



Minnesota Department of Natural Resources

Division of Fish and Wildlife
Wildlife Management
500 Lafayette Road
St. Paul, Minnesota 55155-4020
651-259-5200

May 14, 2009

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rules of the State Department of Natural Resources Governing Wildlife

Dear Librarian:

The Minnesota Department of Natural Resources intends to adopt rules governing wildlife. We plan to publish a Dual Notice in the May 26, 2009 issue of the State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness at the time we are mailing our Notice of Intent to Adopt Rules.

If you have any questions, please contact me at 651-259-5197.

Sincerely,

A handwritten signature in cursive script that reads "Jason Abraham".

Jason Abraham, Season Management/Furbearer Specialist
Division of Fish and Wildlife
Minnesota Department of Natural Resources

JA:abd

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

DIVISIONS OF FISH AND WILDLIFE

IN THE MATTER OF PROPOSED ADOPTION OF

GAME AND FISH RULES

STATEMENT OF NEED AND REASONABLENESS

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: special provisions for state wildlife management areas and game refuges; controlled waterfowl hunting zones; deer hunting regulations; licensing, application, and tagging provisions; bear hunting regulations; licensing, extension of hunting seasons for ruffed and spruce grouse, pheasants and gray partridge; restricting the use of bait to take turkey; opening areas for early goose hunting and establishing feeding and resting areas for migratory waterfowl.

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

A first request for comments was published in the State Register on March 24, 2008. This notice described the general areas of the proposed rules, the statutory authorities for adopting the rules, and a listing of the parties that could be affected by the proposed rules. The DNR received no written comments in response to the request for comments. Many of the proposals included in this rule have been the subject of previous public input, and a number of the provisions have been in effect temporarily through the expedited emergency rule process. In connection with that process, the Division of Fish and Wildlife seeks public comment through informal public meetings and local and statewide press releases. Since 2005, a total of 33 public meetings, attended by more than 1,800 people, have been held in various areas of the state that included many of the subjects covered by these proposed rules. For issues in the proposed rules that have had previous public input, summaries of the input received are included in Appendix A.

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 Chapter of the National Wild Turkey Federation; Minnesota State Archery Association; Minnesota Trappers Association, Minnesota Fur Harvesters, Minnesota Waterfowl Association; Delta Waterfowl; Ducks Unlimited, Minnesota; Minnesota Deer Hunters Association; Bluffland Whitetails Association; Minnesota Fish and Wildlife Legislative Alliance; Minnesota Conservation Federation; Pheasants Forever; Minnesota Prairie Chicken Society, Born Free USA/Animal Protection Institute; In addition, all parties on the DNR'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 more than 700 daily and weekly newspapers and electronic media in the state. The announcement will also be distributed to persons who have signed up for the DNR's e-mail distribution list known as CyberNews. The proposed rule will be

available for public review and comment on the DNR 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

The adoption of the proposed rules is authorized by *Minnesota Statutes*, sections; 86A.06, 97A.045; 97A.091; 97A.092; 97A.095, 97A.137; 97A.401, 97A.411; 97A.535; 97B.112; 97B.301; 97B.305; 97B.311; 97B.411; 97B.505; 97B.515; 97B.605; 97B.711; 97B.715; 97B.716, 97B.731; 97B.803.

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

<u>Rules Part</u>	<u>Minnesota Statutes, Sections</u>
6230.0200	86A.06, 97A.045, 97A.137
6230.0290	86A.06, 97A.045
6230.0295	86A.06, 97A.045, 97A.137
6230.0400	97A.091
6230.0700	97A.092
6230.0800	97A.092
6230.1200	97B.305, 97B.311, 97B.411, 97B.505, 97B.515, 97B.605, 97B.711, 97B.731, 97B.803
6232.0100	97A.535
6232.0200	97B.311
6232.0300	97A.411, 97A.535, 97B.301, 97B.311
6232.1300	97B.311
6232.1950	97A.401, 97B.301, 97B.305, 97B.311
6232.2800	97B.411
6232.3100	97B.411
6234.0200	97A.045, 97B.711
6234.0400	97B.711, 97B.715
6234.0500	97B.711
6236.0900	97B.711
6237.0600	97B.716
6237.0700	97B.716
6240.0400	97B.731
6240.0500	97B.731
6240.0610	97B.112, 97B.803
6240.1750	97B.803
6240.1850	97A.091, 97B.731, 97B.803
6240.2100	97A.045, 97A.095

II. REGULATORY ANALYSIS

Description of the Classes of Persons Affected by the Proposed Rules

The proposed rules would affect small game hunters, big game hunters, waterfowl hunters, wild turkey hunters and trappers. The proposed rules will affect hunters with disabilities by providing expanded disability hunting options and access. The proposed regulations will also affect some non-hunters and non-trappers who object to hunting and trapping or to the expansion of hunting and trapping opportunities.

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

The proposed rules will not result in additional costs to the DNR or other agencies. The proposed changes to the deer season will result in improved efficiency for the DNR and will improve management of the deer population by facilitating licensing procedures for taking antlerless deer and multiple deer. For other species, there is already extensive monitoring of the wildlife populations and enforcement of the rules for species that would be affected by the proposed rules and no additional monitoring or enforcement is planned if the rules are adopted.

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. Most of the provisions are less restrictive than current rules and are designed to improve population management in the areas and to provide additional disability access. The more restrictive provisions are to protect populations, to comply with deed restrictions, or to improve public safety. Restrictions on the Vermillion Highlands Research Recreation and Wildlife Management Area are designed to promote hunt quality by limiting the number of hunters on this parcel at any given time. General regulations for national wildlife refuges and waterfowl production areas are being repealed to allow more flexibility for federal land managers because federal regulations take precedence. Special provisions that increase the number of shells and trips on controlled hunting zones at Lac Qui Parle and Thief Lake are less restrictive due to increased bag limits for geese that are the result of management changes, an increasing goose population and decreased hunting pressure in the areas.

Site tagging provisions under general restrictions for taking big game are being repealed for consistency with a statute change. General restrictions for taking deer would allow hunters to take additional deer and streamline tagging procedures. Muzzleloader seasons and areas are less restrictive than current rules. Bear hunting provisions are less restrictive than current regulations and provide expanded opportunity for obtaining licenses to hunt bear.

Seasons for taking ruffed and spruce grouse, pheasants and gray partridge have been expanded to allow more hunting opportunity during the New Year's holiday. The season for taking rails and snipe has been modified to provide consistency with the woodcock season.

Special provisions for taking turkey restrict the use of bait to attract birds to hunters. Bait piles concentrate wild animals, disrupt their natural movement and can lead to the spread of communicable wildlife diseases. Regulations for taking geese expand hunting opportunity to

increase harvest of birds that cause damage in urban areas.

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

Most of the proposed rule changes are to improve population management, to provide biologically sustainable use of wildlife resources, to reduce unnecessary paperwork or restrictions for resource users or the DNR, or to provide technical corrections or clarifications to existing rules.

Protection of wildlife resources cannot be achieved solely by non-regulatory means, although part of this rulemaking is designed to eliminate procedures that have been found to be unnecessary for resource protection and management. Some of the proposed rule provisions are corrections, clarifications, or technical changes that do not have a substantive effect on current regulations. The alternative would be to leave these provisions uncorrected or unclear, but 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 or where there is strong peer pressure to adhere to voluntary guidelines, 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 distribute harvest geographically, 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 fewer restrictions and more opportunities should enhance incomes of those selling hunting and trapping products and services related to these activities.

