

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Agency Report on Rules

**Submitted to the Minnesota Legislature pursuant to
Laws 2012, chapter 238, section 3**

January 2013

LEGISLATIVE REPORT – Cost of Preparation

NAME OF LEGISLATIVE REPORT – *Agency Report on Rules, Department of Natural Resources, January 2013*

Based on: Communications from rule writers and managers in agency divisions

Minnesota Statute Reference: Laws 2012, Chapter 238, section 3

Prepared by: Beth Carlson, Rules Coordinator, Department of Natural Resources

Phone: 651-259-5531

Email: beth.carlson@state.mn.us

Description of Cost	Further explanation if necessary	Amount
Staff Time – Division editors	79.75 hours self-reported on a spreadsheet	\$ 2,672.40
Staff Time – DNR Rules Coordinator	34.5 hours	\$ 1,127.81
Duplication Cost (includes paper)		\$ 784.00
Other:		
TOTAL TO PREPARE REPORT		
		\$4,584.21

Introduction

Minnesota Statutes 2012, section 14.3691, requires that the Department of Natural Resources report to the legislature by January 15, 2013, on department rules. This is the statutory language:

Laws 2012, Regular Session, Chapter 238, Section 3. REPORTS.

By January 15, 2013, the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Environmental Quality Board, and Department of Agriculture must each report to the governor, the Legislative Coordinating Commission, and the policy and funding committees and divisions with jurisdiction over the agency. Each report must update information that was reported as required by Laws 2000, chapter 469, section 4, subdivision 1. The reports from the Board of Water and Soil Resources and the Environmental Quality Board must include the information required by Laws 2000, chapter 469, section 4, subdivision 1.

Laws 2000, chapter 469, section 4, subdivision 1

Minnesota Statutes, section 14.3691. Rule review and legislative oversight.

Subdivision 1. Reports. An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1 of the year before the legislative session in which the entity's rules are scheduled for review. The speaker of the house of representatives and the senate committee on rules and administration shall designate the appropriate committees to receive these reports. The report must: (1) list any rules that the entity recommends for repeal; (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and (3) suggest any changes in rules that would improve the agency's ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties. Any costs of preparing this report must be absorbed within funds otherwise appropriated to the entity.

The Department of Natural Resources (DNR) rules are located in chapters 6100 through 6290 of Minnesota Rules 2012. Following is a listing of the chapter topics within the scope of the DNR and its page designation in this report. This report addresses the following topics for each chapter:

- 1) Any rules that the entity recommends for repeal;
- 2) Briefly describe the rationale for rules that the entity believes should remain in effect; and
- 3) Identify any changes in the rules to improve the agency's ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties.

The DNR also has authority to adopt emergency and expedited emergency game and fish rules. Minnesota Statutes, sections 84.027, subdivision 13, and 97A.0451 to 97A.0459 authorize the use of an emergency rulemaking process for specific rules authorized in statute when conditions exist that do not allow compliance with all the requirements of the Minnesota Statutes, chapter 14, rulemaking process. Rules adopted under the emergency process include:

- Opening seasons and areas; closing seasons and areas;
- Establishing quotas for taking of animals; selecting hunters for areas;
- Identifying waters newly infested with harmful exotic species such as Eurasian water milfoil; and
- Adjust fishing, hunting, and trapping seasons and quotas in response to Indian Band proposals for treaty harvest to ensure compliance with court rulings.

Emergency rules are limited to a maximum duration of 18 months and are fully exempt from the provisions of Chapter 14; therefore, those rules are not covered in this report.

Minnesota Statutes, section 3.197, requires the department to include in any report to the legislature the cost of preparing the report. See the Cost of Preparation on the preceding page.

Agency contact:

Beth Carlson
DNR Rules Coordinator
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4010
651-259-5531
beth.carlson@state.mn.us

Table of Contents

Chapter 6100 Outdoor Recreation	5
Chapter 6102 Recreational vehicles	7
Chapter 6105 Wild, scenic, and recreational rivers	8
Chapter 6110 Water safety; water surface use	11
Chapter 6115 Public water resources	12
Chapter 6116 Water aeration systems	14
Chapter 6120 Shoreland and floodplain management	15
Chapter 6122 Lakeshore lease appraisals.....	16
Chapter 6125 Mineral resources.....	17
Chapter 6130 Ferrous metallic mineral mining.....	18
Chapter 6131 Peat mining	19
Chapter 6132 Nonferrous metallic mineral mining	20
Chapter 6133 Restitution value for fish and wildlife	21
Chapter 6134 Endangered, threatened, special concern species	22
Chapter 6135 Utility crossings.....	23
Chapter 6136 Natural preservation.....	24
Chapter 6140 Boundary waters canoe area	25
Chapter 6200 Game and fish general provisions.....	26
Chapter 6212 Licenses and permits	27
Chapter 6213 Electronic licensing.....	29
Chapter 6216 Invasive species.....	30
Chapter 6218 Public water access.....	32
Chapter 6230 Wildlife management.....	33
Chapter 6232 Big game	35
Chapter 6234 Small game	36
Chapter 6236 Turkeys.....	37
Chapter 6237 Prairie chickens.....	38
Chapter 6238 Falconry	39
Chapter 6240 Migratory birds.....	40
Chapter 6242 Shooting preserves and game farms.....	41

Chapter 6244 Captive wildlife.....	42
Chapter 6250 Private fish hatcheries.....	43
Chapter 6254 Minnows.....	44
Chapter 6256 Frogs and turtles.....	45
Chapter 6258 Mussels.....	46
Chapter 6259 Crayfish.....	47
Chapter 6260 Commercial fishing operations.....	48
Chapter 6262 Fishing regulations and requirements.....	50
Chapter 6264 Designated waters.....	52
Chapter 6266 Boundary waters fishing regulations.....	53
Chapter 6270 Aquatic management areas.....	54
Chapter 6280 Aquatic plants and nuisances.....	55
Chapter 6282 Ginseng.....	56
Chapter 6284 Wild rice.....	57
Chapter 6287 Quarantine facilities.....	58
Chapter 6290 Fish and wildlife stamp design contests.....	59

Chapter 6100 Outdoor Recreation

1. Rules Recommended for Repeal

As part of the rulemaking process identified in number 3 below, the following parts are recommended for repeal. All of the listed rules recommended for repeal are being addressed as a repealer in the rulemaking discussed in number 3 below.

- Parts 6100.5000, subparts 3 and 4, are recommended for repeal as these subparts will duplicate new or existing language in other subparts.
- Part 6100.5100 is recommended for repeal because the restrictions on the use of snowmobiles during hunting season is found in other parts of Minnesota Rules.
- Part 6100.5200, subpart 3, is recommended for repeal as the prohibition against dumping is covered by Minnesota Statutes in chapter 609.
- Part 6100.5300, subparts 2 through 10, are recommended for repeal because the sign specifications are now covered in a publication known as the Department of Natural Resources *Sign Manual*.
- Part 6100.5500, subpart 4, is recommended for repeal because fees for safety training are now exempt from rulemaking under Minnesota Statutes, section 84.86, subdivision 1, item (6).
- Part 6100.5800 is recommended to be repealed because the penalty for violation of the rules is now found in Minnesota Statutes, section 84.88, subdivision 1.
- Parts 6100.7000 through 6100.7400 are obsolete and recommended for repeal. These rules have not been used or cited by the DNR since before 1986. They have been superseded by:
 - Minnesota Statutes, section 84.0264, which designates the DNR as the state agency to receive funds from the federal Land and Water Conservation Fund (L&WCF) and directs how federal receipts will be accepted and deposited
 - Public Laws 88-578, the Land & Water Conservation Fund Act as amended, which requires the state to prepare and implement a Statewide Comprehensive Outdoor Recreation Plan with priorities and policies for allocating L&WCF funds
 - Minnesota Statutes, section 16B.97, which directs Minnesota Management and Budget to promulgate policies and rules for state agencies when administering grant programs, including the L&WCF.

2. Rationale for Rules

Public Use of State Parks and Other Recreational Areas

Parts 6100.0100 through 6100.2400 were adopted to regulate and promote public enjoyment of state parks, forests, and recreational areas. These rules are necessary for the stewardship of public lands for present use and preservation for use by future generations.

Public Use of State Recreational Trails

Parts 6100.3000 through 6100.4300 provide for public use of designated state recreational trails while protecting the quality of the trail environment to promote long-term trail use and enjoyment. These rules are necessary for the stewardship of public lands for present use and preservation for use by future generations.

Snowmobile Registration and Operation

Parts 6100.5000 through 6100.6000 govern registration and registration display requirements, speed limits, accident reporting requirements, safety training program, towing devices and operational equipment, regulatory signs. This chapter also covers special permits and use of snowmobiles on public lands and waters. These rules are necessary to regulate the sport of snowmobiling. Chapter 2 of Laws 2003 repeals part 6100.6000, which governs form styles for the registration of snowmobiles that have become obsolete and no longer used.

Outdoor Recreation Projects

Parts 6100.7000 through 6100.7400 are obsolete and recommended for repeal.

3. Recommended changes

The DNR is undergoing rulemaking to amend parts 6100.5000 through 6100.6000 and 6232.0300. The DNR plans to issue a dual notice of intent to adopt the rule amendments. The amendments would bring these rules, adopted over 20 years ago, up-to-date with current laws, will change display requirements to accommodate manufacturers design changes to the vehicles, update accident reporting, and provide for a paperless electronic registration system. The changes to update rule language on speed limits to make them consistent with state law; update requirements for sleds, trailers, towed devices, operational equipment and lights; and eliminate diagrams and specifications for traffic or regulatory signs in the rules in favor of a reference to the same information contained in a DNR reference manual.

