now also be purchased over-the counter. This eliminates the need for an application cutoff before the season, which formerly was needed to allow time for processing and returning permits. It is reasonable because it allows necessary data collection while reducing applicant burden.

6240.1850 GAME REFUGES OPEN TO THE TAKING OF GEESE.

This section authorizes Canada goose hunting in the Douglas County and Otter Tail County goose refuges during the open seasons. This is necessary because hunting is not allowed in these areas except as authorized under 97A.091, subd. 2. It is reasonable because harvestable populations of Canada geese occur in these areas and an open season will not have a detrimental effect on Canada goose populations in these areas.

GAME FARMS

6242.0500 Game Farm License Requirements

This part requires the game farm license to list the species which may be propagated or sold by that licensee. Minn. Stat. Sec. 97A.105 defines generally (i.e. game birds) which species can be bought or sold or used for breeding purposes. The rule provision requires a more specific listing of individual species which may be used for game farm purposes. This provision is necessary to law enforcement to ensure that protected species other than those listed are not being unlawfully taken from the wild and used for propagation or sale purposes.

This provision does not significantly impact the public because it is administered by the Department and requires no action on

the part of the licensee.

6242.0600 Game Farm License Conditions

This part provides general requirements for the issuance of licenses to applicants. It provides that licenses can be issued only to an applicant primarily responsible for the care of animals. It also requires that the applicant possess adequate knowledge to care for the species present. Additionally it sets minimum care standards for the care of game farm animals and provides for non-renewal or revocation of the license if the standards are not met.

These requirements are reasonable and necessary to ensure proper treatment of animals held on game farms. In the case of larger species (deer, bear, moose, elk, and caribou) the fencing requirements serve to protect public safety and property.

The revocation/non-renewal provisions is reasonable based upon an assessment of noncompliance. Conservation officers routinely inspect game farm facilities to ensure compliance with these minimum requirements.

6242.0800 Acquisition of Game Farm Animals

This provision provides that game farm licensees may only obtain

captive reared mammals and game birds from other licensed game farms or from persons exempt from licensing. Exempt persons would include zoos, persons outside of Minnesota, or acquisition from the state.

This provision is necessary to ensure that animals are not acquired from the wild and used for game farm purposes. Wild animal populations are protected by this provision. This provision has been in effect previously and is reasonable.

6242.1100 Reports on Operations

This provision requires game farms to submit reports of two types for law enforcement purposes. For upland game birds and waterfowl an inventory of the total number by species acquired, hatched, possessed, sold, deceased, or disposed of is sufficient. This allows conservation officers to generally review each game farm's operation for these protected birds and determine if an inspection is warranted. Some larger game farm operations involve propagation and sale of thousands of birds making any record keeping requirement beyond an inventory difficult to comply with.

The second type of record keeping covers all other species (mammals and birds other than upland birds and waterfowl). Transactions involving these species are generally much smaller

than those referenced above. These reports are completed on sales receipts required under Minn. Rules 6242.0900 and provided by the Department.

These reports are retained by the Division of Enforcement and retained for a minimum of three years. These records allow a breeding history and acquisition history to be established if needed to confirm or deny whether there is reason to believe animals are being acquired unlawfully. These activities protect wild populations of protected species in Minnesota. These reporting provisions have previously been in effect and have worked well. This is the least intrusive method of reporting possible that will allow the Department to monitor game farm activity.

ROUGH FISH

6252.0100 Seasons and Methods for Taking Roughfish

Legislation passed in 1993 allowing non-residents to spear rough fish (Chapter 269). This legislation did not and was not intended to allow non-residents to spear northern pike, catfish, or lake whitefish. This part clarifies that non-residents cannot spear from a fish house or dark house. Since most or all dark house or fish house spearing is targeted at northern pike, catfish, and lake whitefish, it is reasonable to prohibit non-

residents from spearing from a dark house or fish house.

(Residents are allowed to spear these species from a fish house or dark house as provided by Minnesota Statutes, section 97C.371, subd. 2).

Dip netting for rough fish is a popular activity for some people which results in beneficial use of under-utilized fish species. This part limits net diameter to no more than 24 inches, which allows the common nets that are used for this activity.

6252.0300 Restrictions on taking rough fish

This part adds dip netting to the other non-angling methods of taking rough fish that are prohibited in designated trout waters, posted spawning areas, and other waters where spawning or trapping operations are being carried out by the department. This is needed to prevent accidental capture and stress of trout or disturbance of spawning areas and fish management operations. Anglers have opportunities to take rough fish by non-angling methods in many other waters where these concerns do not exist; therefore, this does not pose an unreasonable restriction.