Probable Costs or Consequences of not adopting the proposed rules

The consequences of not adopting many of the proposed rules will be unnecessary restrictions and fewer opportunities for hunters and trappers in Minnesota, and reduced incomes for those selling hunting and trapping products and services. The consequences of not adopting some of the proposed rules will be a diminishment of the department's ability to responsibly manage wildlife populations. For example, the changes to part 6232 are needed to increase the deer harvest in areas where their numbers pose a traffic hazard and damage native plant species, agricultural crops or ornamental landscaping.

Assessment of Differences between the Proposed Rules and Existing Federal Regulations

The proposed wildlife rules repeal part 6230.1200, which duplicates federal regulations.

for Waterfowl Production Areas. A second item in this part was included at a time when federal regulations differed from state regulations on the taking of otter. State regulations today are more consistent with federal regulations, allowing the take of otter in much of northern Minnesota and 11 counties of southeast Minnesota (expedited emergency game and fish rule 6234.2000). Repealing part 6230.1200 will eliminate inconsistencies that may have existed between state and federal regulations regarding otter harvest on national wildlife refuges. Aside from that, the proposed wildlife rules cover areas that are not addressed by federal law, except for the portions relating to migratory birds. The federal government retains primary management authority for migratory birds, which are protected under international treaty and federal law and rule. These species readily migrate across state and international borders and federal oversight is necessary. The federal government establishes the "frameworks" or outside parameters within which the state must establish specific seasons, zones, bag limits, and other restrictions for migratory game birds. 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. State law requires migratory bird regulations to be consistent with federal law (Minn. Stat. Sec. 97B.731 and Sec. 97B.803). The state waterfowl 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 and state law.

Proposed Rules Effect 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 mission is to work with the citizens to protect and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources. The Division of Fish and Wildlife mission is to provide sustainable wildlife benefits to the people of Minnesota by conserving, managing, and enhancing wildlife populations and their habitats, with an emphasis on maintaining Minnesota's hunting and trapping heritage. The objective of the division with regard to hunting and trapping regulations is to provide for sustainable resource conservation, public safety, and equitable use opportunities, consistent with state and federal law. To the extent possible, the DNR attempts to maintain simplicity and understandability of regulations, balanced against the complexity needed to accommodate the demand for specialized regulations to provide a wider variety of specific opportunities.

In developing the proposed rules, the agency sought to make the rules less restrictive where resource conservation, safety, and equitable use opportunities allowed. A good example are rail and snipe seasons, where the proposed rules change the closing date for taking rails and

snipe to coincide with the close of woodcock season. Currently, the federal regulations allow up to 70 days for rail seasons and up to 107 days for snipe seasons. Under current rules, snipe and rail may be taken until Nov. 4. Meanwhile, woodcock may be taken during the 45-day period beginning the Saturday on or nearest Sept. 22. This often results in snipe and rail seasons that end one to three days before the close of woodcock season. Since snipe and woodcock are often found in the same habitat, hunters could accidentally take a snipe during the last few days of the woodcock season. Modifying the snipe and rail seasons within the federal framework to coincide with the woodcock season simplifies regulations for hunters.

Another example is the changes to deer regulations that allow hunters to take an unlimited number of deer in the metro deer management zone and the bovine tuberculosis zone. These rules provide hunters additional opportunities to harvest deer in areas where reducing the number of deer is desirable due to a transmissible disease or where herd numbers exceed goals set by the DNR with input from local communities.

In the case of more restrictive provisions for wildlife management areas, these changes are necessary to conform to donation agreements or to manage these areas consistent with public safety in a developing area.

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

Consultation with the Minnesota Management and Budget on Local Government Impacts

The administration and enforcement of these proposed rule changes are the responsibility of DNR, and do not impact any units of local government. As a result, we do not see any direct fiscal impacts or fiscal benefits of these changes to units of local government.

Review of the proposed rule and SONAR by Minnesota Management and Budget will follow after the DNR Commissioner has approved the documents.

Determination if First Year Cost of Complying with Proposed Rules Would Exceed \$25,000 for Any Business with Less Than 50 Full-time Employees or Any Statutory or Home Rule Charter City with Less Than 10 Full-time Employees

The proposed rules would not directly increase costs by more than \$25,000 for small businesses or home rule charter cities. Proposed changes in regulations that result in fewer restrictions and more flexibility for hunters or encourage more youth to participate in the sport may increase profits for businesses that sell hunting and trapping or services related to those products.

III. RULE-BY-RULE ANALYSIS

Scope

Areas covered by the proposed rules include the following:

Changes in the rules improve consistency of the wildlife regulatory processes, including modifying provisions for some Wildlife Management Areas, State Game Refuges, waterfowl Controlled Hunting Zones, and migratory waterfowl Feeding and Resting Areas; repealing rules for national wildlife refuges and federal waterfowl production areas; defining terms used in special deer hunts; modifying deer zone and date options, deer tagging procedure and deer license validation procedures; modifying bag limits for intensive, managed, lottery, early season deer areas and the metro and bovine tuberculosis deer management zones; modifying the season for taking deer by firearms in the metro deer management zone; modifying the bag limit for bear outside quota areas; modifying license procedures for taking bears outside quota areas; modifying seasons for taking ruffed and spruce grouse, pheasants and gray partridge; prescribing restrictions on using bait to take turkeys; modifying seasons for taking sora, Virginia rails and common snipe; repealing provisions related to the harvest of prairie chickens; modifying the youth waterfowl hunting date and modifying the season and bag limit for taking geese in the northwest goose zone.

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 in these proposed rules are consistent with all statutory requirements for public hunting in wildlife management areas.

Subp. 4. Areas with hunting, trapping, and firearms restrictions. The purpose of the change to this subpart is to limit firearms small game hunting on the Hastings Wildlife Management Area in Dakota County to shotguns using number 4 or smaller diameter shot. The change also limits trapping to fall and winter, when seasons for protected furbearers species are open. Hunting and trapping on the Hastings WMA has been restricted under temporary rule in the past. The change is necessary because the Hastings Wildlife Management Area is bordered on three sides by the Hastings municipal boundary and lies with rapidly developing area. Moreover, limits on the use of traps would reduce possibility of the incidental catches of house pets, such as cats and dogs in this area. It is reasonable to conform state rules with city ordinances in this instance because the city believes the use of rifles or large shot for small game has generated concern among nearby residents.

Subp. 6. Areas closed to hunting only. The purpose of the change to this subpart is to close the Interstate Island Wildlife Management Area in St. Louis County, Wesley E Olson WMA in Big Stone County, Tom Cliff WMA in Waseca County, Somsen WMA in Brown County, a posted portion of Perched Valley WMA in Goodhue County to the hunting of all species. These areas have been closed to hunting under temporary rule in the past. These changes are necessary because the Wesley E. Olson WMA, Tom Cliff WMA and Somsen WMA were donated to the state with a deed restriction that they be closed to hunting. It is necessary to close

the posted portion of the Perched Valley WMA to hunting because of its location adjacent to an area of high public use in Frontenac State Park. It is necessary to close the Interstate Island WMA to hunting because a portion of the land is within the city limits of Duluth and the use of firearms or archery equipment causes concern among residents. It is reasonable because these areas still provide wildlife habitat and non-hunting public use values and because wildlife management areas in St. Louis, Big Stone, Waseca, Brown and Goodhue counties still meet the statutory criteria that a minimum of two-thirds of the total area acquired in a county must be open to public hunting. (*Minnesota Statutes*, section 97A.135, subd. 1).

