

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

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

**STATEMENT OF NEED AND REASONABLENESS**

**May 20, 1999**



## **GENERAL PROVISIONS**

### **I. INTRODUCTION**

#### **Purpose**

The primary purpose of the game and fish rules is to preserve, protect, and propagate desirable species of wild animals while ensuring recreational opportunities for people who enjoy wildlife-related activities. The proposed rules, and amendments to existing rules, cover a variety of areas pertaining to wildlife, including: wolf restitution value; regulations for state game refuges, wildlife management areas, and waterfowl controlled hunting zones; identification of designated wildlife lakes with airboat restrictions; deer hunting intensive harvest permits; muzzleloader sights; bear tagging and registration; white bear protection; moose zone boundaries; deer and bear registration block boundaries; falconry migratory bird seasons; fisher, pine marten, and bobcat zones; fisher and pine marten limits; wild turkey permit areas and special provisions; woodcock season; goose season zones and definitions; crow season; migratory waterfowl feeding and resting areas; and wild rice harvest on Wildlife Management Areas.

#### **Notification to Persons and Classes of Persons Affected by the Proposed Rules**

A request for comments was published in the State Register on November 9, 1998. This notice described the specific areas of the proposed rules, the statutory authority for each of these rules, and the parties that could be affected by the proposed rules. The Department of Natural Resources (department) also provided additional notice to people who may be affected by the rules by sending the request for comments and additional information to a number of hunting, trapping, and conservation groups and other organizations and individuals, and by publishing statewide news releases that described the proposed rule changes. The notice was also sent to all parties on the department's official mailing list for rule notice.

Organizations and individuals contacted included: Minnesota Waterfowl Association, Ducks Unlimited, Minnesota Falconers Association, National Wild Turkey Federation, Rocky Mountain Elk Foundation, Minnesota State Archery Association, Minnesota Trappers

Association, Wildlife Legislative Fund, Minnesota Bowhunters, Inc., Minnesota Deer Hunters Association, and the Minnesota Fish and Wildlife Legislative Alliance.

In addition, prior to publishing the request for comments the department sought extensive input on parts of the proposed rules, including public meetings at locations around the state and a number of statewide news releases. Following publication of the request for comments, six public meetings were held around the state in February, 1999.

The recommendation on wolf restitution was one result of a separate public involvement process, including a 33-member Wolf Management Roundtable (wolf roundtable) of all identified wolf "interests." This process was funded by the Legislative Commission on Minnesota Resources (LCMR) and facilitated by the Minnesota Office of Dispute Resolution and Mediation Services to develop recommendations for the department on a long-term wolf management plan.

As a result of the extensive outreach done by the department, a great deal of input was received regarding the proposed rule changes. Input that was sought prior to or during the request for comments period was used to help develop some of the proposed rule changes. In addition, a draft of the proposed rules was sent to people requesting it. The comments received to date are summarized as follows:

General Background:

Comments were received in response to the request for comments published in November, 1998, and in response to statewide news releases and public meetings in early 1999. In addition, the proposal on splitting the crow season was also advertised in statewide news releases and discussed at public meetings in 1997 (1997 public input meetings). The proposal on allowing electronic hearing devices for wild turkey hunting was also advertised in news releases and discussed at public meetings in 1998 (1998 public input meetings). The 1999 meetings were attended by approximately 180 people at six locations around the state during February of 1999 (1999 public input meetings). All attendees were offered the opportunity to complete a questionnaire indicating their level of support for regulation proposals and to offer comments. In addition, a total of 81 written comments and phone calls were received on season issues in 1999.

### Wolf Restitution:

The proposal to reinstate the wolf restitution value at \$2,000 (the same as it was when wolves were listed as a state-threatened species) resulted from public comment and recommendations resulting from the wolf roundtable. No additional comments have been received on this proposal.

### Game refuges and wildlife management areas:

The proposed changes in the rules relating to wildlife management areas and state game refuges were discussed at the 1999 public input meetings. Of the 79 people completing questionnaires who expressed an opinion on changes to game refuges and wildlife management areas, 73 (92%) favored maintaining changes that were in effect in 1998 through the expedited emergency rule process. Several persons opposed to the proposed changes commented that they were against liberalizing motorboat use on wildlife management areas or favored electric motors only. A few commenters in opposition to the changes wanted more restrictions on wildlife management areas and refuges to keep these areas wild and to prohibit killing or harassment of any animals.

In addition, of the three people who wrote or phoned on the issue of wildlife management areas and refuges, two favored keeping motor restrictions as is, and one favored electric motors.

### Deer and bear:

The proposed changes to permit area boundaries were discussed at the 1999 public input meetings. Of the 85 people completing questionnaires who expressed an opinion on changes to permit area boundaries, 74 (87%) favored maintaining the changes that were in effect in 1998 through the expedited emergency rule process. One commenter opposed any increase in hunting areas because there is too little area to walk in during the hunting season. No written or phone comments were received on this issue other than those on the questionnaires.

### Moose:

No comments were received on proposed moose zone changes. One commenter expressed the hope that moose populations in northwest Minnesota would come back.

### Falconry:

The proposed changes to falconry waterfowl seasons were requested by the Minnesota

Falconers Association and were discussed at the 1999 public input meetings. Of the 42 people completing questionnaires who expressed an opinion on changes to falconry waterfowl seasons, 30 (71%) favored the changes. Two commenters supported a shorter season or no season and one opposed the changes because falconers are a special interest group. No written or phone comments were received on this issue other than those on the questionnaires.

Furbearers:

The proposals to continue the expansion in fisher, pine marten, and bobcat zones that were in effect for the 1998 seasons by expedited emergency rule were discussed at the 1999 public input meetings. Of the 75 people completing questionnaires who expressed an opinion on changes to furbearer zones, 67 (89%) favored maintaining the changes that were in effect in 1998. Comments included: expand otter zone in southern Minnesota (3 commenters); close seasons (2 commenters); increase fisher limits; no reason to kill them because fur prices are down; and need to take more fisher so we don't lose young wildlife. No written or phone comments were received on this issue other than those on the questionnaires.

Wild Turkeys:

The proposal to allow electronic listening devices for wild turkey hunting was discussed at the 1998 and 1999 public input meetings. The proposal to change wild turkey permit area boundaries to correspond to those in effect for spring 1999 was discussed only at the 1999 meetings.

In 1998, a total of approximately 205 people attended the 6 public input meetings. Of the 126 people completing questionnaires who expressed an opinion on allowing the use of electronic listening devices for wild turkey hunting, 78 (62%) favored allowing these devices. Comments included: favor for persons with hearing disabilities (10 commenters); against all hunting (5 commenters); and no need for electronics. In addition, a total of 38 people wrote or called in comments in 1998. Of 27 people who wrote or phoned on wild turkey hunting regulations, 24 (89%) opposed the use of electronic listening devices for wild turkey hunting, except for hearing-impaired hunters, and 2 supported the proposal.

In 1999, of the 93 people completing questionnaires who expressed an opinion on electronic listening devices for wild turkey hunting, 55 (59%) favored allowing these devices.