6252.0500 Open Seasons for Taking Whitefish and Ciscoes

This part establishes minimum mesh sizes for each of the lakes where gill netting for whitefish or cisco is allowed, to minimize

capture of non-target species. Whitefish are larger than cisco; therefore, larger mesh gill nets are allowed in lakes with whitefish (3-1/2 inches), while a 1-3/4 inch mesh size limit is placed on lakes that have cisco, but no whitefish. Limiting lakes with only cisco to the use of small mesh gill nets reduces the likelihood of capturing non-target game fish species, such as northern pike and walleye, without hindering a person's ability to net cisco. (The language specifying depths where gill nets can be set is being removed because it is in Minnesota Statutes, section 97C.805.)

The changes in subpart 3 are not substantive.

Subpart five provides for a daily and possession limit of 25 whitefish for waters on the Leech Lake Reservation. Statewide, there is no possession limit for whitefish; however, whitefish are highly valued by the Leech Lake Band. As a result, the department and band agreed to a possession limit of 25 for whitefish on reservation waters.

6256.0600 Time Restrictions on Taking Whitefish and Ciscoes

The provisions of this part are necessary to prevent unlawful use of gill nets. Gill nets are a very lethal gear and their use must be strictly regulated. Restricting gill netting to daylight hours provides people sufficient time to check nets. Gill nets

must be checked at least once every 24 hours to prevent spoilage of fish captured. A gear limit of one net is reasonable, because gill nets are a very effective gear.

LAKE SUPERIOR FISHING GUIDES

6252.0900 License Requirements for Lake Superior Fishing Guides

The provisions of this part require license applicants to be at least 18 and possess a valid Coast Guard operator's license which are Federal requirements to operate a watercraft for hire on waters under coast guard jurisdiction (46 CFR Subp. 10.20).

6252.1000 Required Record Keeping

The provisions of this part require Lake Superior guides to keep monthly records. The Lake Superior fishery has international significance and has required large expenditures of public funds to manage. One of the major management initiatives has been the lake trout restoration program which has resulted in the growing charter boat industry that exists today. It is very important for the department to track the growth and game fish harvest of this industry to continue successful fish management on Lake Superior.

MINNOWS

6254.0100 Permitted Activities for Taking Minnows

The provisions of subpart 1 allow minnow retailer licensees to engage in the basic activities needed to operate a minnow retail business. There are no restrictions on the quantity of minnows that can be bought or sold and minnows can be transported freely between the place of wholesale purchase and the place of business.

The provisions of subpart 2 detail license requirements for vehicles used to transport minnows. Vehicle licenses need to be present in the vehicle, allowing conservation officers to verify that a person transporting minnows is properly licensed. Licensed vehicles must be registered in Minnesota because minnow dealer's licenses are issued only to residents (Minnesota Statutes, sections 97A.415, subd. 3 and 97A.475, subd. 26) and minnows cannot be imported into Minnesota from other states for sale as live bait (Minnesota Statutes, section 97C.515).

Vehicles must be clearly identified with the licensee's name and residence so they can be quickly and easily identified while on the road, similar to a vehicle license plate. Licensees are given the option of using removable placards, so that they can be easily switched from truck to truck.

Subpart 3 provides aquatic farm and private fish hatchery

licensees the same privileges as minnow retailer licensees and an exemption from angling license requirements. This is consistent with the intent of Minnesota Statutes, sections 17.4981 to 17.4997 and 97C.301, and Minnesota Rule, Chapter 6250, which provide that aquatic farm and private fish hatchery licensees can legally buy and sell their private aquatic life.

6254.0200 Waters Open to Taking Minnows

This part requires a special permit from the commissioner to take minnows within the boundaries of wildlife management areas and state parks, within 50 yards of any site where loons are nesting, in waters listed in parts 6254.0300 and 6254.0400, and in designated trout streams as provided by Minnesota Statutes, section 97C.505, subd. 5. Restricting minnow harvest in wildlife management areas and state parks and within 50 feet of loon nesting sites is necessary to prevent disturbance to nesting and migrating waterfowl and other wildlife. Minnow harvest is restricted in designated trout waters to prevent incidental capture, stress, and mortality of small trout. These provisions are reasonable because minnow harvest can still be allowed on a case by case basis in these areas if the commissioner determines that there is no potential for damage to the resource. In addition, numerous opportunities exist to harvest minnows without a special permit outside of these areas.