Subp. 9. Areas closed to deer hunting. The purpose of the change to this subpart is to close firearms deer hunting on the Gordon F. Yeager wildlife management area in Olmsted County. The portion of the WMA within Rochester city limits has been closed to firearms deer hunting under temporary rule in the past. The change is necessary because the Gordon F. Yeager wildlife management area lies within a rapidly developing area of the City of Rochester where use of shotgun slugs or muzzleloader ammunition could pose a public safety risk. It is reasonable because the reckless discharge of firearms has increased, according to the DNR manager of the wildlife area. The Gordon F. Yeager wildlife management area lies within the Rochester state game refuge, which is closed to the taking of migratory waterfowl except during the early goose season, but is open for hunting other small game species such as rabbits and squirrels with shotguns using No. 4 or smaller diameter shot.

Subp. 11. Areas with other restrictions.

Item D. The purpose of the amendment to this rule part is to prohibit firearms hunting and trapping on the Bass Brook Wildlife Management Area in Itasca County. This change has been in effect through temporary rule since the fall of 2008. It is necessary to conform state rules to municipal ordinances in this instance because the WMA is located in an area of increasing residential development. Moreover, the frequent presence of people with dogs on the WMA pose a high risk of accidental catches if trapping were to be allowed. It is reasonable because the WMA is within the city limits of Cohasset and is managed for outdoor education and nature study. It is also a popular with nearby residents for hiking and dog walking. Because of the high frequency of public use, firearms hunters and trappers have traditionally avoided this area, according to the area wildlife manager.

Item E. The purpose of the amendment to this rule part is to prohibit firearms hunting on the Mentel WMA in Mower County. This change has been in effect through temporary rule since the fall of 2008. It is necessary because Interstate 90 bisects the Mentel WMA and according to the area wildlife manager, the terrain is such that hunters would congregate near the roadway leading to a situation where shots could accidentally be fired into traffic. It is reasonable because the Mentel WMA had been closed to all hunting and trapping prior to 2008 under a life estate placed by landowners who donated the property to the DNR. Trapping and archery hunting are now no longer being prohibited due to the end of the life estate.

Subp. 13. Lead shot prohibited on posted managed dove fields. The purpose of the change to this subpart is to prohibit the use of lead shot by dove hunters on managed dove fields within state wildlife management areas. The use of lead shot has been prohibited on posted managed dove fields under temporary rule in the past. The change is necessary because mourning dove hunters, who shoot an average of five to nine shots for each bird successfully harvested, (Russel, D.M. 1993) can deposit large quantities of lead shot on relatively small areas, such as fields that are managed specifically to attract doves. It is reasonable because lead is an inherently toxic substance, which has been documented in more than 100 species of birds found in and around managed dove fields, including upland game birds (Kimmel et al. 2008). There is evidence that ingestion of lead kills mourning doves and other birds in the wild (National Mourning Dove Task Force). Secondary poisoning of predators may occur when they eat prey which have ingested or been wounded by lead shot.

6230.0920 BECKLIN HOMESTEAD PARK WILDLIFE MANAGEMENT AREA

The purpose of this part is to open the Becklin Homestead Wildlife Management Area to hunting and trapping only by individuals with disabilities during established seasons. The change is necessary to provide additional access for hunters with disabilities to quality hunting opportunities in areas where they are sustainable and can be safely provided. It is reasonable because the most effective areas where people with disabilities can safely and effectively hunt is in areas not generally open to the public because of the problems with disturbance by other hunters and the inability of people with disabilities to easily move to more secluded areas.

6230.0295 VERMILLION HIGHLANDS RESEARCH RECREATION AND WILDLIFE MANAGEMENT AREA

The purpose of this part is to open a portion of the Vermillion Highlands Research and Recreation and Wildlife Management Area to limited hunting seasons for deer, pheasant, late goose, trapping by special permit and spring turkey hunting. This area has been open to limited public hunting under temporary rule in the past. The change is necessary to provide additional high-quality public hunting opportunities in areas that are easily accessible to those living in large population centers such as the Twin Cities area. It is reasonable because the WMA contains abundant habitat to support harvestable populations of game and a quality hunting experience can be provided for a limited number of hunters at a given time. Hunting opportunities on the WMA are limited through special permits, such as with deer and wild turkey or through parking access for pheasant hunters.

6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES

Minnesota Statutes, Section 97A.091, subd. 2, provides that the commissioner may allow hunting of a protected wild animal within any portion of a state game refuge, including a state park. Hunting may be allowed if the commissioner finds the population exceeds the refuge's carrying capacity, is causing substantial damage to agricultural or forest crops in the vicinity, if the species or other protected wild animals are threatened by the species population or if a harvestable surplus of the species exists. The commissioner may also allot hunting of unprotected wild

animals in a game refuge. The changes for state game refuges in these proposed rules are consistent with all statutory requirements for public hunting in state game refuges.

Subps. 9 and 14. Elizabeth and German Lake Game Refuges, Isanti County. The purpose of the change to these subparts is to open these refuges to duck and Canada goose hunting on youth waterfowl day when participating in a mentoring program approved by the Commissioner. It is necessary to provide additional access for youth waterfowl hunters to good quality hunting opportunities in areas where they are sustainable and easily provided. It is reasonable because there is a harvestable surplus of waterfowl on these refuges and young hunters need opportunity to learn about the sport in a controlled setting with minimal disturbance from other hunters. The number of waterfowl hunters is in decline as older hunters have stopped participating in the sport (Duck Recovery Plan, 2006). By providing high-quality hunting experiences in mentored settings the DNR, working with conservation groups, can attract younger hunters to the sport.

Subp. 12. Fish Lake-Ann River Game Refuge, Kanabec County. The purpose of the change to this subpart is to open the refuge to hunting for all species except waterfowl. It is necessary because without this change this area would remain closed to all hunting. It is reasonable because there is no management need to provide a protected refuge in this area, except for waterfowl. Hunting under established seasons and regulations will not adversely affect game populations.

Subp. 14 German Lake Game Refuge, Isanti County [REPEALER] The purpose of the repeal of this subpart is to combine rules for this refuge with the rules for Elizabeth Lake in Subp. 9. It is necessary and reasonable because German and Elizabeth Lake Game Refuges, both located in Isanti County, are managed as one unit. Combining restrictions for the two refuges into one subpart reflects the management of these refuges.

Subp. 24. Linn Lake Game Refuge, Chisago County. The purpose of the change to this subpart is to open the refuge to hunting for waterfowl. It is necessary because without this change this area would remain closed waterfowl hunting. It is reasonable because there is no management need to provide a protected waterfowl refuge in this area. Hunting under established seasons and regulations will not adversely affect waterfowl populations.

Subp. 33. Ocheda Lake Refuge, Nobles County. The purpose of the change to this subpart is to open this refuge to the hunting of small game, deer, Canada goose, waterfowl on youth waterfowl day and trapping before the opening of the duck season and after Dec. 1. It is necessary to provide a refuge for migratory waterfowl during the duck season while also providing hunting opportunity for small game before and after the duck season and during September and December goose seasons, which are used to reduce resident Canada goose populations in the area. Moreover, the U.S. Fish and Wildlife Service offered a youth waterfowl-hunting day in September. It is reasonable because the intent of this restriction is to limit disturbance of ducks by small game hunters. Before the duck season is open and once the duck season closes,

disturbance by small game hunters, deer hunters and trappers will not matter because if the ducks are disturbed, they will not be chased out to an area where they will be shot because the season will be closed.

Subp. 34. Park Rapids Game Refuge, Hubbard County. The purpose of the change to this subpart is to open this refuge to archery deer hunting. The area has been open to archery hunting for deer under temporary rule in the past. It is necessary because deer populations are high in this area and hunting is the DNR's primary means of reducing deer populations. It is reasonable because deer on the refuge cannot be hunted safely with firearms because the area is densely developed with numerous seasonal cabins on small lots.