The DNR is undertaking rulemaking to amend parts 6100.0100 through 6100.4300. The revision will integrate the rules for recreation areas and state trails, address emerging uses of these areas, establish common definitions, provide for the use of mobility devices, and reflect recent statutory changes.

Authority: Minnesota Statutes, sections 16A.1285, 84.0264, 84.027, subdivision 16, 84.03, 84.86, 85.052, 85.053, 85.20, 86A.05, 86A.06, 89.031, 89.19, 89.20, 89.21, and 89.71, subdivision 4.

Chapter 6102 Recreational Vehicles

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6102.0001 through 6102.0080 provide for All-Terrain Vehicle, Off-Road, and Off-Highway Motorcycle registration with the DNR and provide for display of such registration. They also provide for regulation of recreational vehicle use on public lands, waters and trails under the jurisdiction of the DNR, provide for uniform signs for regulatory purposes and establish equipment specifications, including noise restrictions for mufflers.

3. Recommended Changes

No changes are recommended at this time

Authority: Minnesota Statutes sections 84.03; 84.787 to 84.796; 84.797 to 84.805; 84.92 to 84.929; 86A.06, and 89.19

Chapter 6105 Wild, Scenic, and Recreational Rivers

1. Rules Recommended for Repeal

- Part 6105.0710 consists of a series of maps of the riverway boundary on the Kettle River that are not available in the on-line version of the rule, are nearly illegible in the book version of the rule, and describe land acquisition goals with specificity no longer needed.
- Part 6105.0740 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Kettle River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and willing sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.0750 consists of legal descriptions of parcels proposed for fee acquisition on the Kettle River. With limited opportunity to purchase land from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.0760 is a typical trail design graphic that is not available in the on-line version of the rule and was intended to be an illustration, not a regulatory standard for trail design.
- Part 6105.0920 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Mississippi River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.0930 consists of legal descriptions of parcels proposed for fee acquisition on the Mississippi River. With limited opportunity to purchase land from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.0960 also consists of a series of maps of the Mississippi River that are not available in the online version of the rule, are nearly illegible in the book version of the rule, and describe land acquisition goals with specificity no longer needed.
- Part 6105.1110 consists of legal descriptions of parcels proposed for scenic easement acquisition on the North Fork Crow River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.1120 consists of a series of maps of the riverway boundary on the North Fork Crow River that are not available in the on-line version of the rule, are nearly illegible in the book version of the rule, and are duplicative of the legal description found in Part 6105.1100.
- Part 6105.1130 is a typical site design graphic that is not available in the online version of the rule and was intended to be an illustration, not a regulatory standard for site design.
- Part 6105.1300 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Minnesota River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.
- Part 6105.1310 consists of legal descriptions of parcels proposed for fee acquisition on the Minnesota River. With limited opportunity to purchase land from willing sellers, managers

need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

- Parts 6105.1320 through 6105.1370 are a series of graphics that are not available in the on-line version of the rule and were intended to be an illustration, not a regulatory standard for site design.
- Part 6105.0230, subpart 1, items B and C, and subpart 3, contain provisions for DNR certification of variances and specified plats that are now obsolete following the Supreme Court's "Hubbard" decision, which found that the DNR did not have express statutory authority under Minnesota Statutes, chapter 103F, to certify such local decisions.
- Part 6105.0230, subpart 2, contains criteria for the review of variances, some of which are not consistent with changes to the variance criteria made by the 2011 legislature to Minnesota Statutes, chapters 394 and 462.
- Parts 6105.0800; 6105.0870, subpart 7; 6105.0910; and 6105.0950, subparts 8 and 9, consist of legal descriptions, map panels, and references to the cities of Dayton and Ramsey that were removed from statewide Wild and Scenic River designation by the legislature under Laws 2012, chapter 236, section 11.

2. Rationale for Rules

State Wild and Scenic Rivers Rules, parts 6105.0010 through 6105.0250, were adopted to establish designation procedures and statewide minimum standards and criteria for preserving and protecting the outstanding scenic, recreational, natural, historical, and scientific values of certain Minnesota rivers and their adjacent lands. These rules are necessary for the stewardship of certain public waters for present use and preservation for use by future generations.

Parts 6105.0600 through 6105.1700 provide more specific standards and management criteria for each of the six state-designated wild and scenic rivers as follows:

- **Kettle River Rules**, parts 6105.0600 through 6105.0760, pertaining to the portion of the river in Pine County.
- **Mississippi River Rules**, parts 6105.0800 through 6105.0960, pertaining to the portion of the river from St. Cloud to Anoka & Hennepin counties
- **North Fork of the Crow River Rules**, parts 6105.1000 through 6105.1130, pertaining to the portion of the river in Meeker County
- **Minnesota River Rules**, parts 6105.1200 through 6105.1370, pertaining to the portion of the river from the Lac Qui Parle Dam to Franklin
- **Rum River Rules**, parts 6105.1400 through 6105.1500, pertaining to the portion of the river in Mille Lacs, Sherburne, Isanti, and Anoka Counties
- **Cannon River Rules**, parts 6105.1550 through 6105.1700, pertaining to the portion of the river from Faribault to its confluence with the Mississippi River

Lower St. Croix National Scenic Riverway Water Surface Use Rules, parts 6105.0300 through 6105.0350, were adopted to promote the full use by all people, now and in the future, of the water surface of the Lower St. Croix River in a manner consistent with safety for persons and property and with the enjoyment of the scenic and recreational values which caused the river to be designated a national scenic riverway. These rules are necessary for the stewardship of certain public waters for present use and preservation for use by future generations.

Lower St. Croix National Scenic Riverway Land Use Rules, parts 6105.0351 through 6105.0550, were adopted to protect and preserve the outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, and other similar values of the Lower St. Croix National Scenic Riverway in a manner consistent with the National Wild and Scenic Rivers Act and the Lower St. Croix River Act. These rules are necessary for the stewardship of certain public waters for present use and preservation for use by future generations.

3. Recommended changes

State Wild and Scenic Rivers: The DNR commenced rulemaking to merge the statewide minimum standards and criteria for the state's Wild and Scenic Rivers and Shoreland programs in 2009. The main reasons for this merger were to reduce confusion and streamline administration for communities that administer both programs. The DNR believes it has since lost its authority to conduct rulemaking for the statewide shoreland program and will be asking the 2013 legislature to renew it. If authority is renewed, the DNR intends to pursue merging the minimum standards and criteria for the state's Wild and Scenic Rivers and shoreland programs, including addressing the recommendations for repeal identified in Section 1.

Lower St. Croix National Scenic Riverway Water Surface Use Rules: None

Lower St. Croix National Scenic Riverway Land Use Rules: None

Mississippi River Rules: None

Authority: Minnesota Statutes, sections 103F.305 to 103F.345, 103F.351

Chapter 6110 Water Safety, Water Surface Use

1. Rules Recommended for Repeal:

None at this time. These rules were recently reviewed and amendments made that updated sections where necessary to bring them into compliance with federal standards and regulations issued by the U.S. Coast Guard. Obsolete and superfluous rules were deleted at this time. Effective date of the rule amendments was April 14, 2003.

2. Rationale for Rules

Boat and Water Safety; parts 6110.0100 through 6110.2300

These rules set most of the technical standards for the boat and water safety program mandated under federal law and Chapter 86B, including registration, safety equipment, safe loading and powering, boat operation, aids to navigation, temporary structures administration, and accident reporting.

Water surface Use Management, parts 6110.3000 through 6110.4200

Parts 6110.3000 to 6110.3800, set the technical requirements & procedures for local units of government seeking to implement water surface use zoning under Minnesota Statutes, section 86B.205.

Part 6110.4000 sets surface use restrictions for Square Lake in Washington County.

Part 6110.4100 sets surface use restrictions for Tanner's Lake in Washington County.

Part 6110.4200 sets surface use restrictions for Brown Lake in Mille Lacs County.

3. Recommended Changes

None at this time

Authority: Minnesota Statutes, sections 86B.205, subpart 9, and 86B .211

Chapter 6115 Public Water Resources

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Fees for Water Permits and Permits for Underground Gas or Liquid Storage, parts 6115.0010 through 6115.0120, were adopted to establish fee schedules for permit applications, field inspections, and monitoring, with regard for permits required by Minnesota Statutes, section 103G.271 and section 103G.301. These rules are necessary for the calculation of permit application fees using the parameters identified in the statute, amendment and transfer fees, field inspection fees, fees for monitoring activities, annual water appropriation processing fees, and water appropriation processing fee exemptions.

Fees for Underground Storage of Gas or Liquid in Natural Formations, part 6115.0130, was adopted to establish the permit application fees and additional fees for processing and analyzing the application as required by Minnesota Statutes, section 103I.681. These rules are necessary for the calculation of the permit application fee, additional fees for field inspection and monitoring, refund of fees, and billing and payment of fees.

Standards and Criteria for Granting Permits to Change the Course, Current or Cross-Section of Public Waters, parts 6115.0150 through 6115.0280, were adopted to provide for the orderly and consistent review of permit applications as required by Minnesota Statutes, section 103G.315. These rules are necessary in order to conserve and utilize the water resources of the state in the best interest of its people. In deciding to issue permits, the DNR shall be guided by the policies and requirements declared in Minnesota Statutes, sections 103A.201, 103A.208, 103F.101, 103.105, 103F.205, 103F.351, 103G.297, 103G.305, and 116D.04.