Comments included: only for persons with hearing disabilities (6 commenters); not fair chase / unethical (6 commenters); there are too many electronic devices now. In addition, of five people who wrote or phoned on the use of electronic listening devices for wild turkey hunting, two supported the change and three opposed.

Of the 70 people completing questionnaires who expressed an opinion on wild turkey permit area boundaries, 65 (93%) favored maintaining the boundaries that were in effect for 1999. Comments included: permit areas are already too large (2 commenters); move drawing deadlines back 60 days; and opposed because it is not in the best interests of the lives of individual wild turkeys.

#### Woodcock:

The proposal to continue the restricted woodcock season mandated by the federal migratory bird framework was discussed at the 1999 public input meetings. Of the 61 people completing questionnaires who expressed an opinion on woodcock seasons, 56 (92%) supported continuing the restricted season. Comments included: woodcock seasons should be eliminated or closed (4 commenters); and Minnesota should regulate its own seasons. No written or phone comments were received on this issue other than those on the questionnaires.

#### Geese:

Proposals to extend the closing of the September goose season, to open a September goose season in the Northwest Zone, and to continue some goose zone boundary changes were discussed at the 1999 public input meetings.

Of the 111 people completing questionnaires who expressed an opinion on extending the closing date of the September goose season, 90 (81%) favored the extension. Comments included: leave as is or shorten season (3 commenters); good idea -- best way to address overabundance (2 commenters); would like to see more overwater hunting (2 commenters); need to harvest more local geese or depredation will cause real problems for landowners; run the September season up to regular season; and do not have an early season and instead increase the limit in the regular season. Of five people who wrote or phoned on extending the September goose season, all favored the extension.

Of the 72 people completing questionnaires who expressed an opinion on opening

September goose hunting in the Northwest Zone, 60 (83%) favored this option. Comments included: favor no season (3 commenters); extend the closing (2 commenters); season should be the same as the remainder of the state; limit should be five, the same as the rest of the state; and allow only one goose. In addition, one person wrote in and supported this proposal.

Of the 74 people completing questionnaires who expressed an opinion on continuing some goose boundary and refuge changes, 63 (85%) favored continuing the changes. Comments included: oppose any expansion or hunting in refuges (4 commenters); possibly loosen the Fergus Falls zone past I-94; eliminate confusion with all the boundaries and dates; open later so geese are migrants.

Crows:

Proposals to split the crow season and provide for a late-winter season were discussed at public input meetings in both 1997 and 1999.

In 1997, there were approximately 305 attendees at 6 public input meetings held around the state on hunting and trapping seasons. Of 183 people completing questionnaires who expressed an opinion on splitting the crow season, 150 (82%) favored this option. In addition, a total of 109 written comments and phone calls were received on season issues in 1997. Of 17 people who called or wrote on the crow season issue, 9 (53%) favored the proposed split, and 1 wanted a year-around season.

In 1999, there were approximately 180 attendees at 6 public input meetings held around the state on hunting and trapping seasons. Of 77 people completing questionnaires who expressed an opinion on splitting the crow season, 67 (87%) favored this option. In addition, a total of 81 written comments and phone calls were received on season issues in 1999. Of 10 people who called or wrote on the crow hunting issue, 7 (70%) favored the proposed split and 2 wanted wildlife management areas open to crow hunting throughout the season. Comments included: open the season year-around (2 commenters); opposed to crow season (4 commenters); crows can be confused with protected ravens (2 commenters). In addition, of nine people who wrote or phoned on the issue of splitting the crow season, eight supported the proposal and one wanted the season left as is.



Wild Rice:

No comments were received on the issue of wild rice harvest on Wildlife Management Areas.

Comments on Issues Not Subject to This Rule:

A number of comments were received on issues that are not a part of this proposed rulemaking. These included comments on trespass laws, dove seasons, license fee increases, license reciprocity, ruffed grouse seasons, ATV use for hunting, youth waterfowl day, duck seasons, turkey seasons, deer hunting and licensing, deer populations, bear baiting, raccoon and fox seasons, elimination of trapping, hound hunting of bears, and more coordinated hunter and trapper education.

The comments summarized above were considered in the drafting of these rules.

Additional Notice:

Additional notice on the proposed rules will be provided to persons or classes of persons who could be affected. A notice of intent to adopt rules with or without a public hearing will be sent to: Minnesota Falconers Association, National Wild Turkey Federation, Rocky Mountain Elk Foundation, Minnesota State Archery Association, Minnesota Waterfowl Association, Minnesota Trappers Association, Ducks Unlimited, Wildlife Legislative Fund, Minnesota Bowhunters, Inc., Minnesota Deer Hunters Association, Minnesota Fish and Wildlife Legislative Alliance, Pheasants Forever, Animal Rights Coalition, and Earth Protector, Inc. In addition, all parties on the department's official list for rule notice will be sent notice of the proposed rules. Also, a statewide news release announcing the proposed rule will be distributed to all daily and weekly newspapers in the state and to all electronic media. The proposed rule will be available for public review and comment on the department's internet web site and will be published in the State Register. The dual notice, rules and SONAR will be sent to legislators as required under Minnesota Statutes, Section 14.116.

## Statutory Authority

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

<u>Rules Part</u>	<u>Minnesota Statutes, Sections</u>
6133.0075:	97A.345
6230.0200:	97A.137
6230.0250:	86A.06
6230.0400:	97A.091, subd. 2
6230.0500, and 6230.0700:	97A.092
6230.1600:	97A.101, subd. 4
6232.1250 and 6232.2200:	97B.311
6232.2800 and 6232.3300:	97B.411
6232.4100:	97B.505
6232.4700:	97B.311 and 97B.411
6234.0800:	97B.105 and 97B.731
6232.1600:	97B.605 and 97B.625
6232.1700; and 6232.1800:	97B.605 and 97B.635
6236.0810:	97B.711, subd 1
6236.0900:	97B.711, subds 1 and 3 and 97A.091
6240.0100:	97B.803
6240.0300:	97B.731, subd. 1
6240.0700; 6240.1600:	97B.803
6240.1850:	97B.803 and 97A.091
6240.1900:	97B.803
6240.2100:	97A.095, subd 2
6240.2300:	97B.731 subd 3
6284.0500:	84.15 and 84.152

## II. REGULATORY ANALYSIS

### Description of the Classes of Persons Affected by the Proposed Rules

The proposed rules would affect hunters and trappers in some wildlife refuges, wildlife management areas and controlled hunting zones. The changes for these areas proposed in this rule are for the most part the same as were in effect for the fall 1997 and/or 1998 seasons through expedited emergency rules, and there has been no opposition to those changes from hunters and trappers.

The proposed rule changes for deer, bear, and moose would affect deer, bear, and moose hunters. The proposed rules incorporate changes made by expedited emergency rule for the 1997 and 1998 seasons, and make technical changes in who can authorize the taking of bears causing damage by licensed hunters prior to the season.

The proposed rule changes for falconry would affect falconers who hunt migratory waterfowl. These changes were requested by the falconers' association.