Subp. 39. Rochester Refuge, Olmsted County. The purpose of the change to this subpart is to allow goose hunting during the early goose season on the Rochester refuge. The area has been open to goose hunting during the early season under temporary rule in the past. It is necessary to reduce the number of resident Canada geese in the area. It is reasonable because a high population of resident Canada geese has damaged parks, golf courses and yards in the city of Rochester. Allowing hunting during the early goose season, which ends in mid September, will reduce the number of resident Canada geese in the area. The early season hunt would not disturb migrating geese, which arrive on the refuge later in the fall.

Subp. 52. Anoka and Isanti Counties Game Refuge, Anoka and Isanti Counties. The purpose of this change is to allow archery as well as firearms deer hunting on the refuge and eliminate the requirement for a permit to hunt the refuge. The refuge has been open to archery deer hunting under temporary rule in the past. It is necessary because without this change, the refuge would remain open to firearms deer hunting but would be closed to archery deer hunting. Hunters would also need a permit to hunt the refuge. It is reasonable because the population of deer causes damage native plants and trees on the refuge, which is located within the boundaries of Cedar Creek Natural History Area, managed by the University of Minnesota. The University allows access to a limited number of hunters to reduce the population density of these deer and would like to have the flexibility to allow both archery and firearms hunting. The University allows hunting only during established deer season structure so there is no need for a special DNR permit to allow hunting. The University could limit hunter access to the property during established deer hunting seasons under *Minnesota Statutes*, section 97B.001, subd. 4.

Subp. 53. Austin Game Refuge, Mower County. The purpose of this change is to open the refuge to all hunting and trapping during established seasons. The refuge has been open to hunting and trapping in the past under temporary rule. It is necessary because without the change, the refuge would be closed to all hunting and trapping except deer hunting by archery. It is reasonable because there is no management requirement to provide a refuge in this area. Hunting under established seasons and regulations will not adversely affect game populations.

Subp. 59. Lake Bemidji State Park, Beltrami County. The purpose of this change is to allow archery deer hunting on the southern unit of Lake Bemidji State Park that lies within the city of Bemidji. This portion of the park has been open to archery hunting for deer under temporary rule in the past. It is necessary to reduce the deer population in the area. It is reasonable because hunting is the DNR's primary means of managing deer populations and this area contains a high concentration of deer. This has resulted in extensive damage to gardens and decorative vegetation at nearby residences as well as damage to native trees such as white pines and native ephemeral wildflowers such as lady slippers. The park has invested thousands of dollars in deer-proof fencing and other means to minimize deer damage to vegetation. Because this area contains a relatively high density of residential property and lies within city limits, firearms use has been deemed unsafe by the city of Bemidji. However, the city has agreed that archery hunting could be used as a way to manage deer populations in this area.

6230.0700 LAC QUI PARLE SPECIAL PROVISIONS.

Subp. 4. Limitation on number of shells possessed. The purpose of the change to this subpart is to increase the number of shells from 6 to 12 that hunters may have in possession in the Lac qui Parle controlled hunting zone. This change has been in effect through temporary rule in the past. The change is necessary to provide additional hunting opportunity in the zone. The change is reasonable because in 2006, the Canada goose limit was increased from 1 to 2 birds in the west central goose zone, which includes the Lac qui Parle controlled hunting zone.

Subp. 7. Limitation on number of trips. The purpose of the change to this subpart is to eliminate the limitation on the number of annual trips hunters can make to the Lac qui Parle controlled hunting zone each year and allow hunters a maximum of two trips to a hunting station per day, rather than one. The change is necessary to provide additional hunting opportunity. The change is reasonable because hunter interest in Lac qui Parle has decreased with the expansion of Canada goose hunting opportunities across the state in the past decade. This change allows hunters who are still interested in hunting Lac qui Parle to take advantage of additional recreational opportunity that is made available by reduced competition for the designated hunting areas.

6230.0800 THIEF LAKE SPECIAL PROVISIONS

Subp. 5. Limitation on number of shells possessed. The purpose of the change to this subpart is to increase the number of shells from 6 to 12 that hunters may have in possession in the Thief Lake controlled hunting zone. This change has been in effect through temporary rule in the past. The change is necessary to provide additional hunting opportunity in the zone. The change is reasonable because the Canada goose limit in the area has been two for several years. It is also reasonable to maintain consistency of regulations between controlled hunting zones at Lac qui Parle and Thief Lake.

6230.1200 GENERAL REGULATIONS FOR NATIONAL WILDLIFE REFUGES AND FEDERAL WATERFOWL PRODUCTION AREAS.

Subp 1. Waterfowl production areas open unless posted closed [REPEALER]. The purpose of the repeal of this part is to eliminate duplication of federal regulations. It is necessary and reasonable because U.S. Code title 16, section 718d subsection C states that land acquired as a waterfowl production is not subject to the inviolate sanctuary provisions of the migratory bird act and therefore is open to public hunting and trapping.

Subp. 2. Refuges closed to taking of otter. [REPEALER] The purpose of the repeal of this part is to eliminate rules that close national wildlife refuges to the taking of otter. The change is necessary because without it, national wildlife refuges across the state, except the Upper Mississippi Refuge, would be closed to the taking of otter. It is reasonable because otter populations have increased in both distribution and abundance throughout the state (Erb and DePerno, 2000). Coincidentally, otter limits, season lengths, harvests and trapping zones have increased and modeling indicates otter populations continue to increase. In 2008, otter harvest was legal in about two thirds of the state and there is no longer a management need to protect otter from harvest on national wildlife refuges across the state. Otter harvest may be regulated on individual units of national wildlife refuges as the U.S. Fish and Wildlife Service deems necessary.

6232.0100 GENERAL RESTRICTIONS FOR TAKING BIG GAME.

Subp. 5. Removal from site of kill. [REPEALER] The purpose of the repeal of this subpart is to eliminate rules require hunters to site tag deer prior to moving it from the site of the kill. It is necessary and reasonable to make the rule more consistent with a change in statutes as *Minnesota Statutes*, section 97A.535 subd.1(e) states that a person may move a lawfully taken deer, bear, elk or moose from the site of the kill without attaching the tag to the animal only while in the act of manually or mechanically dragging, carrying or carting the animal across the ground and while possessing the validated tag on their person.

6232.0200 DEFINITIONS

Subp. 10. Antler point. The purpose of this subpart is to establish a length at which projections from a deer antler can be considered an antler point. This subpart has been in effect under temporary rule in the past. It is necessary because the Divisions of Parks and Fish and Wildlife recently implemented through temporary rule regulations that restrict the deer harvest at Itasca, Savanna Portage and Forestville state parks to antlerless deer or bucks with a minimum number of antler points. It is reasonable because the restrictions are part of a three-year research project at several state parks to determine if restricting the harvest antlered deer will result in an increased harvest of antlerless deer. In some areas of Minnesota, the number of deer harvested by hunters under the current seasonal framework is not adequate to reduce deer densities toward population

goals (Grund, Cornicelli, Fulton 2008). If antler point restrictions are found to facilitate the harvest of antlerless deer thereby reducing deer density in state parks, they could be used in other areas of the state where deer populations remain stubbornly high.