Dams, parts 6115.0300 through 6115.0520, were adopted pursuant to Laws 1978, chapter 779, section 8 (now section 103G.535). These rules are necessary to regulate the construction and enlargement of dams, as well as the repair, alteration, maintenance, operation, transfer of ownership, and abandonment, in a manner as to best provide for public health, safety, and welfare.

Water Appropriation and Use Permits, parts 6115.0600 through 6115.0810, were adopted to provide for the orderly and consistent review of permit applications for appropriation and use of waters of the state as required by Minnesota Statutes, section 103G.315. These rules are necessary to conserve and utilize the water resources of the state in the public interest. In the application of these parts, the DNR shall be guided by the policies and requirements declared in Minnesota Statutes, chapters 103G and 116D.

Lake Improvement Districts, parts 6115.0900 through 6115.0980, were adopted to provide for the orderly establishment of lake improvement districts in a manner that will preserve and protect the lakes of Minnesota and enhance the use and enjoyment of these lakes. These rules are necessary to provide guidelines, criteria, and standards for the establishment of lake improvement districts by counties, cities, and towns, as authorized by Minnesota Statutes, section 103B.501 through 103B.581, 103G.605 and 103G.621.

State Water Bank Program, parts 6115.1200 through 6115.1280, were adopted pursuant to Minnesota Statutes, section 103F.601. These rules are necessary to implement and make specific the state water bank program and indemnification process established by statute for the purpose of compensating farmers for not converting certain kinds of wetland to cropland.

Agricultural Dike Construction Along the Red River of the North and Bois De Sioux Rivers, parts 6115.1300 through 6115.1400, were adopted to provide for the orderly and consistent review of permit applications to construct, relocate, rebuild, or alter agricultural dikes along the Red River of the North and the Bois de Sioux River in order to assure that the granting of such permits would be in the best interests of the people of Minnesota and North Dakota. The authority to establish these joint criteria is granted to the commissioner of natural resources in Minnesota Statutes, sections 103G.245, 103G.105 and 471.59 and to the North Dakota State Water Commission by sections 61-02-24 and 61-16-15 of the North Dakota Century Code. Additional authority to adopt rules relating to flood plain development is authorized in sections 103F.141 and 103F.161. These rules are necessary as the two states recognize that establishment of these parts governing the issuance, review, and denial of permits to construct, relocate, rebuild, or alter agricultural dikes along the boundary rivers is but the first step in the exercise of joint control over these activities which could contribute to an increased flood potential of these rivers.

3. Recommended Changes

The department will be examining water appropriation and use rules, and will be developing recommendations as to whether amendments to parts 6115.0600 to 6115.0810 are appropriate. The Standards and Criteria for Granting Permits to Change the Course, Current or Cross-Section of Public Waters may also need to be examined for conflicts with any new Shoreland Rules, if the department gets the legislative approval to renew its rule making authority. Lake Improvement District rule parts 6115.0900 through 6115.0980 may need to be updated due to law changes. No other changes are being examined or are being recommended at this time.

Authority: Minnesota Statutes, sections 103B.501 through 103B.581, 103F.601, 103G.105, 103G.245, 103G.271, 103G.301, 103G.315, 103G.535, 103G.605, 103G.621, 103I.681, 471.59

Chapter 6116 Water Aeration Systems

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6116.0010 through 6116.0070 describe how the DNR will issue permits for the operation of aeration systems in public waters. The purpose of the permit is two-fold, first to ensure the safe operation of aeration systems in public waters. The second reason is to ensure the appropriate use of aeration technology. Aeration is a management tool to prevent winterkill of fish in order to provide greater angling opportunities for the public. Other potential benefits of aeration include prevention of ice damage to shorelines and permanent structures, improving water quality, and maintaining open water for captive waterfowl.

The safety aspect of the program is very important to allowing various other uses of the lake's surface while operating the aeration system. The aeration system allows oxygen to enter the lake by creating and maintaining an open water area during the winter months. The rules define the responsibilities of the permittee, such as attending safety workshops provided by DNR staff; inspecting and allowing for inspections of the system on a frequent basis; requiring liability insurance; and posting warning signs on the shore at the public access points and thin ice signs around the areas of thin ice and open water created by the system.

3. Recommended Changes

The 2003 legislature has initiated a permit fee of \$250 and the rules should be amended to reflect the fee change.

Authority: Minnesota Statutes, section 103G.611

Chapter 6120 Shoreland and Floodplain Management

1. Rules Recommended for Repeal

Floodplain Management: None

Shoreland Management, part 6120.3300, subpart 2, item D, establishes standards for lots of record in shoreland areas, specifically for when nonconforming lots of record may be allowed as building sites without variances from lot size requirements. These provisions have since been superseded by Minnesota Statutes, sections 462.357, subdivision 1e, items (d) to (j), and section 394.36, subdivision 5.

2. Rationale for Rules

Floodplain Management, parts 6120.5000 through 6120.6200, were mandated by the legislature through the Floodplain Management Act of 1969, Minnesota Statutes, chapter 103F, for local governments to adopt and enforce floodplain ordinances. These rules are necessary to provide guidelines, criteria, and standards for ordinance adoption by counties, cities, and towns. Their purpose is to provide guidance for the wise development of floodplains and thereby preventing loss of life and reducing/minimizing property damages due to floods. To date, over 400 communities have approved floodplain ordinances.

Shoreland Management, parts 6120.2500 to 6120.3900, including a model ordinance, were mandated by the legislature through the Shoreland Management Act of 1969, Minnesota Statutes, chapter 103F, for local governments to adopt and enforce shoreland management ordinances. These rules are necessary to provide guidelines, criteria, and standards for ordinance adoption by counties, cities, and towns. Their purpose is to provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters. To date, over 200 communities have approved shoreland management ordinances.

3. Recommended Changes

Floodplain Management: The DNR is not recommending any rules changes at this time.

Shoreland Management: These standards have not been updated since 1989. During 2007 to 2010, the DNR undertook a highly participatory process to update the statewide shoreland standards and integrate the statewide Wild and Scenic River standards. Governor Pawlenty returned the draft standards in 2010, and the DNR's rulemaking authority subsequently lapsed. The DNR has since heard from many stakeholders that both the existing and the 2010 proposed draft standards do not adequately protect key resources, are overly complex, and are difficult to administer. The DNR is actively working with key stakeholders to identify potential options for improving the standards to address these issues, and will be asking the 2013 Legislature to reinstate its rulemaking authority. If the DNR gets authority to move forward, it will use the opportunity to repeal obsolete language for shoreland and state-designated Wild and Scenic Rivers identified in this report.

Authority: Minnesota Statutes, sections 103F.101 to 103F.165 (Floodplain Management) and Minnesota Statutes, sections 103F.201 to 103F.221 (Shoreland Development)

Chapter 6122 Lakeshore Lease Appraisals

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Minnesota Statutes, section 92.46, requires the commissioner of natural resources to adopt rules for leasing state lands for cottage and camp purposes. The law requires the rules to address the method of appraising the property and an appeal procedure for both the appraised values and lease rates. Minnesota Rules, parts 6122.0100 to 6122.0400, specify the method of determining a lot's appraised value and the appeal process. The rules are necessary for providing the state lessees assurances on the manner in which the lots are appraised and the procedures they follow if they disagree with that determination.

Currently, this chapter is not being utilized because a state law has set the rental rate for the three existing lakeshore leases (Laws 2003, First Special Session, chapter 9, article 1, section 52). However, we recommend that the rules remain in effect in the event that the uncodified state law for these three leases is repealed. If the law is repealed, statutory law would take effect and the rules would be needed.

3 Recommended Changes

No changes are recommended.

Authority: Minnesota Statutes, section 92.46

Chapter 6125 Mineral Resources

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Permits and Leases for Metallic Minerals, Except Iron Ore and Taconite Ore

Parts 6125.0100 to 6125.0700 are the rules for permits and leases for metallic minerals, except iron ores and taconite ores. These rules establish a system for leasing state lands and minerals for metallic minerals, except iron ores and taconite ores through public sale, and provide for leasing through negotiation. Part 6125.0610 establishes a Preference Rights leasing system, which allows the commissioner to establish a list of mining units that are available for leasing through application and lists the criteria for establishing the preference rights mining units. These rules are reasonable and necessary to enable the commissioner to issue leases for the purpose of exploring for, mining and removal of metallic minerals, except iron ores and taconite ores. The rules were amended in 1995 and reflect current practice.

Permits and Leases for Sand and Gravel

Parts 6125.6000 to 6125.7100 are the rules governing permits and leases for sand and gravel prospecting for and mining and removal of sand and gravel under the waters of public lakes or streams. These rules are necessary for the issuance of permits and leases for sand and gravel prospecting and mining under the waters of public lakes or streams. Although this leasing program is currently dormant, these rules should remain in place so that the process is available should the program be activated in the future.

Leases of State Lands for Selected Industrial Minerals

Parts 6125.8000 to 6125.8700 are the rules for leasing state-owned lands for selected industrial minerals. These rules establish a system for leasing state lands and minerals for industrial minerals primarily through negotiation, and establish for leasing through public sale. These rules are reasonable and necessary to enable the commissioner to issue leases for the purpose of exploring for, mining, and removal of selected industrial minerals. The rules were established in 1995 and reflect current practice.

3. Suggested Changes

The DNR does not recommend any amendments to Chapter 6125 at this time. However, if the DNR decides to reinstate a program for leasing for the mining and removal of sand and gravel under the water of public lakes or streams, parts 6125.6000 to 6125.7000, will be reviewed and, if necessary, amended to bring the rule language up-to-date. These rules were originally adopted in 1942 and the last modification was in 1952.

