

Minnesota Department of Natural Resources

Division of Fish and Wildlife

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, And Notice of Hearing If 25 or More Requests For Hearing Are Received

Proposed Amendment to Rules Relating to Electronic Licensing, *Minnesota Rules*, 6213.0100 to 6213.0800

Introduction. The Department of Natural Resources (DNR) intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on December 31, 2009, the DNR will hold a public hearing on Tuesday, January 19, 2010, at the DNR Central Office, 500 Lafayette Road, St. Paul, Minnesota 55155 at this time:

2:00 p.m. in the Sixth Floor Conference Room

To find out whether the DNR will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after December 31, 2009, and before January 19, 2010.

Agency Contact Person. Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Ka Vang at the Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4026, 651-355-0141, Fax 651-297-8851, and ka.vang@state.mn.us. TTY users may call the DNR at 651-296-5484 or 1-800-657-3929.

Subject of Rules and Statutory Authority. Minnesota Statutes, section 84.027, subdivision 15 (a) (6) authorizes the Department to adopt rules for Electronic Licensing. The proposed rules cover a variety of areas pertaining to the sales of game and fish licenses through the Electronic License System as authorized in Minnesota Rules, 6213.0100 to 6213.0800, including:

Definitions

- Clarify: Expand the definition of "electronic licenses" to include any future licenses, passes, permits, etc. that may be added to the Electronic Licensing System (ELS).

Current Citation: Minnesota Rules, part 6213.0100

Selection of Agents

- Add: Business hours of operation for the entire year as a factor to be considered during selection process to ensure customer access to the ELS.

Current Citation: Minnesota Rules, part 6213.0310

Terms of Agent Contract

- Clarify: The hours of operations provided by the Agent during the selection process are for the duration of the contract.
- Add: Due to changes in technology, communication connections and electrical needs for Agent have changed, so a phone line will not be the only connection option to the new ELS system.

- Clarify: The deposit of up to \$500 is required per set of equipment.
- Add: The Agent's deposit will be used towards the replacement of the Point of Sale terminal if the terminal is not returned within 30 days of cancellation of the contract, in order to help provide new Agents with terminals in a timely manner.
- Add: An Agent's deposit may be applied to any outstanding debt owed to DNR.
- Add: An Agent must provide a location for the ELS equipment that protects it from damage and unauthorized use.
- Add: ELS data may only be used in the normal course of business for the use of processing ELS transactions.
- Change in statute: Match current statute that allows a 3% fee to be collected by Agent when customers use a bankcard and to allow for future changes.

Current Citation: Minnesota Rules, part 6213.0400

Duration of Agent Contract; Transferability

- Clarify: A request for termination of the contract by the Agent or a cancellation or suspension by DNR will be provided in writing.
- Clarify: Any change in operation (such as hours, type of business, or ownership) must be provided in writing to DNR. Changes in operation could affect customer access or representation of the DNR.
- Clarify: If there is a change in ownership, the new owner must submit a new application. Changes in operation could affect customer access or representation of the DNR.

Current Citation: Minnesota Rules, part 6213.0410

Forfeiture or Suspension of Contract

- Add: Agent contract may be canceled due to low sales volume, because it is important to get equipment distributed to the best locations to serve the public.
- Add: Agent contract may be canceled due to misuse of ELS data.

Current Citation: Minnesota Rules, part 6213.0420

Sale of Electronic Licenses

- Change in statute: Current rule does not allow for a change in residency requirements. Change rule to allow for future changes to statutes regarding residency.

Current Citation: Minnesota Rules, part 6213.0500

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed or may be accessed at <http://www.dnr.state.mn.us/input/rules/els/index.html>. A free copy of the rules is also available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Thursday, December 31, 2009, to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the DNR hold a hearing on the rules. You must make your request for a public hearing in writing, which must be

received by the agency contact person by 4:30 p.m. on Thursday, December 31, 2009. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the DNR will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, the DNR can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The DNR may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the DNR follows the procedure under Minnesota Rules, part 1400.2110. If the proposed rules affect you in any way, the DNR encourages you to participate in the rulemaking process.

Cancellation of Hearing. The DNR will cancel the hearing scheduled for January 19, 2010, if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at 651-355-0141 after December 31, 2009, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the DNR will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The DNR will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Eric L. Lipman is assigned to conduct the hearing. Judge Lipman can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone 651-361-7842, and FAX 651-361-7936.

Hearing Procedure. If the DNR holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested

person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by Minnesota Rules, parts 1400.2000 to 1400.2240, and Minnesota Statutes, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. The statement of need and reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. A copy of the SONAR is also posted on the DNR website at <http://www.dnr.state.mn.us/input/rules/els/index.html>.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The DNR will submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Date

11/2/09

, 2009

Mark Holsten

Commissioner of Natural Resources