Subp. 11. Earn-a-buck hunt. The purpose of this subpart is to define a type of hunt that requires hunters to harvest one antlerless deer before harvesting a legal buck. This subpart has been in effect under temporary rule in the past. It is necessary because the Divisions of Parks and Fish and Wildlife recently implemented through temporary rule regulations at several state parks that require hunters to harvest an antlerless deer before harvesting a legal buck. It is reasonable because the restrictions are part of a three-year research project to determine if requiring hunters to harvest an antlerless deer before harvesting a legal buck will increase the harvest of antlerless deer. In some areas of Minnesota, the number of deer harvested by hunters under the current seasonal framework is not adequate to reduce deer densities toward population goals (Grund, Cornicelli, Fulton 2008). If earn-a-buck restrictions are found to facilitate the harvest of antlerless deer thereby reducing deer density in state parks, they could be used in other areas of the state where deer populations remain stubbornly high

6232.0300 GENERAL RESTRICTIONS FOR TAKING DEER

Subp. 1. Season options. The purpose of the amendments to this subpart is to simplify the purchase and use of deer licenses in accordance with statutory changes made during the 2008 legislative session. It is also to allow the taking of additional antlerless deer in specific areas such as those described annually through expedited *Minnesota Rules*, part 6232.1970, subpart 2 for the early antlerless season as well as in the bovine TB zone (deer area 101) and the metropolitan deer management zone (deer area 601). The amendments to this subpart have been in effect through temporary rule in the past.

It is necessary to allow hunters who purchase a regular firearms or youth firearms license to hunt statewide or in the southeast portion of the state during the "B" season and to purchase and use a muzzleloader or youth muzzleloader license separately during the same license year to eliminate the need for all-season and multi-zone buck licenses in compliance with *Minnesota Statutes* 97B.301, subdivision 8. It is also necessary to allow hunters to take deer under any firearms license during the early antlerless season and in deer areas 601 and 101 to reduce the deer population density to levels consistent with habitat availability, social tolerance or for disease control. It is reasonable to eliminate the all-season and multi-zone buck licenses because hunters may now purchase and use archery, firearms and muzzleloader licenses in the same license year (*Minnesota Statutes*, 97B.301, subdivision 2). The all-season and multi-zone buck licenses were valid for multiple zones and seasons statewide, but were confusing to many hunters because they came with multiple tags that could not necessarily be used in all parts of the state. Moreover, the all-season and multi-zone buck licenses were sold at the price of three licenses. Allowing hunters to purchase licenses separately and hunt statewide is more efficient and will result a cost savings to most hunters. It is reasonable to allow hunters to take deer under any firearms license during

the early antlerless season and in the metropolitan deer zone because area wildlife managers have identified these areas as having high deer population densities that would not likely be reduced sufficiently under the normal deer season framework. Excessive deer populations can damage personal property (Conover, 1997) and ecosystems (deCalesta, 1997). It is reasonable to allow hunters to use any firearms license in deer area 101 because the loss of bovine tuberculosis-free accreditation by the U.S. Department of Agriculture has resulted in economic hardship for the Northwestern Minnesota livestock industry. In addition to concurrent regulatory changes in state livestock disease management, regaining bovine tuberculosis-free accreditation from the U.S. Department of Agriculture will require a significant reduction in the affected deer populations.

Subp. 5. Tagging. The purpose of the change to this subpart is to update rule language on tagging to reflect changes in procedure under the electronic licensing system. It is necessary because the new system no longer uses adhesive tags that can be affixed so that the tag cannot be readily removed. It is reasonable because tagging provisions have changed to provide a lower cost method of providing licenses and tags at electronic license sales points. It is also reasonable because *Minnesota Statutes*, section. 97A.535, subdivision 2 requires a tag to be attached to the carcass prior to the animal being placed onto or transported in a motor vehicle or being hung from a tree or other structure or device or being brought in to a camp or yard or place of habitation.

Subp. 8. Bag limit. The purpose of the change to this subpart is to limit deer hunters to one legal buck per calendar year and to clarify bag limits for muzzleloader and archery hunters in permit areas 300-399. It is necessary because legislative changes (Laws of Minnesota 2008, Chapter 368, Article 2, section 47) allow deer hunters to purchase and take deer under firearms, archery and muzzleloader licenses in the same season. Legal bucks could otherwise be tagged with all three of these licenses. It is reasonable because the purpose of allowing hunters to tag deer with firearms, archery and muzzleloader deer licenses and purchase additional bonus tags is to increase hunting opportunity and reduce deer numbers in areas deer population density is high. Limiting the harvest to one buck per hunter in a calendar year distributes the buck harvest among hunters while allowing hunters who have tagged a buck to harvest additional antlerless deer in specified areas. Deer numbers in Minnesota are at or near record levels (Lenarz, 2007) and effective harvest of antlerless deer is critical to maintaining populations at levels consistent with habitat availability and social tolerance.

Item A. The purpose of the change to this item is to allow hunters to tag deer using firearms, archery or muzzleloader licenses where deer populations exceed available habitat or social tolerances and that have been designated as managed or intensive. It is necessary because hunters are otherwise limited to tagging one deer per license year. It is reasonable because the purpose of allowing hunters to tag deer with firearms, archery deer or muzzleloader licenses is to increase hunting opportunity and reduce the number of deer in areas deer population density is high.

Item B. The purpose of the change to this item is to allow licensed archery, firearms or

muzzleloader hunters to use bonus permits to tag deer in specified areas without reference to a limit. This change has been in effect through temporary rule in the past. The change is necessary because increased deer population densities or disease management guidelines require bag limits that exceed five deer to effectively maintain deer populations at goal levels. The change is reasonable because the number of deer that can be legally tagged with either regular licenses, landowner licenses or bonus tags is addressed in items A, D, E, F, and G.

Item C. The purpose of the change to this item is to prescribe conditions under which a person may tag more than five deer per year. It is necessary because increased deer population densities or disease management guidelines require bag limits that exceed five deer to effectively maintain deer populations at goal levels in specific areas. It is reasonable because hunting is the state's primary means of managing deer populations. In some instances, liberal bag limits are required to reduce the deer population in specific areas to levels consistent with habitat availability, social tolerance or for disease control.

Item D. The purpose of the changes to this subpart is to reflect the elimination of the all-season deer license. This change was been in effect through temporary rule during the 2008 deer season. It is necessary because hunters may now purchase firearms, archery and muzzleloader licenses separately in the same license year in lieu of the all-season license (Laws of Minnesota 2008; Chapter 368, Article 2, section 47). It is reasonable because the all-season license, which came with three tags, was difficult to explain to hunters. It could used in past years to tag more deer than would otherwise be allowed in specific deer permit areas. Moreover, the license was costly and only 1 percent of firearms hunters in 2007 used all three of the tags that come with the license (Cornicelli, DonCarlos, 2008). Allowing hunters to purchase archery, firearms and muzzleloader licenses separately during the same season is less costly for hunters and offers the same flexibility as the all-season license.

Item E. The purpose of this item is to set a bag limit for the early antlerless deer hunt that is distinct from established statewide deer bag limits. It is necessary because firearms deer hunters are allowed to participate in the hunt, which is held prior to the statewide firearms deer season. The hunt is held in deer permit areas, designated annually by wildlife managers, where deer populations would not be reduced sufficiently by hunters under the normal season framework. It is reasonable because the effective harvest of antlerless deer is critical to maintaining populations at levels consistent with habitat availability and social tolerance. Allowing hunters an opportunity to take two antlerless deer in an early season and additional deer during the regular firearms season facilitates the harvest of antlerless deer in areas where deer populations remain stubbornly high.

Item F. The purpose of this item is to allow hunters to use an unlimited number of bonus tags in the metropolitan deer management zone. It is necessary because the maximum number of deer that could otherwise be tagged with any combination of licenses and bonus tags under established rules is five. It is reasonable because most land in the metro deer management zone is private and

affords limited access for hunting. With the lack of hunting, deer populations in the area continue to increase. Allowing hunters who have access to hunting land in the area to purchase unlimited bonus tags, which can only be used for antlerless deer, is critical to maintaining populations at levels consistent with habitat availability and social tolerance.