6254.0400 Waters with Restrictions on Equipment used for Taking Minnows

This part prohibits use of seines to harvest minnows in a portion of the Zumbro River in Wabasha County and Otter Creek in Mower County. These streams contain populations of slender madtoms and crystal darters, respectively, which are fish species of special concern because of their very limited distribution in Minnesota. Prohibition of seines is intended to prevent incidental capture and subsequent stress of these special concern species. Numerous opportunities exist to harvest minnows with seines outside of these areas.

6254.0600 Requirements to Hold and Move more than 24 Dozen Minnows

The provisions of this part require that minnows in quantities greater than 24 dozen be transported and held in a manner that will sustain them in good condition. Requirements include sufficient water volumes and dissolved oxygen. These provisions are necessary to prevent waste and are in the best interest of commercial minnow dealers. Restrictions are less stringent for leeches, which are statutorily defined as minnows (Minnesota Statutes, section 97A.015, subd. 29), because leeches do not need as much water and dissolved oxygen to be sustained in good condition. Containers used to transport minnows must permit

inspection by conservation officers to determine that minnows are in good condition and that other provisions of the game and fish laws are being followed.

Subpart 5 requires reporting of minnow harvest and export activity prior to license renewal. Minnow harvest is a significant activity in Minnesota which supports an industry of over \$20 million based on reported sales. Report information is summarized by the department and used to monitor trends in minnow harvest. This information helps to ensure that the minnow resource is sustained and provides valuable economic information for the minnow industry.

Subpart 6 exempts private hatchery and aquatic farm licensees from the provisions of subparts 2 and 3. Private hatcheries and aquatic farms may use large quantities of minnows for processing or feeding hatchery fish. In these cases, the intended use of the minnows does not require that they be sustained in good condition.

AMPHIBIANS

The parts covering amphibians deal with various aspects of frog harvest, possession, importation and reporting, for purposes other than bait. While it would be desirable for the rules to cover use of frogs for bait, this is currently not an option

because the department has no statutory authority to regulate use of frogs for bait.

6256.0100 Allowed Times for Taking Frogs

This part restricts the taking of frogs to between sunrise and sunset unless otherwise permitted. Taking frogs at night requires the use of artificial lights, which requires a permit from the commissioner as provided by Minnesota Statutes, section 97C.601, subd. 4. Therefore, this part is consistent with statutory intent. In addition, violations such as using unlawful gear and trespass on private lands are more likely to occur at night.

6256.0200 Species and Size Limits for Taking Frogs

This part restricts species which can be taken for purposes other than bait to leopard frogs and bull frogs and places a minimum size limit of 6 inches on bull frogs. Leopard frogs and bull frogs have commercial value for purposes other than bait. The six inch minimum size limit is needed to prevent depletion of bull frog populations.

6256.0300 Permits for Importing Frogs

This part prohibits importation of frogs for purposes other than

bait, except by special permit. Any importation of frogs needs to be closely regulated to prevent introduction of non-native frogs and other exotic species which could be inadvertently transported. The risk of importing exotic species with frogs is high, because frogs are usually harvested in the wild under uncontrolled conditions rather than cultured in a controlled environment. Frogs can be imported by special permit which enables the commissioner to review each request on a case-by-case basis and determine if there is a potential risk.

6256.0400 Reports, Records, and Inspections to Take Frogs for Nonbait

This part requires people licensed or permitted to take frogs for purposes other than bait to report activities to the department on forms provided by the commissioner prior to relicensing. Frog populations have been declining worldwide (Blaustein and Wake 1990) and it is imperative that harvest be monitored to help determine trends and prevent depletion.

CRAYFISH

6260.2500 General Restrictions on Taking Crayfish

Subpart 1 provides for an open season from April 1 through November 30, which roughly corresponds with the open water

period. Crayfish hibernate in burrows during the winter and harvesting them at this time would be undesirable because it would involve digging into lake and stream bottoms (Pennak 1953).

Subpart 2 details gear and marking requirements for taking crayfish. Gear used to take crayfish must be identified with the user's name and address to allow conservation officers to act appropriately in the event of a violation or if conflict arises between two or more crayfish harvesters. People lawfully harvesting rough fish and minnows may take any crayfish captured in their gear, provided they have the necessary permit. Traps used specifically for crayfish are limited to a mesh size of no less than 1/2 inch stretch measure, to avoid the capture of small non-target species. Large non-target species would generally not be vulnerable to crayfish traps. Floats to mark traps are limited to 4 inches in diameter or square, to minimize intrusion and navigational hazards. This subpart also clarifies that rough fish parts can be used to bait traps, to eliminate any confusion that may be caused by laws against returning dead rough fish to public waters (Minnesota Statutes, section 609.68 and Minnesota Rule, part 6252.0350). The restrictions in this subpart do not hamper crayfish harvesting activities.