The proposed rule changes for bobcat, fisher, and pine marten would affect people taking these species. The proposed rules incorporate changes made by expedited emergency rule for the 1997 and 1998 seasons.

The proposed rule changes for wild turkeys would affect wild turkey hunters. The proposed rules incorporate changes made by expedited emergency rule for the 1998 and 1999 seasons. They also change the requirements on use of electronic devices to allow electronic listening devices by wild turkey hunters.

The proposed rule changes for waterfowl would affect goose hunters. The proposed rules incorporate changes made by expedited emergency rule for the 1997 and 1998 seasons. They also include technical changes to define terms used to describe waterfowl seasons.

The proposed rule changes for crows would affect crow hunters. The proposed rules would keep the season the same length, but split it into two segments.

The proposed regulations will affect some non-hunting/non-trapping users of wildlife management areas and state game refuges who object to hunting and trapping activities. A few commenters requested closure of game refuges to hunting and trapping. The proposed rule

provides for changes in hunting restrictions or motorboat use in six wildlife management areas. It also includes minor and technical changes in general restrictions on entry into closed areas and overnight use of wildlife management areas. It also changes hunting restrictions in five state game refuges. State wildlife areas are, for the most part, acquired and managed with funds provided by hunters and trappers and state and federal laws require that most of these areas be open to hunting and trapping when compatible. These areas are also open year-around for wildlife viewing and other wildlife-related activities.

### **Probable Costs to the Agency or Other Agencies From the Proposed Rule**

The proposed rules will not result in additional costs to the department or other agencies. There is already extensive monitoring of the wildlife populations and enforcement of the rules for the species that would be affected by the proposed rules and no additional monitoring or enforcement is planned if the rules are adopted. The proposed rules are not anticipated to have any effects on state revenues.

### **Determination of Less Costly or Less Intrusive Methods for Achieving the Purpose of the Proposed Rules**

For wildlife management areas and state game refuges, the changes will have no added costs and are not considered to be intrusive. Some provisions are less restrictive than current rules, and the more restrictive provisions are to comply with deed restrictions or local ordinances. For controlled hunting zone regulations, the changes are designed to provide consistency on public and private land and to allow private landowners the same options as are provided in a state game refuge on public lands. This is also less restrictive than previous rules. Rule provisions on airboat use are provided for clarity and do not add additional restrictions. Restrictions on taking antlerless deer in bucks-only areas are to provide consistency between firearms, archery, and muzzleloader hunters, and are no more intrusive than the rules already applicable to firearms hunters. Bear tagging and nuisance authorization requirements are less restrictive than prior rule. Registration block and permit area boundaries are changed to improve population management and to provide as much consistency as possible for hunters. Larger units

would be less intrusive, but would compromise effective population management and ultimately could reduce opportunity for hunters. Furbearer zones are less restrictive than prior rule and establish a consistent boundary for all four species which should reduce complexity and confusion of regulations. Use of listening devices for wild turkey hunting is less restrictive than current rule. Woodcock season restrictions are mandated by federal law, so no less intrusive option was possible. Goose zones are considered the minimum necessary to responsibly manage the various populations of geese that live in and migrate through various regions of the state and are capable of sustaining differing levels of hunting harvest. A less intrusive option would be to have one statewide zone, but responsible population management would require that the rules be restrictive enough to not over harvest the most sensitive populations, resulting in unnecessarily harsh restrictions in other regions of the state. The crow season established by this rule is no different in length, only in timing. Maximum crow season length is set by federal law and state statute. Within the federal guidelines, states are allowed to select the timing of the season as long as it does not exceed 124 days and as long as it avoids the peak of the crow nesting season. Within state law, the department must set the crow season to be the maximum allowed by federal law, but does have discretion to prescribe the timing of the season.

### **Description of Alternate Methods for Achieving the Purpose of the Proposed Rules**

Most of the proposed rule changes are to provide less restrictions and more opportunities, or to provide technical corrections or clarifications to existing rules. The only more restrictive provisions than existing rules include some of the rules on use of wildlife management areas and woodcock hunting changes.

The wildlife management area restrictions are necessary to comply with deed restrictions or local ordinances, and cannot be achieved by an alternate, non-regulatory means. For those provisions, changing existing rules is the only alternative for accomplishing these purposes.

Proposed rule provisions on season definitions, overnight use of wildlife management areas, airboat use on designated wildlife management lakes, muzzleloader sights, furbearer limits, wild turkey hunting in the Carlos Avery sanctuaries, and the West Central goose zone description are corrections, clarifications, or technical changes that do not have a substantive

affect on current regulations. The alternative would be to leave these provisions uncorrected or unclarified, but the approach in the proposed rule was considered the best way to make the existing rules more understandable and accurate.

Other rules relate to where and how hunting for various species can occur. Changes are generally to improve population management while maintaining or increasing hunting opportunities. While alternate methods such as voluntary restraint on total harvest are sometimes used on private holdings, managing wildlife populations for public benefits on a statewide or national basis requires regulations on when, where, how much, and by whom harvest of wildlife can take place. Wildlife harvest regulations are to prevent over or under harvests, to provide equitable opportunities, and to address other issues of conservation, public safety, and fair chase. No alternative to regulated harvest is available that will achieve the same outcomes.

#### **Probable Costs of Complying with the Proposed Rules**

The restrictions being proposed do not result in increased costs to the public. Changes in harvest regulations and seasons that result in less restrictions may enhance income of those selling hunting and trapping products and catering to these activities.

#### **Assessment of Differences between the Proposed Rules and Existing Federal Regulations**

The proposed wildlife rules cover areas that are not addressed by federal law, except for the portions relating to migratory birds (falconry, geese, woodcock, crows). The federal government retains primary management authority for migratory birds, which are protected under international treaty and which readily migrate across state and international borders. The federal government establishes the outside parameters within which the state must establish specific seasons, zones, bag limits, and other restrictions. States select specific seasons and limits within the federal guidelines. Federal law stipulates that state regulations can be no more liberal than federal regulation frameworks, but can be more restrictive. The state falconry, waterfowl, woodcock, and crow hunting regulations that are the subject of this rule are established within the allowable frameworks established by federal law and regulation, and are fully consistent with federal law.

### **Regulatory, Licensure, or Other Charges in the Proposed Rules**

Minnesota Statutes, Section 16A.1285 does not apply because the proposed rules do not involve any regulatory, permit, or license fees or any other charges to the public.

### **Proposed Rules Affect on Farming Operations**

The proposed rules will not affect farming operations.

### **Description of How the Agency Considered and Implemented the Policy to Adopt Rules That Emphasize Superior Achievement in Meeting the Agency's Regulatory Objective and Maximum Flexibility for the Regulated Party and the Agency in Meeting These Goals**

Minnesota Statutes, Section 14.002 establishes legislative policy that rules and regulatory programs emphasize superior achievement in meeting the agency's regulatory objectives, as well as providing maximum flexibility for the regulated party and the agency in meeting those objectives. The agency objective with regard to hunting and trapping regulations is to provide for resource conservation, public safety, and equitable use opportunities, while maintaining flexibility for hunters and trappers to enjoy a variety of opportunities for use and enjoyment of wildlife resources, consistent with state and federal law. To the extent possible, the department attempts to maintain simplicity and understandability of regulations, balanced against the demand for more specialized regulations to provide additional harvest opportunities.