Authority for these rules is at Minnesota Statutes, section 93.25.

Chapter 6130 Ferrous Metallic Mineral Mining

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6130.0100 through 6130.0400 are necessary to define specific terms used in the remainder of the chapter and define the purpose and scope of this chapter of rules.

Taconite and Iron Ore Reclamation Standards in parts 6130.1000 to 6130.4100 are necessary to establish the criteria for mining operations in order to achieve a mining program that minimizes adverse impacts of mining operations on the environment and the public. They establish siting goals, exclusion and avoidance areas for mining, mine disposal requirements and buffer and barrier zones. They also create standards for 1) stockpile design, construction, composition, and runoff management; 2) pitwall sloping; 3) tailings basins design, construction, and operation; 4) vegetation and erosion control; 5) dust and blasting requirements; 6) subsidence avoidance or mitigation requirements; and 7) deactivation requirements.

Metallic Minerals Mining Permit rules in parts 6130.4200 to 6130.6300 are necessary to establish the criteria for a mining permit program. They identify the application procedure, the documentation required by the permit applicant, criteria for the mine operating plan and deactivation plan, procedures for objections to be made, and grounds for amending and canceling the permit to mine. They also cover inspections and financial assurance requirements.

3. Recommended Changes

Minnesota Statutes, section 93.49, addressing financial assurance, has been amended since 1980 when the associated taconite and iron ore rules were promulgated. The rules could be modified to be more in line with the statute, but in the meantime the statute controls over the rules. Two other areas where the rules could be modified deal with bulk sampling (the taking of potential ore material typically for processing research) and scam mining (the 're-mining' of previously stockpiled materials). In the case of bulk sampling, the fact that a bulk sample site be reclaimed is not currently specified outside of state lease language, and it would be preferable to natural resource protection if reclamation of those sites were mandated. In the case of scam mining, the recent interest in re-mining previously stockpiled iron bearing materials (from both natural ore and taconite mining) has created challenges for the definition and intent of scam mining currently in the rules, which were not originally intended to apply to the current activities being proposed.

Authority: Minnesota Statutes, section 93.47 and 103G. 222

Chapter 6131 Peat Mining

1. Rules Recommended for Repeal

None

2. Rationale for Rules

The general provisions in parts 6131.0010 to 6131.0030 are necessary to establish the applicable meanings used in this chapter, define this chapter's purpose and policy, and define the scope of this chapter of rules.

Peatland Reclamation Standards in parts 6131.0100 to 6131.0130, are necessary to set forth criteria for mining operations that minimize adverse impacts on the environment and the public. They identify exclusion and avoidance areas for peat mining and establish mine design requirements. The rules also govern requirements for site restoration and associated cleanup and responsibility.

Permit Requirements in parts 6131.0140 to 6131.0180 are necessary to manage the permit to mine program by establishing the duties of the permit holder, the documentation that the permit applicant must provide, reporting requirements, and standards for deactivation and release.

Procedures and Standards in parts 6131.0190 to 6131.0340 identify the content of a permit application, annual report, a plan for deactivation, and request for release. They provide the procedures for submitting a permit application, including publication and hearing. The rules also cover variances, amendments, cancellation, revocation or modification, suspension, deactivation and release, assignment, penalties, inspections, and financial assurance requirements.

3. Recommended Changes

No changes are recommended at this time.

If, at some time in the future, the rules must be modified, several minor topics could also be addressed at that time. None of them hinders the administration of the permit to mine program implementing the mineland reclamation statutes.

In part 0010, subpart 11, the definition of "peat" could also include the widely accepted value for maximum ash content of 25% by dry weight in order to still be considered peat. State Peat Leases include this language.

In part 0120, subpart 2, item B (2). The reclamation standard for "vegetative cover comprised of wetland or typical peatland species" could include language addressing invasive species.

Authority: Minnesota Statutes, section 93.461

Chapter 6132 Nonferrous Metallic Mineral Mining

1. Rules Recommended for Repeal

None

2. Rationale for Rules

The general provisions in parts 6132.0100 to 6132.0300 are necessary to define specific terms of art used in the remainder of the chapter and define the scope of this chapter of rules.

Permit Requirements in parts 6132.1000 to 6132.1400 establish the requirements for mine waste characterization plans and permit application documentation requirements. It also covers financial assurance, annual reporting requirements, and the process for releasing a permittee.

Reclamation Standards in parts 6132.2000 to 6132.3200 cover the reclamation standards for a nonferrous metallic mineral mining operation. These are necessary for the permitting program to establish the requirements and goals to be achieved through reclamation of a mining site. These include stockpile management, tailing basins designs, heap and dump leaching facilities, and erosion control. The rules also cover closure and post closure maintenance and a process for dealing with corrective action to address any non-compliance.

Administrative Procedures in parts 6132.4000 to 6132.5300 identify the application process and procedures for obtaining a permit to mine, publication of such and the applicant and the hearing procedures for a permit to mine application. The rules also cover variances, amendment, modification, cancellation, suspension, revocation, assignment, release of the permittee, penalties, and inspections, in addition to wetland replacement requirements.

3. Recommended Changes

While the current rules are adequate to implement the mineland reclamation statutes, they could be improved by adding language to accommodate non-ferrous metallic bulk sample site reclamation. Authority for the reclamation on state controlled lands is within state lease language, but not on lands that are not within state control. An additional improvement would come in adding language for scam mining operations of non-ferrous metallic materials. In the case of scam mining, the recent interest in re-mining previously stockpiled material (from both natural ore and taconite) may necessitate an update of the definition and other rule provisions.

Authority: Minnesota Statutes sections 93.44 to 93.51 and 103G.222

Chapter 6133 Restitution Value for Fish and Wildlife

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6133.0010 to 6133.0090 set the dollar value to the state of species of wild animals. These rules establish a prima facie value in the event that animals are taken illegally or to establish a value for persons taking an animal legally.

3. Recommended Changes

The DNR is seeking legislative authority in 2013 to use the good cause exemption rulemaking process to set a restitution value for sandhill cranes, in the same manner that such values were established in recent years for wolves and trumpeter swans. Sandhill cranes were recently authorized as game birds with a hunting season and limits.

Authority: Minnesota Statutes, section 97A.345

Chapter 6134 Endangered Threatened, Special Concern Species

1. Rules Recommended for Repeal

None

2. Rationale for Rules in parts 6134.0100 to 6134.0400

Minnesota Statutes, section 84.0895, subdivision 3, requires the commissioner of natural resources to adopt rules designating species meeting the statutory definitions of endangered, threatened, or species of special concern. The resulting List of Endangered, Threatened, and Special Concern Species was created in 1984 and amended in 1996. The list draws attention to species that are at greatest risk of extinction within the state. By alerting resource managers and the public to species in jeopardy, activities can be reviewed and prioritized to help preserve the diversity and abundance of Minnesota's native flora and fauna.

3. Recommended Changes

The DNR is currently undertaking a revision of Chapter 6134. Periodic changes in Chapter 6134 are necessary because of the dynamic nature of the state's environment, and the acquisition of new information on the distribution, abundance, and threats to the state's flora and fauna. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

Authority: Minnesota Statutes, section 84.0895, subdivision 3

Chapter 6135 Utility Crossings

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Minnesota Statutes, section 84.415, requires the commissioner of natural resources to adopt rules containing standards and criteria governing the sale of licenses permitting the passage of utilities over public lands and waters. Parts 6135.0100 to 6135.0800 set fees and standards for the utility licenses and criteria for minimizing the environmental impact of such crossings. Utilities covered include pipelines, electric transmission lines, electric distribution lines, telephone, telegraph, and fiber optic. The rules are necessary for the setting of rates to use the state-owned lands and the crossing of state public waters. Basic standards for design, safety considerations, and environmental protection provide expectations as to construction and operation to the licensees.

3. Recommended Changes

None

Authority: Minnesota Statutes, section 84.415

Chapter 6136 Natural Preservation

1. Rules Recommended for Repeal

None

2 Rationale for Rules

Scientific and Natural Areas, parts 6136.0100 to 6136.0600

Environmental protection and public use of scientific and natural areas, parts 6136.0100 to 6136.0600, were adopted to regulate environmental protection and public use in order to safeguard the natural resources found on scientific and natural areas. The rules are necessary for the protection and stewardship of the inherent natural values found on the lands and waters of scientific and natural areas and for the enjoyment and use by present and future generations.

Critical Natural Habitat, part 6136.0700

This rule sets criteria for assessing the value of proposed critical natural habitat projects and for prioritizing proposed projects for acquisition and improvement of critical natural habitat.

Stromatolites, part 6136.0800, Possession, Moving, or Disturbing Stromatolites,

This rule was adopted to ensure that stromatolites are left alone and preserved unmolested in the beds of public waters in the limited areas in which they are found.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 84.03, 84.994, 84.1525

Chapter 6140 Boundary Waters Canoe Area

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6140.0100 through part 6140.1500 regulate use within the BWCA to maintain the primitive wilderness character of the area, particularly the lakes and streams and the lands in the vicinity of the lakes, streams and portages, while recognizing state laws and administrative and judicial actions, federal regulations, and administrative guides of the U.S. Forest Service governing the federal lands in the area.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 84.02 and 84.03

Chapter 6200 Game and Fish General Provisions

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6200.0100 and 6200.0200 provide general definitions applicable to following chapters governing game and fish, and other general provisions. These assist in interpreting the following chapters on game and fish regulations and clarify terminology.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 97A.255 and 97B.075

Chapter 6212 Licenses and Permits

1. Rules Recommended for Repeal

These rules became obsolete after the development and implementation of the electronic licensing system. These rules are either unnecessary to the sale of licenses or are duplicative of topics now covered in Chapter 6213.