6260.2600 Sale of Crayfish

This part allows all species of crayfish to be harvested for sale

as food or processed bait. In addition, crayfish may be cultured for the same purposes. Crayfish may not be sold for live bait or aquarium use to prevent the spread of exotic species of crayfish, particularly rusty crayfish (Orconectes rusticus), which were first reported in Minnesota in 1979 (Helgen 1990). Environmental concerns with rusty crayfish include negative impacts on aquatic vegetation, predation on fish eggs, and displacement of native species of crayfish (Helgen 1990). Allowing use of live crayfish for bait or aquarium purposes would promote the spread of rusty crayfish and risk environmental damage.

6260.2700 Tending Crayfish Traps

This part requires that crayfish traps be lifted during daylight hours only, to avoid enforcement problems resulting from illegal take of non-target species. Traps must also be lifted at least once every 24 hours to avoid mortalities of non-target species and to prevent spoilage of captured crayfish. These restrictions do not significantly hamper crayfish harvesting activities.

6260.2800 Disposal of Crayfish

This part prohibits littering of waters and shorelines with dead crayfish and is consistent with anti-litter laws (Minnesota Statutes, section 609.68).

6260.2900 Transportation and Stocking of Crayfish

This part prohibits transfer of crayfish between water bodies except as permitted by the commissioner, to prevent transfers of exotic species. Concerns are the same as stated under part 6260.2600.

6260.3000 Importation of Crayfish Prohibited

This part prohibits placement of crayfish imported from outside the state into waters of the state, except as permitted by the commissioner. Concerns are the same as stated under part 6260.2600.

6260.3100 Penalties for Violation

This part provides for possible permit revocation for any person violating laws pertaining to the harvest of crayfish. Since violation of crayfish harvest laws has the potential to spread exotic species and cause environmental damage, it is reasonable to prohibit violators from engaging in crayfish harvest activities.

6260.3200 Taking of Crayfish for Personal Use

Subpart 1 provides for harvest and possession of up to 25 pounds

of crayfish with an angling license. This possession limit is reasonable because it exceeds what most people would harvest for personal use.

Subpart 2 prohibits sale of crayfish taken for personal use. Sale of crayfish is a commercial activity for which it is reasonable to require a commercial harvesting permit.

Subpart 3 allows crayfish to be harvested in any waters where fish may be taken by angling, if legal access can be obtained. Since crayfish harvest for personal use can be done under an angling license, it is reasonable to allow this activity in waters where angling is allowed.

Subpart 4 allows use of live crayfish for bait only in the body of water where taken. Concerns are the same as stated under part 6260.2600.

6260.3300 Taking Crayfish for Commercial Use

Subpart 1 requires a permit from the commissioner to harvest more than 25 pounds of crayfish. Twenty five pounds is a reasonable cut off between personal and commercial use, because few people would take more than 25 pounds solely for personal use.

Subpart 2 provides that people helping a person commercially

harvesting crayfish must be listed on the permittee license. This is to avoid any ambiguity resulting from who is authorized to commercially harvest crayfish under a permit.

Subpart 3 provides for accurate applications for crayfish harvesting permits on forms provided by the commissioner. Permittees and their helpers must be residents and must have an angling license or be exempt from angling license requirements. These provisions are consistent with requirements for commercial harvest of rough fish and minnows (Minnesota Statutes, sections 97A.475, subd. 26 and 30-37, and section 97C.301).

6260.3400 Permit Conditions for Commercial Crayfish Operations

This part provides for various permit conditions and requirements. Permits are valid for up to one season and can be revoked by the commissioner for resource protection. Renewing permits on a seasonal basis is reasonable and allows the commissioner to review permit conditions and make any necessary changes. Changes in permits could include things such as removing or adding waters to be harvested and specification of gear types. Changes may become necessary if waters being harvested become infested with undesirable exotic species or crayfish populations become stressed by environmental conditions.

Subpart 4 prohibits importation of live crayfish into the state

except by permit from the commissioner. Permits to import live crayfish for processing are only issued if no live crayfish leave the processing facility. Concerns are the same as stated under part 6260.2600.

Subpart 5 requires permittees to keep records that are current within 48 hours. Failure to keep current records can result in revocation of the permit and may render the permit holder ineligible for future permits. Since violation of crayfish harvest laws has the potential to spread exotic species and cause environmental damage, it is reasonable to require records to help the department verify that all harvest activities are lawful.