In developing the proposed rules, the agency sought to make the rules less restrictive where resource conservation, safety, and equitable use opportunities could still be addressed. A good example is the wild turkey permit areas, where the proposed rules adopt a system of management units that is also used for deer and black bears. By using one set of management units as building blocks for a variety of purposes, it simplifies regulations for hunters and still accomplishes management goals. This system maximizes flexibility in changing future wild turkey permit zones that are open to hunting, because the rule establishes the basic framework and allows annual seasons to be established by simply listing open zones and quotas. It also simplifies regulations and adds flexibility for hunters who do not need to become familiar with different sets of management unit boundaries for each species.

In the case of more restrictive provisions for wildlife management areas, these changes are necessary to conform with deed requirements or to manage these areas consistent with local ordinances.

Other portions of the rule are consistent with the goal of reducing restrictions, where possible, while addressing conservation, safety, and equity of opportunity.

### **III. RULE-BY-RULE ANALYSIS**

#### **Scope**

Areas covered by the proposed rules include the following:

- re-establishing the restitution value for gray wolves at \$2,000;
- closing the Eastside wildlife management area to the taking of migratory waterfowl; closing the Schrafel wildlife management area to trapping and firearms hunting; and providing seasonal restrictions for archery and firearms hunting on the Hvoslef wildlife management area;
- allowing certain types of hunting and clarifying provisions for access in portions of some wildlife management areas otherwise designated as closed to trespassing;
- clarifying restrictions on camping overnight in a wildlife management area;
- modifying motorboat restrictions on Roseau River and Swamp River wildlife management areas;
- establishing or modifying hunting and trapping provisions in the following state game refuges: Lac qui Parle Game Refuge, Moscow Game Refuge, Nerstrand Woods Game Refuge, Whitewater Game Refuge, and Austin Game Refuge;
- clarifying and modifying requirements for the Lac qui Parle controlled hunting zone;
- specifying lakes that have been designated for wildlife management purposes that have restrictions on airboat use;
- providing for deer of either sex to be taken with intensive harvest permits as prescribed;
- providing for use of muzzleloader open or peep sights that are nonmetallic;
- modifying bear tagging, registration, and nuisance taking provisions; providing protection for white bears;



- modifying moose zone and deer and bear registration block boundaries;
- modifying seasons for taking migratory game birds by falconry;
- modifying bobcat, fisher, and pine marten zone boundaries and pine marten and fisher limits;
- modifying wild turkey permit area boundaries and restrictions on use of electronic devices for wild turkey hunting;
- opening additional state game refuges to wild turkey hunting;
- defining various terms related to waterfowl seasons;
- modifying woodcock seasons and limits;
- modifying goose season zone boundaries and dates;
- modifying provisions for goose hunting in game and waterfowl refuges;
- modifying crow season dates; and
- modifying restrictions on wild rice harvest in wildlife management areas.

#### **6133.0075 GRAY WOLVES.**

The purpose of the change to this part is to reinstate the restitution value for illegally killed gray wolves at \$2,000. This change is necessary because the legislature has authorized the department to establish restitution values for fish and wildlife under the authority of Minnesota Statutes, Section 97A.345, and gray wolves are of significant value to state citizens. State law provides that the value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animal. This change is reasonable because, as a state-listed threatened species, gray wolves formerly had a restitution value of \$2,000 established by the restitution rule applicable to endangered and threatened species (Minnesota Rules 6133.0700). However, when wolves were removed from the state threatened species list in 1996, no corresponding rule change was made to re-establish a restitution value for the animal. This change is also reasonable because the wolf is of significant value to Minnesota citizens, as evidenced by the diverse interests represented on the wolf roundtable that recommended that the restitution value for a gray wolf should be reinstated at \$2,000.

## **6230.0200 SPECIAL PROVISIONS FOR WILDLIFE MANAGEMENT AREAS.**

Minnesota Statutes, Section 97A.137, subd. 1 provides that wildlife management areas are open to hunting (including trapping) and fishing unless closed by rule of the commissioner or by posting. Minnesota Statutes, Section 97A.135, subd. 1 provides that at least two-thirds of the total area acquired for wildlife management areas in a county must be open to public hunting. The changes for wildlife management areas listed below are consistent with statutory requirements for public hunting in wildlife management areas.

**Subp. 3. Areas closed to migratory waterfowl hunting.** The purpose of the change to this subpart is to close the Eastside wildlife management area in Olmsted county to the taking of migratory waterfowl. The change is necessary because the Eastside wildlife management area lies within the Rochester state game refuge that is closed to the taking of migratory waterfowl for purposes of waterfowl conservation and management. This change is reasonable because it is a clarification of a restriction that already exists. The wildlife area is located within a state game refuge that is closed to the taking of migratory waterfowl, and this change makes the status of waterfowl hunting in the wildlife management area clear.

### **Subp. 11. Areas with other restrictions.**

A. The purpose of the change to this item is to close the Schrafel wildlife management area in Mower county to trapping and firearms hunting and to allow archery deer hunting. It is necessary to limit firearms hunting and trapping, but to allow archery hunting of deer to help control a growing deer herd in an area close to urban development where there are safety issues for firearms use. It is reasonable because archery hunting can provide some control on deer population expansion while reducing public safety concerns.

B. The purpose of the change to this item is to open the Hvoslef wildlife management area in Fillmore county to archery hunting only from September 1 through October 31 and during the spring wild turkey seasons. It also allows firearms hunting, except the use of center-fire rifles, from November 1 through December 15. It is necessary to comply with deed restrictions placed on the land when it was gifted to the department by the former landowner. It is reasonable

because the restrictions were part of the conditions for receiving a parcel of land that has many public and wildlife habitat benefits.

Subp. 12. **Sanctuary areas open to hunting.** The purpose of the change to this subpart is to specify wildlife sanctuary no trespass areas that are open to specific types of hunting by rule as authorized in Minnesota Statutes, Section 97A.137, subd. 2. The changes are necessary to authorize this type of entry and use as provided by statute. They are reasonable because the provisions for people with disabilities are for a limited number of hunters at designated locations and the wild turkey hunting provisions are for spring seasons when other hunting seasons are closed and disturbance of migratory birds, the primary concern for the wildlife sanctuaries, is not a factor.

#### **6230.0250 GENERAL PROVISIONS FOR USE OF WILDLIFE MANAGEMENT AREAS.**

Subpart 1. **Waterfowl season, defined.** The purpose of the change to this subpart is to clarify the definition of "waterfowl season" as any day that there is an open season for migratory waterfowl. It is necessary because some persons are using motorized watercraft before the start of shooting hours in areas that are designated as non-motorized or restricted to motor size during the waterfowl season. This clarification will close that loophole and will make restrictions on motorized watercraft effective all day on any day that there is an open waterfowl season. It is necessary to minimize disturbance of waterfowl and to provide equitable access to hunting opportunities. It is reasonable because it provides for the same motor restrictions before, during, and after shooting hours on the opening day, consistent with restrictions for the remainder of the season.