Item G. The purpose of this item is to allow deer hunters to use an unlimited number of disease management tags in the bovine tuberculosis area. It is necessary because the maximum number of deer that could otherwise be tagged with any combination of licenses and bonus tags under established rules is five. It is reasonable because the loss of bovine tuberculosis-free accreditation by the U.S. Department of Agriculture has resulted in economic hardship for the Northwestern Minnesota livestock industry. Regaining bovine tuberculosis-free accreditation from the U.S. Department of Agriculture requires a significant reduction in the affected deer populations.

Item H. The purpose of this item is to clarify bag limits for archery and muzzleloader deer hunters in deer permit areas 300-399. It is necessary because two firearms seasons are held in these permit areas and bag limits in specific permit areas may be different in each season. It is reasonable because the archery season runs concurrently through both firearms seasons and the muzzleloader season continues after the close of the second firearms season. Because muzzleloader and archery harvest represent a small part of the overall deer harvest in permit areas 300-399, it is also reasonable to allow hunters to take deer under the most liberal bag limit prescribed for the deer area.

6232.1300 SEASONS FOR TAKING DEER BY FIREARMS.

Subp. 4a. The purpose of this subpart is to open the Metro Deer Management Zone during all of the state's firearms deer seasons. It is necessary because the Metro Deer Zone is managed as a distinct unit that is not subject to established seasons and zones in the state. It is reasonable the Metro Deer Management Zone encompasses the Twin Cities and surrounding suburbs. Much of the land is privately owned or has restrictions on firearms use and affords little access to hunters. With the lack of hunting, deer populations in the area continue to increase. Allowing hunters who have access to hunting land where firearms can be legally used to hunt throughout all of the state's firearms seasons is critical to maintaining populations at levels consistent with habitat availability and social tolerance.

6232.1950 TAKING DEER BY FIREARMS OR MUZZLELOADERS UNDER BONUS PERMITS.

The purpose of the changes to part is to reflect statutory changes that create a separate muzzleloader license (Minnesota Laws of 2008, Chapter 368, Article 2, Section 46. These changes have been in effect through temporary rule since 2008. It is necessary because previous to the legislative change, both firearms and muzzleloader could purchased a regular firearms license and could purchase bonus tags based on that license. The muzzleloader option was printed on the license to differentiate muzzleloader hunters from firearms hunters. It is reasonable because muzzleloader hunters must now purchase separate license and still may purchase and use bonus permits under the appropriate circumstances based on that license.

6232.2100 MUZZLELOADER SEASONS AND AREAS

Subp. 1 The purpose of the change to this subpart is to allow hunters to participate in both the firearms and muzzleloader seasons in the same year with the appropriate licenses. It has been in effect through temporary rule since 2008. It is necessary to satisfy the conditions of *Minnesota Statutes*, section 97B.301, Subdivision 8, by allowing hunters to participate in both firearms and muzzleloader seasons. It is reasonable because hunters who wish to hunt both muzzleloader and firearms seasons have in the past purchased the all-season license, which allows participation in the archery, firearms and muzzleloader seasons. Most of these hunters did not participate in the archery season (Cornicelli and DonCarlos 2008). Allowing hunters to purchase and use archery, firearms and muzzleloader licenses separately is less costly for hunters and offers the same flexibility as the all-season license.

Subp. 2 The purpose of the repeal of this subpart is to allow hunters to take deer in permit areas 116, 126 and 127 in northeast Minnesota during muzzleloader deer hunting season. It is also to repeal rules that duplicate federal rules and state statutes that prohibit muzzleloader hunting on National Refuges and State Parks. It is necessary to repeal the prohibition on muzzleloader hunting in permit areas 116, 126 and 127 to provide additional hunting opportunities in these areas. It is necessary to repeal the prohibition on muzzleloader hunting in permit areas 203, 224 and 287 because these areas fully or partially contain a National Wildlife Refuge or State Park, which are subject to federal rule or state statute. It is reasonable to allow muzzleloader deer hunting in permit areas 116, 126 and 117 because deer populations in these permit areas have recovered to above goal populations (Lenarz 2007) and can support additional harvest resulting from muzzleloader hunting. It is reasonable to repeal the prohibition on muzzleloader hunting in permit areas 203 and 224 because these areas contain the Agassiz and Sherburne National Wildlife Refuges, which are subject to federal rules and there is no need for a duplicative state rule. Permit area 287 contains Itasca State Park, where muzzleloader hunting is prohibited, except by special permit, under *Minnesota Statutes* 97A.085, subdivision 1 and 97A.091, subdivision 2.

6232.2800 GENERAL REGULATIONS FOR TAKING BEARS

Subp. 1. The purpose of the change to this subpart is to allow the harvest of up to three bears during a calendar year. This change has been in effect through temporary rule in the past. It is necessary to allow hunters to harvest additional bear outside state's primary bear range while limiting hunters to one bear in the quota areas. It is reasonable because quota areas contain the state's primary bear range and limiting hunters to one bear per year reduces the possibility of over harvest as well as overcrowding by hunters. It is reasonable to allow the harvest of two bears outside the quota areas, where reducing crop depredation by bears is a primary concern.

6232.3100 BEAR NO-QUOTA AREA

The purpose of the change to this part is to facilitate the purchase of no-quota bear licenses through the electronic licensing system. This change has been in effect through temporary rule in the past. It is necessary because the DNR adopted the electronic licensing system as the sole source for hunting licenses. There are ELS terminals at more than 1,800 locations statewide, including some county offices. ELS licenses are also available by telephone and online. It is reasonable because the electronic license system allows hunters to conveniently purchase licenses and tags at anytime during the day and at virtually any location.

6234.0200 TAKING RUFFED GROUSE AND SPRUCE GROUSE

Subp1. The purpose of the change to the subpart is to allow the taking of ruffed and spruce grouse on the New Year's holiday or until the following Sunday when possible as allowed by *Minnesota Statutes*, sections 97B.711 or 97A.045 subd. 3. It is necessary to provide additional hunting opportunity on a holiday or throughout a holiday weekend. It is reasonable because the slight increase in harvest due to the additional days of hunting won't harm ruffed and spruce grouse populations. It is also reasonable to end the season after a holiday or a Sunday to provide the most hunting opportunity possible while avoiding accidental violations that could be caused by closing the season on a Saturday.

6234.0400 TAKING PHEASANTS.

Subp. 1. The purpose of the change to the subpart is to allow the taking of male pheasants on the New Year's holiday or until the following Sunday when possible as allowed by *Minnesota Statutes*, sections 97B.711 or 97A.045 subd. 3. It is necessary to provide additional hunting opportunity on a holiday or throughout a holiday weekend. It is reasonable because the slight increase in harvest due to the additional days of hunting won't harm pheasant populations. It is reasonable to end the season after a holiday or a Sunday to provide the most hunting opportunity possible while avoiding accidental violations that could be caused by closing the season on a Saturday.

6234.0500 TAKING GRAY PARTRIDGE.

Subp. 1. The purpose of the change to the subpart is to allow the taking of gray partridge on the New Year's holiday or until the following Sunday when possible as allowed by *Minnesota Statutes*, sections 97B.711 or 97A.045 subd. 3. It is necessary to provide additional hunting opportunity on a holiday or throughout a holiday weekend. It is reasonable because the slight increase in harvest due to the additional days of hunting won't harm gray partridge populations. It is reasonable to end the season after a holiday or a Sunday to provide the most hunting opportunity possible while avoiding accidental violations that could be caused by closing the season on a Saturday.

6236.0900 SPECIAL PROVISIONS FOR TAKING TURKEYS.

Subp. 6. The purpose of this subpart is to prohibit the use of bait in taking turkeys. It is necessary because the practice would otherwise be legal under the state's rules and statutes. It is reasonable because the placement of bait piles causes unnatural congregations of wild turkeys, which can facilitate transmission of avian diseases, such as avian pox (Davidson and Wentworth 1992). It is also reasonable to be consistent with regulations that prohibit the use of bait in taking deer and waterfowl, which can be effectively hunted using other methods.