GAME AND FISH LICENSES

- 6212.0100 APPLICATIONS FOR GAME AND FISH LICENSE SUBAGENTS.
- 6212.0200 CONSIGNMENT OF GAME AND FISH LICENSES.
- 6212.0300 COMPLETION OF LICENSE FORMS.
- 6212.0400 RETURN OF "DNR COPY" OF LICENSES.
- 6212.0500 REQUIRED RECORDS, REPORTS, AND PAYMENTS FOR ISSUANCE OF GAME AND FISH LICENSES.
- 6212.0600 ISSUANCE OF DUPLICATE LICENSES.
- 6212.0700 PROHIBITIONS AND PENALTIES ON ISSUANCE OF GAME AND FISH LICENSES.

CROSS-COUNTRY SKI PASSES

- 6212.0800 APPLICATIONS FOR AGENCIES TO SELL CROSS-COUNTRY SKI PASSES.
- 6212.0900 CONSIGNMENT OF CROSS-COUNTRY SKI PASSES.
- 6212.1000 COMPLETION OF PASS FORMS AND RETURN OF DEPARTMENT COPIES.
- 6212.1100 REQUIRED RECORDS, REPORTS, AND PAYMENTS FOR ISSUANCE OF CROSS-COUNTRY SKI PASSES.
- 6212.1200 ISSUANCE OF DUPLICATE CROSS-COUNTRY SKI PASSES.
- 6212.1300 PROHIBITIONS AND PENALTIES ON ISSUANCE OF CROSS-COUNTRY SKI PASSES.

2. Rationale for Rules

General Restrictions for Possession Permits, part 6212.1400, regulate the issuance of permits for taking, transportation, disposal, or possession of protected wild animals, whether dead or alive, or their parts, nests, or eggs, for propagation, research, scientific programs, or educational programs in the fields of biology or natural history. These rules are necessary to establish consistent issuance, reporting, and revocation requirements for these permits.

Threatened and Endangered Species permit rules, parts 6212.1800 through 6212.2300, address permits related to treatment of threatened and endangered species to prevent the further decline and extirpation (permanent disappearance) of these species in the state. Part 6212.1800 explains requirements for permits to take, import, transport, purchase, sell, dispose, or possess a threatened or endangered species of plant or animal for research or education. Part 6212.2100 specifies three other reasons for which a permit can be issued (enhance propagation or survival, to prevent injury, social and economic benefit outweighs harm); this language is taken directly from statute. Part 6212.2200 explains conditions under which processed specimens of endangered or threatened species can be possessed. Part 6212.2300 specifies additional requirements for delivery of the carcass to DNR when a threatened or endangered animal is taken because of a threat to human life.

Fishing Contests permit rules, parts 6212.2400 to 6212.2800, address permit requirements, contest operation, and reporting. These are necessary to meet statutory requirements in Minnesota Statutes, section 97C.081, authorizing the tournament fishing rules.

Fish Toxicants permit rules in parts 6212.2900 to 6212.3000 address permit requirements for the use of fish toxicants. These chemicals can be very harmful if not used correctly. Consequently, these rules provide reasonable conditions to cover liability associated with misuse or handling. They also allow for stopping the use under such conditions.

3. Recommended Changes

The DNR is in the process of amending Chapter 6212 relating to fishing contest permitting. The rulemaking process is nearly complete. The proposed language reorganizes parts 6212.2400 to 6212.2800 and adds new language addressing conditions and criteria for issuing contest permits. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

Authority: Minnesota Statutes, sections 84.0895, 97A.418, 97A.501, 97C.051, 97C.081

Chapter 6213 Electronic Licensing

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Minnesota Rules, parts 6213.0100 to 6213.0800, address procedures for issuing electronic licenses, license agent management, revenue collection, and reporting procedures for the DNR's electronic licensing system (ELS).

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 84.027, 84.79, 84.798, 84.8205, 84.86, 84.924, 86B.211, 97A.405, 97A.485

Chapter 6216 Invasive Species

1. Rules Recommended for Repeal

None

2. Rationale for Rules

General purpose

The primary purpose of the invasive species rules is to preserve and protect native species and communities of wild animals and aquatic plants, ensuring continued recreational opportunities and other uses of the natural resources of the state. Another purpose of the rules is to provide a public process for designating infested waters and classifying and designating invasive species of aquatic plants and wild animals.

The 1996 legislature revised, expanded, and consolidated the statutes regarding harmful invasive species into Minnesota Statutes, Chapter 84D. Included in the new chapter is the mandate for the DNR to establish rules:

- Designating prohibited, regulated, and unregulated exotic species;
- Governing the application for and issuance of permits under this chapter;
- Governing notification in the event of the unauthorized release or escape of exotic species; and
- Designating, and governing the marking and use of, limited infestations of Eurasian water milfoil. (Since 1996, expedited emergency rules have been used to designate infested waters using authority in Minnesota Statutes, section 84D.12, subdivision 3.)

According to Minnesota Statutes, sections 84D.04 and 84D.12, the commissioner shall use rulemaking to classify invasive species according to the following categories:

- Prohibited invasive species, which may not be possessed, imported, purchased, sold, propagated, transported, or introduced (except as provided in section 84D.05);
- Regulated invasive species, which may not be introduced (except as provided in section 84D.07);
- Unlisted invasive species, which are subject to the classification procedure in section 84D.06; and
- Unregulated invasive species, which not subject to regulation under this chapter.

Permits for prohibited and regulated invasive species in part 6216.0265 is necessary because it describes the circumstances when a permit is required and allowed for prohibited and regulated invasive species and alternate permits that may authorize an introduction of a regulated invasive species. It describes the qualifications that a person must satisfy in order to receive a permit for prohibited or regulated invasive species. This rule part also addresses inspections of facilities or equipment used to confine prohibited invasive species and the transferability, renewal, and revocation of permits.

Escape of invasive species in part 6216.0280 is necessary to establish the information to be provided to the DNR when a person reports an unauthorized introduction of prohibited, regulated, or unlisted invasive species in the state. Minnesota Statutes, section 84D.12 requires the commissioner to adopt rules governing the notifications required under section 84D.08. The rule notifies the permittee, other members of the public, and DNR employees about what

specific information is required in order to consider a person in compliance and not subject to criminal penalties for an unauthorized introduction of prohibited invasive animal species, regulated invasive animal species, or unlisted nonnative animal species.

Process for review of proposed introductions of unlisted invasive species in part 6216.0290 is necessary to establish what information is required from a person who requests that the commissioner review an unlisted invasive species of aquatic plant or wild animal for introduction according to Minnesota Statutes, section 84D.06.

Identification, notice, and marking of infested waters in part 6216.0300 is needed to specify how the DNR will identify infested waters that have been designated by the DNR.

Restricted activities on infested waters in part 6216.0400 (prohibition on taking bait from infested waters; commercial fishing restrictions in infested waters) governs the use of infested waters for fish hatchery or aquatic farm operations.

Transportation of water from infested waters in part 6216.0500 continues to be important to help prevent the spread of harmful invasive species such as zebra mussels , spiny water fleas, and an increasing threat of fish diseases from one water to another.

3. Recommended Changes

The DNR will continue to pursue changes to chapter 6216 in order to add species identified through the classification process described in Minnesota Statutes, chapter 84D.04.

Authority: Minnesota Statutes, section 84D.12

Chapter 6218 Public Water Access

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6218.0100 and 6218.0200 govern the use of public water access site. These rules prescribe the appropriate use and identify prohibited uses of public resources. They are necessary to maintain and preserve the access sites for the use, benefit and enjoyment of the public.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 86A.05 and 86A.06

Chapter 6230 Wildlife Management

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Wildlife Management Areas, parts 6230.0100 to 6230.0280, regulate hunting and trapping in state wildlife management areas and establish public use rules for those areas consistent with statutes and the management purposes for the units. These rules are necessary to regulate use and management of these areas.

State Game Refuges, parts 6230.0300 to 6230.0400, regulate hunting and trapping in state game refuges. Refuges are closed to hunting and trapping unless opened by rule, and these rules are necessary to provide for management and use of wildlife populations within these refuges.

Controlled Hunting Zones, parts 6230.0500 to 6230.1100, regulate hunting within areas on or adjacent to wildlife management areas or game refuges with high concentrations of waterfowl. These rules are necessary to protect populations of migratory waterfowl using these areas, and to provide for safe hunting conditions.

National Wildlife Refuges, part 6230.1300, provides for general hunting regulations in these areas. These rules are necessary to open or close these areas to particular types of hunting under state regulation.

State Forests, part 6230.1400, establishes that hunting by firearms in portions of the Brightsdale Management Unit of the Richard Dorer Memorial Hardwood State Forest surrounding the forest resource center in Fillmore County is not allowed in areas that are posted closed to firearms hunting.

Transfer of Wild Animals by Gift, parts 6230.1500 to 6230.1600, identify what must be done by a donor in order to legally transfer a lawfully taken protected wild animal. This will assist enforcement officers in determining that protected wild animals were in fact lawfully taken and that the possessor of such has received such in a lawful manner. Part 6230.1600 identifies the lakes that have been identified for wildlife management purposes and are closed to airboat use unless otherwise designated. This allows for better management practices on lakes identified for wildlife management area purposes.