Subp. 5. **Entry and hours of use.** The purpose of the change to this subpart is to specify that a person may not enter a portion of a wildlife management area posted closed to trespass, except as posted or as otherwise authorized by an agent of the commissioner. This change is necessary to make it clear that access to these closed areas can be authorized either by posting or

by other means approved by an agent of the commissioner. It is reasonable because there are instances where a person has a legitimate need to enter a closed area and issuance of a formal permit may not be the most practical or flexible way to authorize that. Examples of reasons a person may need to enter a closed area include: to retrieve a wounded or dead game animal that was legally taken; to retrieve a dog or livestock; or to retrieve a decoy that has drifted inside a closed area. Under such circumstances, it is not always reasonable to require issuance of a permit for such entry, as required by current rule. This change would allow a wildlife manager or conservation officer to authorize entry into an otherwise closed area under specific conditions. For example, they might allow retrieval of a game animal only if accompanied by an agent of the commissioner, or only if no firearm is taken into the area and the person leaves immediately after retrieving the game.

**Subp. 7. Overnight use.** The purpose of the change to this subpart is to clarify the restrictions on overnight use of a wildlife area. The new language clarifies how existing restrictions have been applied in the past and does not add additional restrictions. It is necessary to clarify that camping is not allowed without authorization, whether or not it involves a trailer, tent, or vehicle. The change is reasonable because it clarifies, rather than changes, restrictions on camping and overnight use, and because it is consistent with language for overnight use of public access sites.

**Subp. 9. Use of motorboats.**

E. The purpose of the change to this item is to allow motorboat use on the oxbows (old channel areas), as well as the main channel of the Roseau River Wildlife Management Area. It is necessary because motorboat usage is currently restricted to the main channel only, and motors cannot be operated in the oxbow channels without this change. It is reasonable because motorboat usage in the main channel or the oxbows will provide additional access without undue disturbance of migratory birds on the wildlife area.

J. The purpose of the change to this item is to allow motorboat use on the Swamp River Wildlife Management Area with no limit on size. It is necessary because without this change

motorboat use would be prohibited under the general regulations for use of wildlife management areas. It is reasonable because this is a relatively recent acquisition of an area that containing a several-mile-long reservoir with a prior history of motor use for recreation, fishing, and hunting.

#### **6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES.**

Subp. 21. **Lac qui Parle Game Refuge, Chippewa and Lac qui Parle counties.** The purpose of the change to this subpart is to establish uniform restrictions for the placement of hunting blinds within the refuge, whether on public or private lands. It is necessary to allow hunting on private as well as public lands within the refuge because in the past blinds were only allowed on public lands. The changes are reasonable because they provide for the location of blinds around the perimeter of the refuge and spaced at intervals to provide for a safe and quality goose hunting experience. If blinds are spaced too closely, it can result in unsafe firing conditions and also decrease the quality of the hunting experience because of crowding and interference of hunting parties with each other. The changes are also reasonable because they apply the same standards to the location and spacing of blinds on public and private lands in the game refuge.

Subp. 30. **Moscow Game Refuge, Freeborn county.** The purpose of the change to this subpart is to change the closure of this refuge from “waterfowl” to “ducks and mergansers.” The change is necessary to exclude geese from the closure and to allow the taking of geese to alleviate private property damage concerns. It is reasonable because a harvestable surplus exists, locally breeding populations of geese have increased dramatically in the past 20 years, and nuisance and damage problems have increased.

Subp. 31. **Nerstrand Woods Game Refuge, Rice county.** The purpose of the change to this subpart is to allow trapping and deer hunting in this refuge that was previously closed to these activities. It is necessary because without this change this area would remain closed to these activities because of its game refuge status. It is reasonable because a harvestable surplus exists, there are no management needs to continue offering this level of protection, trapping will

not adversely affect furbearer populations in this area, and deer hunting will help control an abundant deer herd.

Subp. 50. **Whitewater Game Refuge, Winona county.** The purpose of the change to this subpart is to remove some restrictions on small game hunters in this refuge. It is necessary because there is no management need for continuing these restrictions. It is reasonable because, when the refuge was first opened for deer hunting, these restrictions were designed to protect deer from incidental and illegal take by small game hunters. Now that there is a history of deer hunting in this refuge, those concerns are no longer warranted.

Subp. 53. **Austin Game Refuge, Mower county.** The purpose of the change to this subpart is to allow the taking of deer by archery. It is necessary because this area is otherwise closed to deer hunting and deer populations in the refuge are becoming more abundant. It is reasonable because a harvestable surplus exists and because taking of deer will help to reduce the population and the potential for increased damage and nuisance problems.

#### **6230.0500 GENERAL REGULATIONS FOR CONTROLLED HUNTING ZONES.**

The purpose of the change to this part is to clarify that certain restrictions in controlled hunting zones apply only to public lands. The changes are necessary as conforming restrictions related to the allowance of blinds on public and private lands discussed for Minnesota Rules 6230.0400 subp. 21. Now that some blinds are allowed in the controlled hunting zone on private lands, it is necessary to distinguish that some regulations apply only to hunters using the public land. It is reasonable because there is a public interest in managing the overall goose harvest associated with the state refuge on both public and private lands, but private landowners can set their own rules related to hunter conduct in and around blinds.

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

Subp. 2. **Hunting stations.** The purpose of the change to this subpart is to clarify that only one hunting group consisting of no more than three hunters may occupy a designated

hunting station, and to limit the number of hunting groups at a station to no more than six per day at Lac qui Parle. The first part of this change is a clarification of existing rules (Minnesota Rules 6230.0500 B.). The second part establishes a limit on the total number of groups per day and is necessary to limit the harvest rate if hunting parties are rapidly filling their limits and vacating an active blind. It is reasonable because the controlled hunt zone restrictions are designed to limit the rate of harvest as well as the overall harvest, safety, and quality of hunting opportunities. There is interest in the local community in maintaining a longer season for increasing economic and outdoor recreation values and a limit on the total number of hunting groups tends to prolong the harvest so that it is more likely to get closer to the maximum season allowed by federal law. It is reasonable because the goose season in this area is already very short and has not gone the maximum allowed by federal law for a number of years.

Subp. 3. **Back tag permit required.** and Subp. 6. **Actions after taking bag limit.** The purpose of the changes to these subparts is to clarify that the back tag requirements apply only on public lands. The changes in the language relating to inspection requirements are for clarity and readability only, and have no substantive effect on existing rules. The changes are necessary and reasonable for the same reasons as explained above for 6230.0400, subp 21 and 6230.0500.

#### **6230.1600 AIRBOAT USE ON DESIGNATED WILDLIFE MANAGEMENT LAKES**

The purpose of this part is to list lakes that have been designated under Minnesota Statutes, Section 97A.101, subds 1 and 2 as wildlife management lakes and where the use of airboats is restricted under Minnesota Statutes, Section 97A.101, subd. 4. It is necessary as a service to the public so that the list of lakes designated is published and available. It is reasonable so that the list of lakes is available in the rules along with all other hunting regulations and restrictions.