6237.0600 TAGGING PRAIRIE CHICKENS and 6237.0700 PRAIRIE CHICKEN REGISTRATION [REPEALERS]

The purpose of repealing these parts is to discontinue requirements for tagging and registration of prairie chickens. It is necessary to eliminate paperwork and reduce procedures for hunters to legally possess prairie chickens. It is reasonable because tagging and registration requirements were established to carefully gauge the harvest of prairie chickens when the season was established in 2003. After several years of harvest, DNR biologists have determined that the prairie chicken population is stable and can sustain a limited harvest by hunting. Because fewer than 200 prairie chicken permits are issued each year, it will be easier and less costly to gather harvest data through mail-in survey sent annually to each person who successfully draws a prairie chicken permit.

6240.0400 TAKING OF RAILS and 6240.0500 TAKING OF COMMON SNIPE

The purpose of these changes is to replace "Wilson's" snipe with the most recognizable name for this species, the "common" snipe, which is also consistent with the snipe species referenced in *Minnesota Statutes*, section 97A.015, subd. 24. Additionally, the purpose of these changes is to provide a consistent closing date for the taking of rails, snipe and woodcock season. It is necessary to provide a consistent closing date for rail, snipe and woodcock seasons. It is reasonable because most hunters take rail and snipe opportunistically when hunting another

species, such as waterfowl or woodcock. Hunters may not be aware that under the current season framework, rail and snipe seasons often close a few days prior to the end of the woodcock season. Providing a consistent closing date reduces confusion and would prevent hunters from accidentally taking snipe or rail out of season when hunting woodcock. The extra days that would be added to the rail and snipe season in most years will not be detrimental to snipe and rail populations.

6240.0610 YOUTH WATERFOWL HUNTING DAYS

Subp. 1. Dates, eligibility, and license requirements. The purpose of the change to this subpart change is hold youth waterfowl day on the Saturday two weeks prior to the opening of the regular waterfowl season. It is necessary to provide a consistent date for youth waterfowl day to allow families to make plans well in advance. It is reasonable because the U.S. Fish and Wildlife Service allows states to hold a waterfowl event, in which youth can take a limit of migratory waterfowl prior to the regular waterfowl season opener.

6240.1750 TAKING GEESE IN NORTHWEST GOOSE ZONE.

Subp. 1. Open season and Subpart 2 Daily limits. The purpose of the changes to these subparts is to create a consistent bag limit and season length for the September goose season everywhere in Minnesota except the southeast. It is necessary to provide more hunting opportunity during the September goose season and reduce locally nesting giant Canada goose populations. It is reasonable because local giant Canada goose populations have expanded statewide and create a nuisance in residential areas, parks and on golf courses. Moreover, the U.S. Fish and Wildlife Service, the Canadian Wildlife Service, Iowa, Minnesota, Missouri and Manitoba agreed to established a lower minimum population for Eastern Prairie Population (EPP) geese, a sub-population of Canada geese that nest near Hudson Bay and concentrate in Manitoba and Midwestern states. Because hunters can't distinguish EPP geese from Canada geese in the air, the pre-2006 minimum population threshold of EPP geese resulted in a reduced September Canada goose season and bag limit in the Northwest goose zone.

6240.1850 REFUGES OPEN TO THE TAKING OF GEESE

Subp. 2. Game refuges. The purpose of the change to this subpart is to reduce the number of days in which Canada geese may be harvested on the Fox Lake Game Refuge. The change is necessary to protect migrating geese from harvest while reducing the population of Canada geese that might over-winter on the refuge. It is reasonable because over-wintering Canada geese create a nuisance in the nearby towns of Fairmont, Welcome and Sherburn. Allowing several days of late season hunting encourages late migrating Canada geese to continue their migration while maintaining a refuge throughout most of the fall migration time period.

Subp. 3. Waterfowl refuges. The purpose of the change to this subpart is to reduce the number of days that Canada geese may be harvested on the Mud-Bardwell Waterfowl Refuge. This rule change

has been in effect through temporary rule in the past. It is necessary to prevent disturbance to late migrating ducks, which use the refuge as a staging area for fall migration. It is reasonable because the later opening date for the harvest of geese reduces the days that hunters may be present on the refuge and might disturb late-migrating duck species such as mallard or green-wing teal. The later date still provides hunting opportunities for geese that might otherwise over winter on the refuge and create a nuisance in nearby residential areas.

6240.2100 DESIGNATED MIGRATORY WATERFOWL FEEDING AND RESTING AREAS.

Subp. 1. Designation of entire lakes. The purpose of the change to this subpart is to restrict the use of motor-propelled watercraft or aircraft on Goose Lake, Lake Henry, Mud Lake and Thielke Lake. It is necessary to increase hunting opportunity by reducing disturbance of migrating waterfowl. It is reasonable because area wildlife managers have identified these lakes as important staging and resting areas for migrating waterfowl. By restricting the use of motorized boats and aircraft on these lakes, waterfowl will not be disturbed as often and are more likely to stage and rest in the area for a longer period of time, giving hunters more opportunity as the waterfowl leave the lake to feed in other areas.

Repealer. The analysis for the rule parts being repealed is found above under the applicable rule number.

OTHER CONSIDERATIONS

Review of Documents

Sources cited in this document may be reviewed on workdays between 8:00 a.m. and 4:30 p.m. in the Division of Fish and Wildlife at DNR Headquarters, 500 Lafayette Road, St. Paul, Minnesota, 55155.

Alternate Format

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request contact Jason Abraham, Division of Fish and Wildlife, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4020, telephone: 651-259-5197, facsimile number: 651-297-4961, e-mail: Jason.Abraham@dnr.state.mn.us. TTY users may call the Department of Natural Resources at 651-296-5484 or 800-657-3929.

Witnesses

If these rules go to public hearing, the witnesses below may testify on behalf of the DNR 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:

Steve Merchant, Wildlife Program Manager
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Jay Johnson, Hunter Recruitment and Retention Coordinator
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Based on the foregoing, the DNR's proposed rules are both necessary and reasonable.

By:



Mark Holsten, Commissioner
Department of Natural Resources

Dated:

5-12-09

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Appendix A. Summaries of public input related to the proposed rules

2005. In 2005, 14 public input meetings were held in February and March. More than 700 people attended and completed a questionnaire regarding their level of support for specific proposals. Topics included that are subject to this rule are deer season changes, changes to the bear season and designating Thielke Lake and Lake Henry as waterfowl feeding and resting areas (Questionnaires in East Grand Forks, Roseau and Thief River Falls were limited to deer-related proposals.) Those who could not attend a meeting were asked to comment via e-mail. The e-mail address was publicized on the DNR website and in a news released distributed to media statewide.