3. Recommended Changes

The DNR is undergoing rulemaking to amend parts 6230.0200, 6230.0250, 6230.0400, 6230.0600 to 6230.0800, and 6230.1000. These amendments will incorporate changes to wildlife management area, state game refuge, and controlled hunting zone rules that are generally designed to increase harvest opportunity and improve population management capabilities. Some more restrictive rules for wildlife management areas exist due to deed or gift restrictions on certain parcels or to address safety issues.

The DNR is considering undergoing rulemaking to amend parts 6230.0250 to clarify that non-endangered or threatened insect species may be collected on state wildlife management areas for the purposes of population surveys and monitoring without a special use permit.

Authority: Minnesota Statutes, sections 86A.06, 97A.091, 97A.092, 97A.101, 97A.135, 97A.137, 97A.505, 97B.305, 97B.311, 97B.411, 97B.505, 97B.515, 97B.605, 97B.711, 97B.731, 97B.803

Chapter 6232 Big Game

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Big Game General Restrictions, part 6232.0100, provides general regulations for the taking of big game (deer, bear, moose, and elk) that applied to all big game species. These rules are necessary to provide for the general regulation and management of these species and to reduce duplication in specific rules that apply to each species of big game individually (see below).

Deer, parts 6232.0200 through 6232.2500, provide regulations for taking deer by archery, firearms, and muzzleloader, and provide special provisions for hunters with disabilities. These rules are necessary to provide for open seasons, methods, bag limits, tagging and registration, zones, and licensing and application procedures for deer hunting.

Bears, parts 6232.2600 to 6232.3500, provide regulations for taking bears. These rules are necessary to provide for open seasons, methods, bag limits, tagging and registration, permit areas, and licensing and application procedures for bear hunting.

Moose, parts 6232.3600 to 6232.4100, provide regulations for taking moose. These rules are necessary to provide for open seasons, methods, bag limits, tagging and registration, zones, and licensing and application procedures for moose hunting.

Elk, parts 6232.4200 to 6232.4600, provide regulations for taking elk. These rules are necessary to provide for open seasons, methods, bag limits, tagging and registration, zones, and licensing and application procedures for elk hunting.

Deer and Bear Registration Blocks, part 6232.4700, divides the state into a system of geographic blocks with similar vegetation cover, land use, and ownership. The rule is necessary to provide for management of populations and harvests of deer, bear, and other species. Without such a management tool, harvest distribution cannot be controlled in different geographic areas, resulting in overharvests in some areas and under-harvests in other areas.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 97A.431, 97A.433, 97A.535, 97B.211, 97B.301, 97B.305, 97B.311, 97B.405, 97B.411, 97B.425, 97B.431, 97B.505, 97B.515

Chapter 6234 Small Game

1. Rules Recommended for Repeal

None

2. Rationale for Rules

General Restrictions, parts 6234.0100 to 6234.0800, provide hunting regulations for the taking of resident (non-migratory) small game, including grouse, pheasants, gray partridge, rabbits, hares, and squirrels. The rules are necessary to provide for open seasons and areas, methods, and limits for these species.

Furbearers and trapping, parts 6234.0900 to 6234.2900, provide hunting and trapping regulations for the taking of fur-bearing animals, including mink, muskrat, beaver, otter, raccoon, fox, badger, opossum, bobcat, fisher, and pine marten. The rules are necessary to provide for open seasons and areas, methods of take, limits, pelting fees, and tagging and registration requirements for these species.

Predator Control, parts 6234.3000 to 3400, provide regulations for the state directed predator control program. They are necessary to prescribe predator controller certification, procedures, and compensation as directed by Minnesota Statutes, section 97B.671.

Take a Kid Hunting, part 6234.3500, prescribes the dates for Take a Kid Hunting Weekend as directed by Minnesota Statutes, section 97A.445, subdivision 5.

3. Recommended Changes

The DNR will likely consider rulemaking to amend part 6234.2105 after the DNR evaluates the first-ever regulated wolf hunt of 2012. Possible adjustments have not yet been unidentified.

The DNR is undergoing rulemaking to amend part 6234.2200 to remove the word “conibear,” which is a registered trademark. This amendment will have no practical effect on the rule.

Authority: Minnesota Statutes, sections 97B.031, 97B.105, 97B.605, 97B.611, 97B.615, 97B.621, 97B.625, 97B.631, 97B.635, 97B.645, 97B.647, 97B.711, 97B.715, 97B.901, 97B.911, 97B.915, 97B.921, 97B.925, 97B.926, 97B.935, 97B.951

Chapter 6236 Wild Turkeys

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Turkey Hunting, parts 6236.0100 to 6236.1070, regulate the taking of wild turkeys. These rules are necessary to provide definitions, seasons, shooting hours, methods of take, drawing application procedures, permit areas, limits, and registration for wild turkey hunting.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 97A.435, 97B.711, 97B.721, 97B.723, 97B.725

Chapter 6237 Prairie Chickens

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Prairie Chicken Hunting, parts 6237.0100 through 6237.055, regulates the taking of prairie chickens. These rules are necessary to provide definitions, seasons, permit areas shooting hours, methods of take, drawing application procedures, permit areas, and limits for wild turkey hunting.

3. Recommended Changes

The DNR is considering rulemaking changes to part 6237.055 to reflect landscape-level changes that have reduced the amount of prairie chicken habitat in some permit areas. The DNR will collect information to consider before deciding whether to proceed.

Authority: Minnesota Statutes, sections 97A.434, 97A.545, 97B.605, 97B.711, 97B.716

Chapter 6238 Falconry

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Chapter 6238 contains the rules for practicing the sport of falconry, propagating raptors in captivity, and taking raptors from the wild in Minnesota. In order to obtain permission from the U. S. Fish and Wildlife Service (USFWS) for Minnesota to issue a falconry permits, Minnesota regulations must be at least as restrictive as federal regulations. Upon certification by the USFWS, falconry permits in Minnesota will no longer need to be issued and administered jointly by the DNR and by the USFWS Permits Office; they will solely be issued and administered by the DNR.

3. Recommended Changes

The DNR is undergoing rulemaking to amend the entire chapter to conform to the revised federal falconry and propagation regulations, current practices and procedures, and invasive species regulations. The DNR plans to issue a dual notice of intent to adopt the rule amendments. Amendments include modification of permit requirements, permit classes, facilities and equipment standards, rules for take of raptors, propagation standards, and non-native and hybrid raptor practices. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

Authority: Minnesota Statutes, section 97A.401, 97A.418, 84D.06, 84D.08, 97A.025, 97A.045, 97B.105

Chapter 6240 Migratory Birds

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Migratory Game Birds, parts 6240.0100 to 6240.0500, regulate the taking of migratory game birds, except waterfowl and coots and gallinules. This includes rails, snipe, and woodcock. These rules are necessary to provide definitions, seasons, shooting hours, methods of take, and limits for these species.

Migratory Waterfowl, parts 6240.0550 to 6240.2100, regulate the taking of migratory waterfowl. These rules are necessary to provide for open seasons, zones, methods of take, hours, limits, and feeding and resting areas for these species.

Common Crow, parts 6240.2300 to 6240.2600, regulate the taking of common crows. These rules are necessary to provide for open seasons, methods, and areas for taking common crows, consistent with federal law and as required by Minnesota Statutes, section 97B.731, subdivision 3. A separate section of rule is needed because crows are legally classified as protected migratory birds but are not classified as migratory game birds.

3. Recommended Changes

The DNR is undergoing rulemaking to amend parts 6240.0550. The DNR plans to issue a dual notice of intent to adopt rule amendments to require the use of non-toxic shot for rails and snipe.

The DNR is considering undergoing rulemaking to amend part 6240.2300 to allow crow hunting in November and December in order to address depredation issues caused by large flocks of wintering crows.

Authority: Minnesota Statutes, sections 97A.091, 97A.095, 97A.401, 97B.711, 97B.731, 97B.803

Chapter 6242 Shooting Preserves and Game Farms

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Shooting Preserves, parts 6242.0100 through 6242.0400, define shooting preserves and provide for the license requirements and application procedures for shooting operating a shooting preserve. They also identify the posting requirements, marking of released birds, record keeping and annual reporting requirements.

Game Farms, parts 6242.0500 through 6242.1200, define game farms and identify the requirements for a license and conditions of the license. The rules also cover acquisition and sale or disposal of game farm animals, record keeping and annual reporting requirements.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 84.0895, 97A.105, 97A.115, 97A.425

Chapter 6244 Captive Wildlife

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Wildlife Rehabilitation Permits, parts 6244.0400 through 6244.0700, are necessary to provide the standards for the rehabilitation of orphaned, sick, and injured wild animals and to establish a permit system and other criteria for rehabilitation under Minnesota Statutes, sections 97A.401 and 97A.418. The permit process also allows for participation in rehabilitation programs through selected volunteers. This ensures that participants have the required background and knowledge in housing animals under appropriate conditions, provide a high level of humane care for animals, and are protected from injury of disease from animals. The rules also contain record keeping and recording requirements to ensure compliance with rules and statutes.

Rehabilitation Standards, parts 6244.0800 through 6244.1100, establish the accepted conditions or care for the rehabilitation of the animals, release of a rehabilitated animal and disposal of non-releaseable animals. The rules also establish the facility standards to insure safety, sanitation, and animal health.

Administrative Procedures, parts 6244.1100 through 6244.2000, address the transition from permits issued before July 1, 1996 to these rules, classes of permit holders, duration, renewal, variance, and revocation of permits.

Wildlife Exhibits, parts 6244.2100 through 6244.3300, establish the reasonable standards for the care and treatment of captive wildlife for public exhibition purposes, and a permit system for such display under the legislative mandate of Minnesota Statutes, section 97A.041.