#### **6232.1250 TAKING DEER BY ARCHERY UNDER INTENSIVE HARVEST PERMITS.**

Subp. 2. **Restrictions.** The purpose of the change to this subpart is to allow harvest of antlered deer in some situations on intensive harvest permits, which allow deer hunters to harvest

up to four additional deer in areas with high deer populations. Typically, these permits are restricted to harvest of antlerless deer (adult does and buck and doe fawns). It is necessary because in some areas with high deer populations, harvest of adult bucks is needed to achieve deer population objectives or to remove specific deer that are the source of problems in the area. It is also necessary because the potential to harvest adult bucks can help attract additional hunters to participate in deer population control hunts in some special hunt areas. Deer harvest in areas with high deer populations is typically focused on harvest of antlerless deer to create the largest possible impact to the reproductive potential of the deer population. However, this change is reasonable because adult bucks can represent a significant proportion of the population in these areas and also cause damage to vegetation or pose health and safety threats to the public.

#### **6232.2200 ARMS USE AREAS AND RESTRICTIONS FOR MUZZLELOADERS.**

The purpose of the change to this part is a technical change to delete the word metallic as it describes open and peep type sights. It is necessary and reasonable because these sights are now made from a variety of non-metallic materials such as plastics and carbonates.

#### **6232.2800 GENERAL REGULATIONS FOR TAKING BEARS**

Subp. 4. **Tagging and license validation.** The purpose of the change to this subpart is to provide bear hunters alternative locations to fasten site tags, and to allow for use of site tags that do not have seals or locks. It is necessary because new types of tags have been developed for bear hunting licenses that do not have locks or seals, and cannot be easily placed around a bear's sternum without readily becoming unfastened. It is reasonable because the new site tags are cheaper to produce and more convenient for hunters to carry and use, and because the additional locations where tags may be fastened give hunters additional flexibility and make it easier for them to comply with site tagging requirements. The additional tagging location options still address the enforcement needs of having a properly tagged carcass to identify legal possession and to aid enforcement of season limits.

Subp. 6. **Registration.** The purpose of the changes to this subpart are to clarify that the



bear can be presented to the authorizing wildlife manager or conservation officer; and to eliminate the requirement that bears taken in the no quota area must be registered in the no quota area. The first change on who can register a bear is necessary and reasonable to conform to the changes in 6232.3300 for the same reasons enumerated for that section. The second change on where a bear taken in the no quota zone can be registered is necessary because as additional no quota areas have been added, the closest registration station is not always in the no quota area. It is also reasonable to provide more flexibility for persons taking bears in the no quota area by allowing them to register at any registration station.

Subp. 8. **White bears protected.** The purpose of the change to this subpart is to prohibit a person from taking a white bear. The change is necessary to provide protection to a rare white genetic color phase of the black bear. It is reasonable because this color phase of bear is exceptionally rare and of high public interest and concern. It will result in little limitation of bear hunting opportunity, because this color phase is extremely rare and most hunters will never encounter one.

#### **6232.2900 BEAR PERMIT PROCEDURES**

Subp. 2. **Drawings.** The purpose of the change to this subpart is to provide that, in areas with fewer applicants than available licenses, the remaining licenses may be issued to unsuccessful applicants for other quota areas on a first-come, first-served basis; and to allow individuals who purchase a remaining license to retain their drawing preference. This change is necessary because currently licenses not purchased by successful applicants in the drawing are not available for others that may want to use them and this limits participation in the bear hunt below what is allowable. It is reasonable because there is a need to increase bear hunter participation and harvest if bear populations are to be managed at goal levels. Bear populations have been steadily increasing throughout much of their range since the hunting permit quota system was established in 1982. Maximizing use of available permits will help to assure that harvest and population objectives are achieved. It is also reasonable to provide extra licenses that will not otherwise be used to those who would like to use them.

#### **6232.3300 NUISANCE BEARS.**

The purpose of the change to this part is to allow DNR wildlife managers to authorize harvest of nuisance bears by licensed hunters prior to the regular season opener and to register any bears taken under this authority. Nuisance bears are bears that have been reported by property owners as causing damage to agricultural crops or causing other nuisance problems. It is necessary because both wildlife managers and conservation officers respond to nuisance bear complaints from the public, and because often hunters are not able to contact conservation officers even though wildlife managers are available for this purpose. It is reasonable because the department staff person most familiar with the specific nuisance bear problem is best able to work with hunters to attempt to harvest those bears, and it is important to respond quickly to nuisance problems by encouraging hunters to harvest nuisance bears to minimize damage problems. It is also reasonable because it provides more options to the property owner and the hunter to quickly and efficiently contact a department representative to authorize this activity.

#### **6232.4100 MOOSE ZONES.**

Subpart 20. **Moose Zone 21**; Subpart 24a. **Moose Zone 26**; Subpart 24b. **Moose Zone 27**; Subpart 24c. **Moose Zone 28**; Subpart 27. **Moose Zone 31**. The purpose of the changes to these subparts is to open additional areas for moose hunting by adding three new moose hunting zones (zones 26, 27, and 28) and expanding two existing moose hunting zones (zones 21 and 31). This is necessary to provide additional moose hunting opportunities, which are in very high demand by state hunters, in areas with expanding moose populations. It is reasonable to issue limited numbers of moose hunting permits to state hunters in these areas because aerial surveys and observations by department staff have documented that moose populations in the areas being opened to hunting are able to provide a limited harvest, and because tribal hunters from the 1854 Authority and the Fond du Lac Band of Chippewa also hunt in these areas.

Subpart 28. **Moose Zone 32**; Subpart 29c. **Moose Zone 36**. The purpose of the changes to these subparts is to subdivide an existing moose hunting zone into two separate zones. It is

necessary to improve distribution of hunters and the harvest of moose by providing some moose hunting permits in relatively inaccessible areas within the existing zone where moose harvest is traditionally very low (zone 36), and away from relatively accessible areas within the existing zone where most moose harvest has been concentrated in the past (zone 32). It is reasonable because by improving the distribution of hunters and harvest, some additional moose hunting permits, which are in high demand from state hunters, can be offered.

Subpart 32. **Moose Zone 62.** The purpose of the change to this part is to specify that the zone boundary follows the north and west shores of Phoebe Lake, rather than the east and south shores. It is necessary and reasonable because it is a technical correction to an error in the legal description that brings it into conformance with the adjacent zone boundary.

#### **6232.4700 DEER AND BEAR REGISTRATION BLOCKS.**

Subpart 59. **Registration Block 205;** Subpart 65. **Registration Block 211.** The purpose of the changes to these subparts is to modify boundaries of deer and bear registration blocks to shift a portion of land south of State Highway 11 in Lake of the Woods County from block 211 to block 205. It is necessary to improve management of bear and deer populations, because harvest restrictions are tied to these blocks. It is reasonable because land use and ownership patterns in the area being removed from block 211 (which is primarily a forested block) is more similar to that of block 205, (which is primarily an agricultural block), than 211. The higher antlerless permit quotas and lower deer population objectives in block 205 will allow for higher deer harvests and potentially reduced problems to agricultural crops by deer in the area.