Proposal	Location	Support		Oppose		No Opinion		% Support W/Opinion
		No.	%	No.	%	No.	%	
5. Turn permit areas 228 and 337 into a metro deer zone. The season would begin on the opening day of firearms and end on the last day of the 3B season. Any valid firearm license would be valid in the zone.	Total	245	37%	40	6%	374	57%	86%
	Ada	1	100%	0	0%	0	0%	100%
	Aitkin	11	69%	0	0%	5	31%	100%
	Appleton	13	34%	1	3%	24	63%	93%
	Blackduck and Bemidji	10	36%	0	0%	18	64%	100%
	Cambridge	24	55%	2	5%	18	41%	92%
	New York Mills	59	34%	1	1%	112	65%	98%
	Perham	4	67%	0	0%	2	33%	100%
	St. Paul	20	42%	14	29%	14	29%	59%
	Stewartville	22	67%	3	9%	8	24%	88%
	Two Harbors	6	60%	0	0%	4	40%	100%
	East Grand Forks	8	23%	1	3%	26	74%	89%
	Roseau	31	28%	15	13%	66	59%	67%
	Thief River Falls	13	27%	1	2%	34	71%	93%
	Warroad	10	0%	1	0%	41	0%	91%
Email	13	81%	1	6%	2	13%	93%	

Proposal	Location	Support		Oppose		No Opinion		% Support W/Opinion
		No.	%	No.	%	No.	%	
6. Allow a hunter to harvest deer on both an archery and firearm license but only allow the harvest of one buck.	Total	565	78%	97	13%	59	8%	85%
	Ada	3	100%	0	0%	0	0%	100%
	Aitkin	16	100%	0	0%	0	0%	100%
	Appleton	28	72%	9	23%	2	5%	76%
	Blackduck and Bemidji	21	78%	2	7%	4	15%	91%
	Cambridge	39	83%	4	9%	4	9%	91%
	New York Mills	162	88%	12	7%	10	5%	93%
	Perham	21	91%	2	9%	0	0%	91%
	St. Paul	37	73%	10	20%	4	8%	79%
	Stewartville	26	81%	3	9%	3	9%	90%
	Two Harbors	11	100%	0	0%	0	0%	100%
	East Grand Forks	25	74%	4	12%	5	15%	86%
	Roseau	71	62%	30	26%	14	12%	70%
	Thief River Falls	34	71%	5	10%	9	19%	87%
Warroad	35	0%	15	0%	4	0%	70%	
Email	36	97%	1	3%	0	0%	97%	
12. Allow hunters to purchase both a quota and a non-quota bear license. This change would take effect in the 2006 bear season.	Total	210	45%	54	12%	203	43%	80%
	Ada	1	50%	1	50%	0	0%	50%
	Aitkin	12	80%	0	0%	3	20%	100%
	Appleton	16	44%	3	8%	17	47%	84%
	Blackduck and Bemidji	12	44%	6	22%	9	33%	67%
	Cambridge	19	40%	7	15%	21	45%	73%
	New York Mills	72	42%	15	9%	85	49%	83%
	Perham	7	64%	4	36%	0	0%	64%
	St. Paul	21	43%	5	10%	23	47%	81%
	Stewartville	19	59%	0	0%	13	41%	100%
	Two Harbors	7	70%	2	20%	1	10%	78%
	Warroad	12	23%	10	19%	30	58%	55%
Email	12	86%	1	7%	1	7%	92%	

Proposal	Location	Support		Oppose		No Opinion		% Support W/Opinion
		No.	%	No.	%	No.	%	
13. Designate Lake Henry (in Le Sueur county) as a Waterfowl Feeding and Resting Area.	Total	150	34%	18	4%	274	62%	89%
	Ada	0		0		0		
	Aitkin	7	47%	0	0%	8	53%	100%
	Appleton	18	49%	2	5%	17	46%	90%
	Blackduck and Bemidji	9	36%	0	0%	16	64%	100%
	Cambridge	15	32%	0	0%	32	68%	100%
	New York Mills	40	24%	8	5%	121	72%	83%
	Perham	3	100%	0	0%	0	0%	100%
	St. Paul	19	40%	2	4%	27	56%	90%
	Stewartville	14	44%	4	13%	14	44%	78%
	Two Harbors	8	80%	0	0%	2	20%	100%
	Warroad	13	25%	2	4%	37	71%	87%
Email	4	100%	0	0%	0	0%	100%	
14. Designate Thielke County (in Big Stone County) as a Waterfowl Feeding and Resting Area.	Total	149	33%	19	4%	278	62%	89%
	Ada	0		0		0		
	Aitkin	7	47%	0	0%	8	53%	100%
	Appleton	23	61%	3	8%	12	32%	88%
	Blackduck and Bemidji	8	32%	0	0%	17	68%	100%
	Cambridge	14	30%	0	0%	33	70%	100%
	New York Mills	40	24%	8	5%	122	72%	83%
	Perham	4	100%	0	0%	0	0%	100%
	St. Paul	17	35%	2	4%	30	61%	89%
	Stewartville	13	41%	4	13%	15	47%	76%
	Two Harbors	7	70%	0	0%	3	30%	100%
	Warroad	12	23%	2	4%	38	73%	86%
Email	4	100%	0	0%	0	0%	100%	

2006. In 2006, seven public input meetings were held. There were three in the north, two in the central and two in the southern part of the state. Approximately 400 individuals commented on the proposals, either by attending a meeting or via e-mail. Topics that are subject to this rule include designating Mud and Goose lakes as waterfowl feeding and resting areas and increasing restrictions on the use of lead shot for small game hunting.

Proposal	Location	Support		Oppose		No Opinion		% Support W/Opinion
		No.	%	No.	%	No.	%	
6. Designate Mud and Goose lakes in Cass County as waterfowl feeding and resting areas.	Total	90	56%	7	4%	64	40%	93%
	Fergus	41	59%	1	1%	28	40%	98%
	Virginia	2	100%	0	0%	0	0%	100%
	Northome	4	67%	0	0%	2	33%	100%
	St. Cloud	7	35%	3	15%	10	50%	70%
	Altura	9	35%	1	4%	16	62%	90%
	Willmar	7	70%	0	0%	3	30%	100%
	St. Paul	9	60%	2	13%	4	27%	82%
	Email - Mail	11	92%	0	0%	1	8%	100%
7. Increase restrictions on the use of lead shot for small game hunting.	Total	59	35%	83	49%	29	17%	42%
	Fergus	17	25%	33	49%	17	25%	34%
	Virginia	1	50%	1	50%	0	0%	50%
	Northome	3	60%	2	40%	0	0%	60%
	St. Cloud	10	50%	7	35%	3	15%	59%
	Altura	8	31%	10	38%	8	31%	44%
	Willmar	5	50%	4	40%	1	10%	56%
	St. Paul	7	47%	8	53%	0	0%	47%
	Email - Mail	8	31%	18	69%	0	0%	31%

2007 In 2007, the DNR held 9 public meetings across the state. None of the proposals from those meetings are subject to this rule.

2008. In 2008 the DNR held 12 public meetings across the state. Four were held in the north, three in the central and five in the southern part of the state. More than 700 individuals commented on the proposals, either by attending a meeting, online or by mail. The topic that is subject to this rule is replacing the all-season and multi-zone buck licenses by allowing hunters to archery, firearms and muzzleloader for the same season.

Proposal	Location	Support		Oppose		No Opinion		% Support W/Opinion
		No.	%	No.	%	No.	%	
1. Eliminate the All-Season and Multi-Zone Buck license. Allow hunters to purchase three stand-alone licenses (archery, firearms and muzzleloader).	Total	560	77%	117	16%	49	7%	83%
	Deer River	9	100%	0	0%	0	0%	100%
	Aurora	7	100%	0	0%	0	0%	100%
	Marshall	14	48%	12	41%	3	10%	54%
	Worthington	52	91%	4	7%	1	2%	93%
	Blue Earth	31	86%	3	8%	2	6%	91%
	Mora	43	81%	9	17%	1	2%	83%
	Park Rapids	25	86%	3	10%	1	3%	89%
	St. Paul	20	100%	0	0%	0	0%	100%
	Hutchinson	72	77%	14	15%	7	8%	84%
	Watson	65	86%	5	7%	6	8%	93%
	Winona	37	90%	4	10%	0	0%	90%
	Thief River Falls	12	57%	6	29%	3	14%	67%
Online Survey	173	68%	57	22%	25	10%	75%	