3. Recommended Changes

In part 6244.0300, subpart 13, amend the definition of “outshelter permit” to include issuance to Master Wildlife Rehabilitators as well as to “individuals affiliated with an institution.” The need for this is because of the lack of permitted wildlife rehabilitators in the state and the distance that inshelter volunteer assistance have to travel to assist with wildlife rehab at the Master’s facility.

Amend part 6244.0410, subparts 2, item B, subitem 3(a); 3, item B, subitem 3(d); and 4, item B, subitem 3(b), to add wolves to the species that may not be rehabilitated.

Authority: Minnesota Statutes, sections 97A.041, 97A.418

Chapter 6250 Private Fish Hatcheries

1. Rules Recommended for Repeal

None

2. Rationale for Rules

This rule provides for regulation of private fish hatcheries under the same provisions as the aquatic farms under Minnesota Statutes, chapter 17, to protect wild fish stocks from introductions of non-indigenous species, nuisance species, and diseases. The rule is necessary to meet the requirements of Minnesota Statutes, section 97C.211.

3. Recommended Changes

Per Laws 2012, chapter 277, article 1, section 89, the DNR is preparing a report to the legislature on the risks of introducing invasive carp species through fish transportation between waterbodies. The DNR may recommend rule changes in the report. The report will be completed and submitted to the legislature by February 15, 2012.

Chapter 6254 Minnows

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6254.0100 to 6254.0800 regulate the commercial and recreational harvest and transportation of minnows. The regulations are necessary to define license requirements, establish equipment types and use, list water bodies that may not be utilized for these activities, and protect fish health during transportation. These rules were established to meet the requirements of Minnesota Statutes, section 97C.505. The rules allow the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted in a sustainable manner, to prevent the death of target and non-target animals, and to protect wild fish stocks from introductions of non-indigenous species, nuisance species, and diseases.

3. Recommended Changes

Per House File number 2171, article 1, section 89, we are currently in the process of writing a report to the legislature on the risks of introducing invasive carp species through fish transportation between waterbodies. The DNR may recommend rule changes in the report. The report will be completed and submitted to the legislature by February 15, 2012.

The adopted expedited emergency rules currently in place for the use of cisco and smelt as bait will need to be revised and resubmitted by October 2, 2013. We need to clarify how these rules deal with harvest for personal use. We will also need to amend part 6266.0500, subpart 10, in the same manner we amended part 6262.0300 subpart 5.

We will be reviewing the language that directs the use of minnows harvested for personal use based on current invasive species and disease transfer issues and information.

Authority: Minnesota Statutes, sections 17.4988, 84D.12, 97C.505, 97A.151, 97C.211

Chapter 6256 Frogs and Turtles

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Frogs, parts 6256.0050 to 6256.0400, regulate the commercial and recreational harvest of frogs for purposes other than bait. The regulations are necessary to prescribe the taking, importing, and reporting requirements. These rules were established to meet the requirements of Minnesota Statutes, section 97C.601. The rules allow the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted in a sustainable manner, and to protect wild stocks from introductions of non-indigenous species.

Turtles, parts 6256.0500 to 6256.0600, regulate the commercial and recreational harvest of turtles. The regulations are necessary to prescribe the taking of turtles and establish equipment types and use. These rules were established to meet the requirements of Minnesota Statutes, section 97C.605. The rules allow the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted in a sustainable manner, and to prevent deaths of target and non-target animals.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 97C.601, 97C.605, 97C.621, 97C.611, 17.4997

Chapter 6258 Mussels

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6258.0100 to 6258.0900 regulate the commercial and recreational harvest of mussels. The regulations are necessary to define permit requirements, seasons, harvest operations, and reporting. These rules were established to meet the requirements of Minnesota Statutes, sections 97C.701 and 97C.705. The rules allow the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted in a sustainable manner, and to protect wild stocks from introductions of non-indigenous species, nuisance species, and diseases.

3. Recommended Changes

None

Authority: Minnesota Statutes, sections 97C.701, 97C.705, 97C.711, 97A.045

Chapter 6259 Crayfish

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6259.0100 to 6259.1000 regulate the commercial and recreational harvest of crayfish. The regulations are necessary to define permit and license requirements, taking, importing, transporting, disposal, culture, and selling. These rules were established to meet the requirements of Minnesota Statutes, section 97C.871. The rules allow the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted in a sustainable manner, and to protect wild stocks from introductions of non-indigenous species, nuisance species, and diseases.

3. Recommended Changes

We need to consider changing the minimum mesh size in part 6259.0100, subpart 2, item B, to be consistent with material currently used for minnow trapping. This would allow trappers to use the same equipment and be consistent with what they like to use to catch crayfish.

Authority: Minnesota Statutes, sections 97C.871 and 97A.418

Chapter 6260 Commercial Fishing Operations

1. Rules Recommended for Repeal

We need to repeal part 6260.1500 because Namakan Lake is now entirely within the boundaries of Voyageurs National Park, where commercial fishing is not allowed and the only commercial angler “grandfathered in” to fish that lake no longer has a state license.

2. Rationale for Rules

Commercial Fishing General Restrictions, parts 6260.0100 to 6260.1300, regulate the commercial taking of fish. The regulations are necessary to define permit and license requirements, reporting, and operating procedures. These rules were established to meet the requirements of Minnesota Statutes, section 97C.345. The rules allow the DNR to ensure that these activities are conducted to maximize removal of commercial fish species in a safe manner, to protect non-target animals, and to minimize user conflicts.

Gear for Taking Rough Fish, part 6260.1400, establishes gear specifications for commercially taking rough fish. This rule was established to meet the requirements of Minnesota Statutes, section 97C.345. The rules allow the DNR to ensure that these activities are conducted to maximize removal of commercial fish species and to protect non-target animals.

Commercial Fishing in International Waters, parts 6260.1500 to 6260.1700, regulate the commercial taking of fish and commercial operations on international waters of Namakan Lake, Sand Point Lake, Rainy Lake, and Lake of the Woods. These rules were established to meet the requirements of Minnesota Statutes, section 97C.345. The rules allow the DNR to ensure that these activities are conducted to maximize removal of commercial fish species in a safe manner, to protect non-target animals, and to minimize user conflicts.

Commercial Fishing on Lake Superior, part 6260.1900, regulates the commercial taking of fish and commercial operations on Lake Superior. These rules were established to meet the requirements of Minnesota Statutes, sections 97C.345 and 97C.835. The rules allow the DNR to ensure that these activities are conducted to maximize removal of commercial fish species in a safe manner and to minimize user conflicts.

Commercial Fishing on Inland Mississippi River, part 6260.1900, regulates the commercial taking and commercial operations on the inland portions of the Mississippi River. This rule was established to meet the requirements of Minnesota Statutes, section 97C.345. The rules allow the DNR to ensure that these activities are conducted to maximize removal of commercial fish species in a safe manner and to protect non-target animals.

Commercial Fishing on Inland Waters, part 6260.2000, regulates commercial fishing operations on inland waters of the state. This rule was established to meet the requirements of Minnesota Statutes, section 97C.345. The rule allows the DNR to manage these activities to preserve adequate populations, to ensure that these activities are conducted to maximize removal of commercial fish species, to protect non-target animals, and to minimize user conflicts.

General Provisions for Commercial Fishing Operations, parts 6260.2100 to 6260.2200, regulate the intensity and timing of commercial fishing efforts. These rules were established to meet the

requirements of Minnesota Statutes, section 97C.345. The rules allow the DNR to ensure that satisfactory efforts to take commercial fish species are met and establish circumstances for non-compliance and license revocation.

Inland Commercial Fishing Areas, parts 6260.2300 through 6260.2400, establish commercial fishing areas within Indian reservations and throughout the state. These rules were established to meet the requirements of Minnesota Statutes, section 97C.815. The rules allow the DNR to protect non-target animals, to minimize user conflicts, and to ensure that adequate removal of commercial fish species is accomplished.

3. Recommended Changes

The DNR should change 6260.0500, subpart 1, to require 48-hour notification prior to the start of each operation. This is especially important on waterbodies with invasive species.

The DNR is reviewing the language in 6260.0800 to determine the disposition of non-licensed species. The industry has asked the DNR to modify the language in 6260.1400. They would like to see a reduction in the amount of seine that must be 3-inch-stretch.

Many of the core waters designated in part 6260.2400 have not had commercial fishing licensees. Consequently, it is time to review the language in 6260.1700 and 6260.2400 to remove areas like Lake of the Woods to ensure the core waters are properly identified and possibly redraw boundaries.

Authority: Minnesota Statutes, sections 97C.801, 97C.811, 97C.345, 97C.815, 97C.821, 97C.825, 97C.827, 97C.831, 97C.835, 97C.841, 97C.845, 97C.851, 97A.045

Chapter 6262 Fishing Regulations and Requirements

1 Rules Recommended for Repeal

The DNR is repealing part 6262.0600, subpart 2, and portions of 6262.0200 dealing with Lake Superior, through rulemaking. The language in part 6262.0600 is obsolete due to a change in statute related to bowfishing. The repeals dealing with Lake Superior are being done to move those regulations all into the Lake Superior section so that the rules are more understandable and easier to find. Further information on the proposed rules can be found on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

We need to repeal part 6262.0500, subpart 2a, item B, because it is obsolete. This rule expired March 1, 2008.

We need to repeal a portion of part 6262.0500, subpart 2a, item A, because the closure to possession of fish ended on February 28, 1998. The other regulations need to be kept and possibly moved to another location.