Subpart 62. **Registration Block 208;** Subpart 75a. **Registration Block 228;** Subpart 77. **Registration Block 236.** The purpose of the changes to these subparts is to modify the boundaries of registration blocks to correct errors in the rule that do not corresponded with the map provided to hunters and to county and state road designations. It is necessary so that the boundaries of the blocks as described in the rules follow boundaries on maps provided to hunters so that they can comply with harvest restrictions tied to the blocks. This is reasonable because

antlerless deer hunting permits are issued based on block boundaries, hunters need to be able to easily determine whether they are in the correct block while hunting, and the restriction requiring hunters to use their permits only in the appropriate management block needs to be enforceable.

Subpart 93. **Registration Block 339**; Subpart 94. **Registration Block 341**. The purpose of the changes to these subparts is to modify boundaries of registration blocks near the City of Red Wing so that the bottomland forests on both sides of the Cannon River as it approaches the Mississippi River are included in the same registration block. It is necessary because antlerless deer harvest restrictions are tied to these blocks, and the change will better distribute deer hunters and harvest in a large, contiguous area of forests and wetlands bounded by the City of Red Wing on the south, U.S. Highway 61 on the west, the Mississippi River on the east, and Lock and Dam 3 on the north. It is reasonable because it will give hunters in the area more flexibility to harvest antlerless deer throughout this contiguous block of deer habitat.

#### **6234.0800 HUNTING BY FALCONRY**

Subp. 4. **Open season and hours for migratory game birds**. The purpose of the change to this subpart is to change the seasons for taking waterfowl by falconry to open the season later and close the season later, while keeping the overall season length the same. It accommodates the preference of people who hunt waterfowl by falconry as requested through the Minnesota Falconers Association. It is reasonable because it falls within the federally prescribed frameworks for taking migratory waterfowl by falconry, and because there are few falconers who take migratory waterfowl resulting in no significant impact on overall waterfowl harvest. It is necessary for the department to specify the season within the federally prescribed framework.

#### **TAKING BOBCAT, FISHER, AND PINE MARTEN**

**6234.1600** Subp. 2; **6234.1700** Subpart 4; and **6234.1800** Subpart 2. The purpose of the changes to these subparts is to create uniform zone boundaries for bobcat, fisher, and pine marten. The changes are necessary to allow harvest of fisher and pine marten in areas of expanded range.

They are reasonable because they provide for simplified and standardized zone regulations for bobcat, fisher, pine marten, and otter, while still providing protection for bobcat and otter in southern Minnesota where additional population increases and range expansion are possible. These changes are consistent with those in effect previously through the expedited emergency rule process.

#### **6234.1700 TAKING FISHER.**

Subpart 1. **Open season.** The purpose of the change to this subpart is to delete the reference to open area from this subpart. It is necessary and reasonable because the open area is now prescribed in subpart 4.

Subp. 2. **Bag limits.** The purpose of the change to this subpart is to provide for a combined fisher and pine marten limit. This change is necessary and reasonable to comply with a 1997 law change mandating the establishment of a combined limit for these species (Minnesota Statutes, Section 97B.926). These changes are also consistent with those in effect previously through the expedited emergency rule process.

#### **6234.1800 TAKING PINE MARTEN.**

Subp. 3. **Bag limits.** The purpose of the change to this subpart and the need and reasonableness are the same as for 6234.1700 subpart 2.

#### **6236.0810 WILD TURKEY PERMIT AREA DESCRIPTIONS.**

The purpose of the change to this part is to standardize the description of wild turkey permit areas. This change is necessary to provide a standard framework for designating open and closed areas for wild turkey hunting. It is reasonable because wild turkey populations continue to expand into new areas and additional open areas are added for hunting annually. This system is also consistent with the management units used for deer and leads to standardization and simplification of regulations. These changes are also consistent with those in effect previously through the expedited emergency rule process.

## **6236.0900 SPECIAL PROVISIONS FOR TAKING TURKEYS.**

Subp. 2. **Electronic devices.** The purpose of the change to this subpart is to allow wild turkey hunters to use hearing aids or other electronic listening devices designed to enhance hearing. It is necessary because current rules prohibit the use of any electronic device for wild turkey hunting, and some hunters, particularly those with hearing loss, have requested a change to allow hearing aids or other devices that amplify ambient sound.

It is reasonable because current wild turkey rules that prohibit use of any electronic device are more restrictive than regulations for any other type of hunting, including the federally regulated hunting of migratory game birds. Federal migratory bird regulations only prohibit the use of amplified calls, not the use of devices to enhance a person's ability to hear. This change will have no negative impact on the wild turkey population.

Subp. 4. **Game refuges open to taking turkeys.** The purpose of the changes to this subpart are to specify game refuges open to wild turkey hunting. They are necessary to clarify that the listed refuges are open to wild turkey hunting, even though they are technically already open because wild turkeys are classified as small game. It is reasonable to clarify in the rules that wild turkeys may be hunted in these game refuges.

Subp. 5. **Wildlife management areas open to taking turkeys.** The purpose of the change to this subpart is to clarify that the posted closed areas within the Carlos Avery wildlife management area that lie within an open wild turkey zone are open for wild turkey hunting. The change is necessary because the description of these zones has changed. It is reasonable because it is a technical correction to conform this language to whatever zone boundaries or numbers are used, and it makes no substantive change to where wild turkey hunting is allowed.

## **6240.0100 DEFINITIONS.**

Subp. 1a. **Early goose season;** Subp. 2a. **Late goose season.** Subp. 4. **Regular goose season.** The purpose of these subparts is to define terminology for early, late, and regular goose

seasons. This change is necessary to provide simplification in describing goose hunting regulations for these seasons. It is reasonable because it provides clarification and simplification for waterfowl hunting rules.

#### **6240.0300 TAKING OF WOODCOCK**

Subpart 1. **Open season.** The purpose of the change to this subpart is to delay the opening date for the woodcock season and reduce the season length from 65 days down to 45 days. This change is necessary and reasonable because the U.S. Fish and Wildlife Service, which sets the federal framework for migratory bird hunting regulations, delayed the opening date to no earlier than this date and set a maximum season length of 45 days in response to long-term declines in woodcock populations. Minnesota migratory bird seasons can be no more liberal than federal regulations (Minnesota Statutes, Section 97B.731, subd 1).

Subp. 2. **Daily limit.** The purpose of the change to this subpart is to reduce the daily limit for woodcock from five to three. This is necessary and reasonable for the same reasons as described for subpart one and complies with the maximum daily limit allowed by the federal migratory bird regulations.

#### **6240.0700 TAKING GEESE IN WEST CENTRAL GOOSE ZONE.**

The purpose of the change to this part is to make a change in the boundary description for the West Central Goose Zone. It is necessary and reasonable because it is a minor technical change to correct an error in the zone description.