Subpart 6 provides that legally harvested crayfish may be bought, sold, and transported for food purposes and as processed bait only, with some exceptions. This requirement is consistent with preventing the spread of exotic species. Exceptions are allowed for exportation of crayfish (subpart 7), where permission has been obtained from the commissioner (part 6260.2900), and for rearing and holding native species of crayfish (Orconectes virilis and Orconectes immunis, subpart 11). These exceptions give the commissioner the flexibility to allow persons harvesting native crayfish species to hold or rear them in any waters for eventual sale for food or processed bait. This type of activity can generally be permitted with minimal risk to the resource, if the crayfish harvest takes place in waters which are not infested

with rusty crayfish and other exotic species.

Subpart 8 requires permittees to notify the appropriate area fisheries office at least 24 hours in advance of crayfish harvest operations. This is a reasonable accommodation for permittees to make, because area fisheries offices often get inquiries from the public when they see commercial harvesting activities taking place on the state's waters. Advance notice allows personnel at the fisheries office to readily explain what is happening and address any concerns.

Subpart 9 requires the permittee to be in attendance at harvest operations and places responsibility for harvest operations with the permittee. There is also a requirement to list any helpers on the permit. These provisions remove any ambiguity when there are unlawful activities and help conservation officers to determine who is legally operating under a given permit.

Subpart 10 provides for identification of crayfish harvest sites by legal description or the department's Division of Waters inventory number. Area fisheries offices need to know where harvesting activities are permitted for reasons stated under subpart 8.

FISHING REGULATIONS AND REQUIREMENTS

6262.0100 General Restrictions on Taking Fish

Subpart 4 prohibits a person from importing, transporting, or stocking any waters of the state with live fish eggs, fish spawn, or immature or adult fish of any species, without a permit issued by the commissioner. Exceptions are provided as per various statutes which allow these activities for licensed minnow dealers, private fish hatcheries, and aquatic farms. This regulation is primarily intended to prevent the general public from moving live fish between water bodies.

There are serious concerns regarding inappropriate transfers of live fish by the general public, including: transfer of exotic species; transfer of fish stocks to watersheds where they are not native; transfer of inappropriate strains of fish; and transfer of fish which are detrimental to the intended management of the receiving water. Damage from exotic species has been well documented with case histories including carp, sea lamprey in the Great Lakes, and more recently zebra mussels (Taylor et al 1984; U.S. Congress, Office of Technology Assessment 1993; Courtenay 1993). Transfer of species not indigenous to a watershed can have impacts similar to transfer of exotic species. Transfer of inappropriate strains of fish can have detrimental impacts on the genetic integrity of native stocks (Hanson et al 1983; McInerny et al 1991; Philipp and Whitt 1991). Transfer of inappropriate species has also resulted in a loss of public investment in

fisheries management. For example, people have released warm water game fish species into designated trout lakes resulting in inter-specific competition and decreased survival of stocked trout. When this happens, the only options are usually to discontinue trout management with a subsequent loss of angling opportunity, or an expensive chemical reclamation so that trout management can continue.

The restrictions in this subpart are reasonable, because an angling license is not intended to be a license to move and stock live fish. Anglers can easily preserve their catch on ice to avoid transporting live fish after fishing.

6262.0300 Fishing Regulations for Lake Superior

Subpart 6 provides the angling seasons and daily and possession limits for fish species on Lake Superior. Trout, except lake trout, have a continuous season. The most important trout species in Lake Superior at this time, other than lake trout, is the rainbow trout. Brook trout, brown trout, and splake are present at extremely low levels in Minnesota waters of Lake Superior at this time. Unlike many other game fish species in Minnesota, rainbow trout in Lake Superior are not protected from harvest at spawning time because anglers have historically fished for them as they run up tributary streams to spawn. Numerous data collected by the department, along with information provided

by anglers, indicate that rainbow trout populations have declined in Lake Superior since the 1970's. As a result, the department has a lower bag limit and higher minimum size limit for this species than for brook and brown trout, to attempt to aid rainbow trout recovery. The minimum size limits are 28 inches for unclipped rainbow trout, which are wild fish commonly referred to as steelhead, and 16 inches for clipped rainbow trout, which are stocked fish commonly referred to as kamloops. The reason for the difference is that there are different management objectives for steelhead and kamloops. The objective for wild steelhead is to limit angler harvest and promote the recovery of a self-sustaining population. A 28 inch minimum size limit protects about 90% of the steelhead population from being harvested. The objective for stocked kamloops is to allow them to reach some of their growth potential prior to harvest to maximize return to anglers.