2. Rationale for Rules

General Restrictions, parts 6262.0100 to 6262.0575, regulate recreational fishing on inland waters and Lake Superior. The rules are necessary to restrict the taking of fish, to set seasons and limits, to establish equipment restrictions and use, and to create lists of water bodies that are closed to recreational fishing and with restrictions on taking fish. These rules assist the DNR in the management of these resources to provide for a quality fishery, to preserve adequate populations of fish, and to ensure that these activities are conducted in a sustainable manner.

Rough Fish, parts 6262.0600 to 6262.0750, regulate the seasons, methods for taking, and possession of rough fish on inland waters. These rules assist the DNR in the management of these resources to provide for a quality fishery, to preserve adequate populations of fish, and to ensure that these activities are conducted in a sustainable manner.

Whitefish and Ciscoes, parts 6262.0800 to 6262.0850, regulate the seasons, equipment, and methods for the recreational netting of whitefish and ciscoes in inland waters and on the Leech Lake reservation. These rules assist the DNR in the management of these resources to provide for a quality fishery, to preserve adequate populations of fish, and to ensure that these activities are conducted in a sustainable manner.

Lake Superior Fishing Guides, parts 6262.3000 through 6262.3050, regulate people who provide guide services for fishing on Lake Superior. These rules are necessary to assure that guide activities are managed to protect fish and fish habitat and for the safety of participants.

Marking of Fish Nets, part 6262.3100, regulates the requirements that must be met by people who set nets. This rule was adopted to meet the requirements of Minnesota Statutes, section 97C.351. This rule is necessary to assure that the net is being set by a legal operator and for the safety of other participants.

Packing and Transporting Fish, parts 6262.3150 to 6262.3300, regulate how people and commercial businesses must pack and transport fish. These rules assist the DNR in the enforcement of the laws that govern the taking of fish once a person has reduced the fish to their possession.

3. Recommended Changes

The DNR is in the process of amending Chapter 6262, covering a variety of existing rules relating to fishing on Lake Superior and its tributaries, making border waters rules consistent with the bordering state, and making northern pike rules consistent with legislative changes. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

Authority: Minnesota Statutes, sections 14.386, 17.4983, 97A.045, 97A.445, 97A.551, 97B.055, 97C.001, 97C.005, 97C.041, 97C.205, 97C.211, 97C.311, 97C.315, 97C.351, 97C.345, 97C.355, 97C.375, 97C.376, 97C.381, 97C.395, 97C.401, 97C.405, 97C.411, 97C.415, 97C.805, 97C.811, 97C.821, 97C.865

Chapter 6264 Designated Waters

1. Rules Recommended for Repeal

The DNR is using the rulemaking process to repeal parts 6264.0300 and 6264.0400 relating to northern pike bag limits and catch-and release regulations. -These rules are being moved to part 6262.0575.

2. Rationale for Rules

Designated Trout Lakes and Streams, part 6264.0050, places restrictions on fishing in these water bodies and establishes a list that describes those lakes and streams so designated. This rule is necessary to protect fish and foster the propagation of trout.

Muskellunge Waters, part 6264.0200, establishes a list of water bodies with restrictions on spearing and end dates for that restriction. It also provides a list of water bodies with size restrictions but allows spearing until a specified end date. This rule was adopted to meet the requirements of Minnesota Statutes, section 97C.011. This rule is necessary to protect fish and to manage these resources for a quality fishery.

Experimental and Special Management Waters, parts 6264.0250 to 6264.0400, ensures adequate opportunity for public involvement in the initiation, designation, and evaluation of experimental or special fishing regulations adopted under Minnesota Statutes, sections 97C.001 and 97C.005. These rules also establish a listing of the special and experimental regulations, lists of water bodies to which the regulations apply, and the associated end dates. These rules assist the DNR in the management of these resources to meet a specific fisheries objective and provide for a quality fishery.

3. Recommended Changes

The DNR is undertaking exempt rulemaking under Minnesota Statutes, sections 97C.001 and 97C.005, to amend parts 6264.0400 and 6264.0300 for those waterbodies that are up for review or are being considered for management of a certain species.

Authority: Minnesota Statutes, sections 97A.001, 97C.001, 97C.005, 97C.011

Chapter 6266 Boundary Waters Fishing Regulations

1. Rules Recommended for Repeal

The DNR is using rulemaking to repeal part 6266.0400, subparts 9 and 13, related to liberalized fishing and waters closed to fishing on the South Dakota border waters. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

2. Rationale for Rules

Parts 6266.0100 to 6266.0700 establish requirements for recreational and commercial taking of fish and other animals on those waters that border Minnesota. The rules are necessary to establish for each state and Canada a list of the waters that these regulations apply to and establish regulations on the taking, seasons, limits, and equipment for border waters. These rules assist the DNR in the management of these resources and provide for consistent regulations on border waters, provide for a quality fishery, preserve adequate populations of fish, and ensure that these activities are conducted in a sustainable manner.

3. Recommended Changes

The DNR is undergoing rulemaking to amend those portions of Chapter 6266 that deal with bowfishing. These changes are being made to bring them into compliance with the new statute language. The proposed rules can be found on the DNR's web site: <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

Authority: Minnesota Statutes, section 97A.045, 97A.401, 97C.001, 97C.005, 97C.395, 97C.401

Chapter 6270 Aquatic Management Areas

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Parts 6270.0050 to 6270.0200 establish the posting requirements and lists of allowed and prohibited activities on aquatic management areas. It is necessary to meet the requirements of Minnesota Statutes, section 86A.06. These rules provide for the proper administration of the parcels to protect critical habitat for the production of fish, wildlife, and other aquatic species and to provide angler or management access.

3. Recommended Changes

None

Authority: Minnesota Statutes, section 86A.06

Chapter 6280 Aquatic Plant Management and Nuisance Control

1. Rules Recommended for Repeal

A current rulemaking effort proposes to eliminate language in part 6280.0250, subpart 4, item D. A copy of the proposed rule change is available on the DNR website at <http://www.dnr.state.mn.us/input/rules/rulemaking.html>.

2. Rationale for Rules

Parts 6280.0100 to 6280.1200 describe how the DNR fulfills its obligation to protect aquatic plants and wild animals while allowing riparian owners to gain access and use of public waters. The rules ensure that those control activities that are allowed to maintain access are done safely and in a manner that does not unduly harm valuable fish and wildlife resources.

Protecting aquatic plants is necessary because they are essential components of most freshwater ecosystems. Aquatic plants represent the base of the food chain in lakes. The structure they provide in shallow water habitats is important to many members of both the aquatic and terrestrial community. They also perform important functional roles in lakes; stabilizing sediments, cycling nutrients and preventing shoreline erosion.

Minnesota Statutes, section 84.091, subdivision 1, establishes that aquatic plants growing in public waters belong to the state. Minnesota Statutes, section 103G.615, authorizes the commissioner of natural resources to issue permits with or without fee to gather or harvest aquatic plants or plant parts, transplant aquatic plants, destroy harmful or undesirable aquatic vegetation or organisms and by rules prescribe standards for such permits. Standards for the issuance of permits must be consistent with shoreland conservation ordinances, lake management plans and programs, and wild and scenic river plans (Minnesota Statutes, section 103G.615, subdivision 3). Minnesota Statutes, section 103A.202, states that it is in the public interest to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, enhance the natural beauty of the landscape, and promote comprehensive and total water management planning.

3. Recommended Changes:

None

Authority: Minnesota Statutes section 103G.615

Chapter 6282 Ginseng

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Wild ginseng is listed in the *Convention on International Trade in Endangered Species of Flora and Fauna* (CITES). In order for Minnesota ginseng to be certified for export, the state must have specific rules in place to ensure that continued harvest does not threaten the species. These rules must comply with federal guidelines established by the U.S. Fish and Wildlife Service. The current rules comply with those guidelines.

3. Recommended Changes

None

Authority: Minnesota Statutes, section 84.093

Chapter 6284 Wild Rice

1. Rules Recommended for Repeal

None

2. Rationale for Rules

These rules regulate the harvest of wild rice. They are necessary to specify additional restrictions on methods for harvesting, to specify restrictions on federally designated areas and wildlife management areas, and to establish regulations for harvesting wild rice on public waters within reservations.

Recommended Changes

None

Authority: Minnesota Statutes, section 84.152

Chapter 6287 Quarantine Facilities

1. Rules Recommended for Repeal

None

2. Rationale for Rules

Minnesota Statutes, section 17.496, requires the commissioner of natural resources to adopt rules for the construction and operation of a quarantine facility for fish eggs requiring quarantine and the disposition of fish from such a facility. Minnesota Rules, parts 6287.0100 to 6287.0900, specify design criteria, operational procedures, and release protocol. The rules are needed to minimize introducing emergency fish diseases to the naturalized fishery resources of Minnesota while providing an opportunity for importing fertilized fish eggs from emergency disease-restricted areas and areas with unknown fish health history

3. Recommended Changes

None

Authority: Minnesota Statutes, section 17.496

Chapter 6290 Fish and Wildlife Stamp Design Contests

1. Rules Recommended for Repeal

None

2. Rationale for Rules

These rules establish procedures for selecting designs for fish and wildlife stamp contests. They are necessary because Minnesota Statutes, section 97A.045, subdivision 7, requires the DNR to make rules governing contests for selecting the design of stamps. They establish definitions, application procedures, design standards, judging procedures, and rights to use of images resulting from the contests.

3. Recommended Changes

None

Authority: Minnesota Statutes, section 97A.045, subd. 7(b)