#### **6240.1600 TAKING GEESE IN FIVE GOOSE ZONE.**

Subp. 3. **Zone description.** The purpose of the change to this subpart is to change the description of the Five Goose Zone to expand the boundary of this zone. It is necessary to increase hunting pressure on increasing populations of locally breeding Canada geese because higher harvestable surpluses are present and goose populations are causing increasing damage and nuisance problems. It is reasonable because, as these goose populations expand and

increase, there is a greater opportunity for hunters to take more of the harvestable surplus, and because these geese are causing more damage and nuisance problems for farmers.

#### **6240.1700 TAKING GEESE IN TWO GOOSE ZONE.**

Subp. 3. **Zone description.** The purpose of the change to this subpart is to change the description of the Two Goose Zone to reduce the size of this zone corresponding to the increase in the Five Goose Zone described in 6240.1600, subpart 3. It is necessary because there is a need to maintain a goose zone with a lower limit in this area of the state where locally breeding Canada geese have not yet expanded to the point that a higher limit is warranted at this time. It is reasonable because this season limit still provides adequate harvest for the prevailing goose populations and damage levels.

#### **6240.1850 GAME REFUGES OPEN TO THE TAKING OF GEESE.**

B. The purpose of the changes to this item are to specify game refuges and dates open to the taking of geese. These changes are necessary because some of the zone descriptions affecting these refuges have changed and because the date change is needed to allow goose hunting in the refuge after the deer season closes which does not always coincide with the last 14 days of the season. The changes are reasonable because goose populations using these refuges have increased, harvestable surpluses exist, and higher goose populations are causing more damage and nuisance problems for adjacent landowners.

C. The purpose of this item is to identify waterfowl refuges that are open to Canada goose hunting. It is necessary because these areas are otherwise closed to migratory waterfowl hunting. It is reasonable because goose populations using these refuges have increased, harvestable surpluses exist, and higher goose populations are causing more damage and nuisance problems for adjacent landowners.

#### **6240.1900 LATE SEASON FOR TAKING GEESE.**

Subp. 2. **Public roads.** The purpose of the change to this subpart is to change the name of the Twin Cities Metropolitan Canada Goose Zone to the Twin Cities Metro Canada Goose



Zone. It is necessary and reasonable because it is a minor technical change to provide consistent terminology for the name of this zone.

Subp. 3. **Seasons.** The purpose of the changes to this subpart are to make the change in the name of the Twin Cities Metropolitan Canada Goose Zone and to specify dates when geese may be taken in the Twin Cities Metro Canada Goose and the Fergus Falls/Alexandria Goose Zones. These changes are necessary and reasonable for the reasons discussed for subpart 2 and because the regular goose season has been extended so that the need to specifically open these zones for the December dates previously specified no longer exists. The changes are reasonable to provide consistent terminology and because the season changes are consistent with more liberal goose hunting regulations frameworks provided by the federal government as locally breeding goose populations continue to increase.

#### **6240.2300 COMMON CROW SEASON.**

Subpart 1. **Open dates.** The purpose of the change to this subpart is to split the existing crow season into two segments to provide a portion of the season in late winter. It is necessary because crow hunters have requested a late-winter season, and because federal frameworks limit the overall season length while state law mandates that the maximum allowable season be provided. In order to provide late-winter crow hunting opportunities it is necessary to take days away from the existing season and move them to the late winter period because the existing season is already the maximum allowed by the federal migratory bird framework. It is reasonable because the late winter time period is a time when migratory crows are returning to the state and before the peak of the crow nesting season in Minnesota. Federal law mandates no more than a 124-day season and that it not be held during the peak of the crow nesting season, and Minnesota law mandates that state migratory bird season be consistent with federal regulations (Minnesota Statutes, Section 97B.731, subd 1). State law also mandates that the crow season be the maximum allowed by federal law (Minnesota Statutes, Section 97B.731, subd 3)

**6284.0500 HARVESTING WILD RICE IN WILDLIFE MANAGEMENT AREAS.**

The purpose of the change to this part is to specify that wildlife management areas are open to wild rice harvest unless specifically closed. The change is necessary because under current rule these areas are closed to wild rice harvest unless specifically opened. It is reasonable because general closure of these areas to wild rice harvest is not needed for purposes of conserving wild rice or wildlife that feeds on rice. There may continue to be areas where small or newly established rice beds need protection, but wild rice harvest under the methods prescribed in Minnesota Statutes, Section 84.111 and this chapter do not result in declines in wild rice stand viability or availability of wild rice as a wildlife food. Specific areas where closures are needed for establishment of new wild rice stands or for protecting small stands can still be done individually by posting or by rule.

**REPEALER.**

**[6240.2100 DESIGNATED MIGRATORY WATERFOWL FEEDING AND RESTING AREAS. Subp. 4.]**

Subp. 4. **Pelican Lake, St. Louis County.** The purpose of the repeal of this subpart is to eliminate the Pelican Lake migratory waterfowl feeding and resting area. It is necessary because this area is no longer posted as a feeding and resting area and the rule is no longer needed. It is reasonable because, after several years of establishment, this open-water area in the middle of the lake was not providing a substantial feeding and resting area for migratory waterfowl as required by Minnesota Statutes, Section 97A.095, subd 2 and will no longer be managed as such.

**6230.0400, subpart 21; 6230.0500; 6230.0700, subparts 2, 3, and 6; 6232.2800, subpart 4; 6232.4100, subparts 20, 24a, 24b, 24c, 27, 28, and 29c; 6232.4700, subparts 62, 93, and 94; and 6236.0810.**

The purpose of the repeal of these subparts is to eliminate language in expedited emergency rule that is being superseded by language in this rule. It is necessary and reasonable to repeal superseded rules so that there is no confusion as to which rule is in effect.

## **OTHER CONSIDERATIONS**

### **Review of Documents**

Sources cited in this document may be reviewed on work days between 8:00 a.m. and 4:30 p.m. in the Section of Wildlife at department headquarters, 500 Lafayette Road, St. Paul, Minnesota.

### **Witnesses**

If these rules go to public hearing, the witnesses below may testify on behalf of the department in support of the need and reasonableness of the rules. The witnesses will be available to answer questions about the development and content of the rules. The witnesses for the Department of Natural Resources include:

Ed Boggess, Wildlife Program Manager  
DNR Section of Wildlife  
500 Lafayette Road  
St. Paul, MN 55155-4007

Dave Schad, Wetland Wildlife Program Coordinator  
DNR Section of Wildlife  
500 Lafayette Road  
St. Paul, MN 55155-4007

Mike DonCarlos, Furbearer/Wildlife Damage Program Coordinator  
DNR Section of Wildlife  
500 Lafayette Road  
St. Paul, MN 55155-4007

Kevin Lines, Farmland Wildlife Program Coordinator  
DNR Section of Wildlife  
500 Lafayette Road  
St. Paul, MN 55155-4007

Jeff Lawrence, Waterfowl Specialist  
DNR Section of Wildlife  
Bemidji, MN 56601

Mike Hamm  
DNR Division of Enforcement  
500 Lafayette Road  
St. Paul, MN 55155-4007

Based on the foregoing, the department's proposed rules are both necessary and reasonable.

By: Allen Garber

Allen Garber, Commissioner

Department of Natural Resources

Dated: May 20, 1999