Lake trout declined in the 1950's and 1960's because of predation by sea lampreys and commercial harvest. Lake trout populations are currently recovering and an increasing percentage of the population is from natural reproduction. Lake trout have a possession limit of three and a closed season from October 1 through November 30. The closed season corresponds to the lake trout spawning period. Lake trout are the most important game fish species in Lake Superior and the restoration of that population is a high priority.

Salmon have a relatively high bag limit of 10 (except for Atlantic salmon) with a continuous season. Pacific salmon die after attempting to spawn, therefore the management philosophy has been to maximize return to the angler. Salmon are not being managed to provide a self-sustaining population in Minnesota waters of Lake Superior.

Smelt have a continuous season with no bag limit. Although smelt populations have declined considerably since the 1970's, this is largely due to the increase in predation from growing lake trout and salmon populations rather than human harvest. Bag limits and seasons remain liberal because smelt are an exotic and management emphasis is focused on the recovery of the native lake herring or cisco. In addition, even if an increase in smelt was desired, reductions in bag limits or seasons would have no impact on smelt numbers in Lake Superior.

Seasons and possession limits for other species are the same as for inland waters. Species other than those listed are taken infrequently in Lake Superior.

OTHER CONSIDERATIONS

Fiscal Note

If the adoption of a rule will require the expenditure of public money by local public bodies, the adopting agency may be required to prepare a fiscal note as provided by Minnesota Statutes, sections 14.11, subd. 1 and 3.982, giving an estimate of the total cost to all local public bodies. Since this rule is only a codification of commissioner's orders which existed prior to the department's conversion to rules, there are no substantive changes and no impact on the costs to local public bodies.

Agricultural Land Impacts

If the adoption of a rule will adversely affect agricultural land, the adopting agency is required to comply with state policy on the preservation of agricultural land as provided by Minnesota Statutes, sections 14.11, subd. 2 and 17.80-84, and is subject to certain review and notification procedures. Since this rule is only a codification of commissioner's orders which existed prior to the department's conversion to rules, there are no substantive changes and no impact on agricultural land.

Small Business Considerations

When an agency proposes a new rule which may affect small businesses as provided by Minnesota Statutes, section 14.115, the agency is required to consider several methods for reducing the potential impact. Since this rule is only a codification of

commissioner's orders which existed prior to the department's conversion to rules, there are no substantive changes and no impacts on small businesses. However, even though provisions of this rule are not new, it is reasonable to ask if provisions which have existed have impacts on small businesses. An addendum which addresses this question will be provided.

Public Hearing

If the proposed rule is taken to public hearing, witnesses for the rule will include Mike Grupa (Administrative Enforcement Officer), Steve Hirsch (Fisheries Program Manager), and Ed Boggess (Wildlife Program Manager).

REFERENCES

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- Philipp, D.P., and G.S. Whitt. 1991. Survival and growth of northern, Florida, and reciprocal F₁ hybrid largemouth bass in central Illinois. Transactions of the American Fisheries Society 120: 58-64.
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STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

DNR INFORMATION
(612) 296-6157

July 1, 1994

Ms. Maryanne Hruby, Executive Director
Legislative Commission to Review
Administrative Rules
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Ms. Hruby,

Enclosed is an addendum to the SONAR for the game and fish rules
which we recently sent you. Please call if you have any questions.

Sincerely,

Steve Hirsch
Fisheries Program Manager
Section of Fisheries

SH\rp

enclosure

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FISH AND WILDLIFE AND ENFORCEMENT

IN THE MATTER OF THE PROPOSED ADOPTION OF
GAME AND FISH RULES

ADDENDUM TO
STATEMENT OF NEED AND REASONABLENESS

JULY 1, 1994

Small Business Considerations

The proposed rule contains no substantive changes from existing regulations; therefore impacts on small businesses will be minimal. However, the rule does contain provisions which could have minor impacts on small businesses including resorts which cater to anglers, game farms, Lake Superior fishing guides, and minnow dealers. Representatives of each of these businesses have been personally contacted by telephone and sent the notice of intent to adopt rules, an explanation of the contents of the rule, and a copy of the parts of the rule that pertain to their business interest.

The portions of the rule affecting each of these businesses are as follows. Part 6214.0400 provides for labeling and packing requirements under a fish packer license (resorts catering to anglers often obtain a fish packer license so that they can package their guests' fish). Parts 6242.0500, 6242.0600, 6242.0800, 6242.1100, and 6242.1200 provide for license requirements and conditions for game farms, acquisition of game farm animals, reporting of game farm operations, and game farm licensing of endangered species. Parts 6252.0900 and 6252.1000 provide for license and record keeping requirements for Lake Superior fishing guides. Parts 6254.0100, 6254.0200, 6254.0400, 6254.0500, and 6254.0600 provide for permitted activities for taking minnows, waters open to the taking of minnows, waters with

restrictions on equipment used to take minnows, allowable methods for taking minnows, and requirements to hold and move more than 24 dozen minnows.

Minnesota Statutes, section 14.115 provide that the commissioner address the establishment of less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance or reporting requirements, and the consolidation or simplification of compliance or reporting requirements for small businesses.

Resorts

The proposed rule does not require any reporting from resorts. Less stringent compliance was addressed by allowing anglers to count filleted sauger as walleye between December 1 and March 14. This allows resorts who benefit from the popular winter sauger fishery on Lake of the Woods a more convenient way to package peoples' sauger. The remaining provisions are necessary to enable the commissioner to enforce statewide possession and size limits for game fish and comply with Minnesota Statutes, section 97C.401.

Game Farms

The commissioner considers the annual reporting requirements to be the minimum necessary for enforcement and resource monitoring

and to determine suitability for relicensing. All necessary forms are provided by the commissioner to simplify the process as much as possible. Two levels of reporting are required to reduce the burden of record keeping for game farms that raise upland game birds and waterfowl and that may deal with thousands of animals. Less stringent requirements on game farms could result in environmental damage to wild populations of game animals or inadequate care of animals kept on game farms and would be inconsistent with Minnesota Statutes, section 97B.105. The proposed restrictions protect wildlife resources and the rights of individual game farms.

Lake Superior Fishing Guides

License requirements cannot be made less stringent or they would conflict with federal law. Guided fishing is a commercial activity and the reporting schedules for Lake Superior fishing guides are consistent with requirements for inland commercial fishing as provided by Minnesota Statutes, section 97C.811, subd. 7. Reporting schedules were made less stringent for Lake Superior fishing guides by waiving the requirement from November through April if no activity occurs. If reporting occurred less frequently than required, the accuracy of the reports could be compromised because some guides would have a tendency to put off recording the necessary information and try to recall it from memory. These reports are needed in a timely manner for

enforcement and public information purposes. In addition, the fishing guide industry has requested timely summaries of the information provided by these reports. Forms are provided by the commissioner to simplify the process as much as possible.

Minnow dealers

The commissioner considers the annual reporting requirement to be minimal and necessary for enforcement and resource monitoring and to determine suitability for relicensing. Forms are provided by the commissioner to simplify the process as much as possible. Requirements for vehicle licensing are necessary for the commissioner to enforce Minnesota Statutes, section 97A.475, subd. 26 and 27. Less stringent restrictions on waters open to minnow harvest could result in environmental damage to trout streams, special concern species, wildlife management areas, and State Parks and would be inconsistent with Minnesota Statutes, section 97C.505, subd. 5. In addition, the commissioner finds that these restrictions do not hamper commercial minnow harvest because of the abundance of suitable waters outside of these areas. Less stringent restrictions for methods to take minnows are not necessary, because the rule allows all common methods historically used by commercial minnow harvesters. The proposed restrictions regarding minnow trap identification and distances between minnow traps prevent conflicts between individual minnow dealers to the benefit of the small businesses involved.

Requirements for holding and moving more than 24 dozen minnows prevent minnow dealers from losing their product.

Minnesota Statutes, section 14.115 also require the commissioner to consider the establishment of performance standards for small businesses to replace design or operational standards. This option does not appear to be relevant to the type of regulations contained in the proposed rule.

The commissioner is also required to consider the exemption of small businesses from any or all requirements of the rule. Most of the businesses involved in the activities regulated by this rule are small businesses. The proposed rule was developed to provide resource protection and monitoring and it would be contrary to statutory intent and the mission of the department to exempt small businesses from this rule.

Office Memorandum

Department: of Finance

Date: July 1, 1994

To: Eugene R. Gere, Assistant Commissioner
Department of Natural Resources

From: Robyn T. Rupp
Budget Operations

Phone: 296-7404

Subject: Departmental Earnings Rate Change Response - Camp Ripley Archery Hunt
Application Fee

Pursuant to provisions of Laws 1993, sec. 56, subd. 5 (M.S. 16A 1285), the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by the Department of Natural Resources on June 30, 1994. If you have questions or concerns, please call me at the above number.

cc Bruce Reddemann

Department of Finance
Departmental Earnings: Reporting/Approval

Part A: Explanation

Earnings Title: Camp Ripley Archery Hunt Application Fee	Statutory Authority: 97A.401, Subd. 4	Date: June 30, 1994
Brief Description of Item: Application fee for all prospective participants in the Camp Ripley special permit archery hunt.		
Earnings Type (check one): 1. <input checked="" type="checkbox"/> Service/User 2. <input type="checkbox"/> Business/Industry Regulating 3. <input type="checkbox"/> Occupational Licensure 4. <input type="checkbox"/> Special Tax/Assessment 5. <input type="checkbox"/> Other (specify):		
Submission Purpose (check one): 1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment 2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment 3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate 4. <input type="checkbox"/> Other (specify):		
If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, cite pertinent statutes:		
Impact of Proposed Change (change in unit rate, number of payees impacted, etc.): This fee has been collected under authority of Commissioner's Order for many years. At the time of the most recent Commissioner's Order (No. 2450) the fee was \$5.00, but expenses were exceeding revenues and a deficit was accumulating. Therefore, the fee in this rule is set at \$6.00 per applicant to more closely balance revenues and expenditures. Note that not all costs have been captured on the expenditure side, including costs incurred by the Division of Enforcement. Approximately 7,000 applicants apply for this hunt.		

Office Memorandum

Department: of Finance

Date: July 1, 1994

To: Eugene R. Gere, Assistant Commissioner
Department of Natural Resources

From: Robyn T. Rupp
Budget Operations

Phone: 296-7404

Subject: Departmental Earnings Rate Change Response - Lac qui Parle Blind Permit
Fee

Pursuant to provisions of Laws 1993, sec. 56, subd. 5 (M.S. 16A 1285), the Department of Finance has reviewed and approved the attached departmental earnings proposal submitted by the Department of Natural Resources on June 30, 1994. If you have questions or concerns, please call me at the above number.

cc Bruce Reddemann

Department of Finance
Departmental Earnings: Reporting/Approval

Part A: Explanation

Earnings Title: Lac qui Parle Blind Permit Fee	Statutory Authority: 97A.401, Subd. 4	Date: June 30, 1994
Brief Description of Item: Daily fee for all users of state goose hunting blinds over the age of 18 at the Lac qui Parle Refuge.		
Earnings Type (check one): 1. <input checked="" type="checkbox"/> Service/User 2. <input type="checkbox"/> Business/Industry Regulating 3. <input type="checkbox"/> Occupational Licensure 4. <input type="checkbox"/> Special Tax/Assessment 5. <input type="checkbox"/> Other (specify):		
Submission Purpose (check one): 1. <input checked="" type="checkbox"/> Chap. 14 Review and Comment 2. <input type="checkbox"/> Approval of Allowable Inflationary Adjustment 3. <input type="checkbox"/> Reporting of Agency Initiated Change in Departmental Earnings Rate 4. <input type="checkbox"/> Other (specify):		
If reporting an agency initiated action (option 3 above), does agency have explicit authority to retain and spend receipts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, cite pertinent statutes:		
Impact of Proposed Change (change in unit rate, number of payees impacted, etc.): This fee has been collected for many years under the authority of Commissioner's Order. This rule continues this fee in effect. The fee is designed to help defray the costs of the hunt, but currently does not pay all costs. Approximately 4,500 daily blind permits are sold annually.		

Department of Finance
Departmental Earnings: Reporting/Approval (Cont.)
 (\$1,000,000 = 1,000)

Part B: Fiscal Detail

APID: 31000-78-23		AID: 358770		Rev. Code(s):		<input checked="" type="checkbox"/> Dedicated	<input type="checkbox"/> Non-Dedicated	<input type="checkbox"/> Both
Item	F.Y. 1991 Revenues:	F.Y. 1992	F.Y. 1993	F.Y. 1994 As Shown in Biennial Budget	F.Y. 1995 As Shown in Biennial Budget	F.Y. 1994 As Currently Proposed	F.Y. 1995 As Currently Proposed	
Lac qui Parle Blind Fee	14.1	13.0	14.1	12.3	13.0	same	same	
	Expenditures:							
Direct	39.4	59.5	49.7	35.8	40.0			
Indirect								
Total	39.4	59.5	49.7	35.8	40.0			
Current Deficit/Excess	(25.4)	(46.5)	(35.6)	(23.5)	(27)			
Accumulated Excess/Deficit*	(25.4)	(71.9)	(107.5)	(131)	(158)			

As necessary, attach detailed schedule/listing of proposed changes in departmental earnings rates.

Agency Signature: *[Handwritten Signature]*

* F.Y. 1991 beginning accumulated balance to include amount of accumulated excess/deficit (if any) carried forward from F.Y. 1990

