

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENFORCEMENT

DIRECTIVE

DIRECTIVE NUMBER: O-22-24

SUBJECT: SEIZURE, CONFISCATION, FORFEITURE AND DISPOSAL OF PROPERTY UNDER NATURAL RESOURCE LAWS

EFFECTIVE DATE: Oct. 9, 2024

SPECIAL INSTRUCTIONS: POST Board Mandated Policy –Reviewed Annually

APPENDIX: None

REFERENCE: MN Statutes: 97A.055, 97A.221, 97A.223, 97A.225, 97A.501, 97B.021, 97B.645. Subd. 7, 97C.355, 16B.25, 84.091, 84.0895, 84.49, 84D.05, 88.642, 347.54 and others. MN Rules 6243.2800 and 6100.1650. Directives A-13, 0-4, 0-6, 0-11.

DISTRIBUTION: All Conservation Officers

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This directive is for division use only and does not modify or supersede any law and should not apply to any criminal or civil proceeding except for civil proceedings related to departmental administrative actions. This directive should not be viewed as creating a higher standard of safety or care in any evidentiary sense. Violations of this directive may form the basis for departmental administrative action.

I. PURPOSE

This directive provides guidance and direction to officers regarding the seizure, confiscation and forfeiture of motor vehicles, wild animals, firearms, contraband, and other property under the game and fish laws and other natural resource related provisions in law.

II. POLICY

It is the policy of the division to consistently pursue confiscation and forfeiture of motor vehicles, wild animals, firearms, contraband, and other property consistent with state and federal law. In addition, this policy provides for the safe storage and proper disposal of property.

III. DEFINITIONS

A. Confiscation/forfeiture: the transfer of ownership to the state. The state cannot claim ownership by confiscation/forfeiture without a legal authority that provides the specific ownership transfer. Confiscation/forfeiture authority processes can be either administrative or judicial.

- B. Contraband:** any wild animal, wild rice, aquatic vegetation, or object that is unlawful to possess under Minnesota law or any federal law that officers are authorized to enforce. Contraband shall be seized and not returned, unless otherwise ordered by the court.
- C. Courts:**
- a. District court is the correct venue for property disputes, including forfeitures and confiscations.
 - b. Conciliation court or civil court filings and procedures may be used in addition to specific procedures provided in law.
- D. Juvenile:** under the provisions of Minn. Stat. Sec. 260B.245, subd. 1, cases adjudicated in juvenile court will not result in forfeitures or other civil penalties or penalty enhancements unless specifically ordered by the court.
- E. Property:** all tangible items, including but not limited to wild animals, contraband, equipment, vehicles, and other evidence that are taken into custody by an officer in the course of the officer's duties.
- F. Prosecuting authority:** county attorneys (per 97A.201 subd. 3), are the primary prosecuting authority for violations under statute 97A.205, paragraph (a), clause (5). Prosecution includes associated civil forfeiture actions provided by law.
- G. Retention period:** 90 days after final court disposition or 90 days from the date of seizure whichever is longer. Unless authorized by the director.
- H. Seizure:** the act of temporarily taking possession of property pursuant to an officer's legal authority provided by statute.

IV. OWNERSHIP

- A. Ownership of wild animals (97A.025). The ownership of wild animals of the state is in the state, in its sovereign capacity for the benefit of all the people of the state. A person may not acquire a property right in wild animals, or destroy them, unless authorized under the game and fish laws or sections [17.47](#) to [17.498](#).
- B. Aquatic vegetation in public waters (84.091 Subd 1). The state is the owner of wild rice and other aquatic vegetation growing in public waters. A person may not acquire a property interest in wild rice or other aquatic vegetation or destroy wild rice or aquatic vegetation, except as authorized under this chapter or section [103G.615](#).

V. SEIZURE/CONFISCATION AUTHORITIES

- A. 88.642 Decorative materials (summary).
Officers may seize decorative materials that are unlawfully possessed. These decorative items are deemed contraband and may be sold by the department to a licensed bough buyer. If harvested from forest lands administered by the commissioner, the sale proceeds are deposited into the Forestry Bough Account. If harvested on other lands (private, county or federal) the property is returned to the landowner and we do not sell it.

- B. 97A.221 seizure and confiscation of property.
Subd 1. Property subject to seizure and confiscation.
- a. An enforcement officer may seize:
 - (1) wild animals, wild rice, and other aquatic vegetation taken, bought, sold, transported, or possessed in violation of the game and fish laws or chapter 84 or 84D;
 - (2) firearms, bows and arrows, nets, boats, lines, poles, fishing rods and tackle, lights, lanterns, snares, traps, spears, dark houses, fish houses, and wild rice harvesting equipment that are used with the owner's knowledge to unlawfully take or transport wild animals, wild rice, or other aquatic vegetation and that have a value under \$1,000 are subject to this section.
 - b. An item described in paragraph (a), clause (2), that has a value of \$1,000 or more is subject to the provisions of section [97A.225](#).
 - c. An enforcement officer must seize nets and equipment unlawfully possessed within ten miles of Lake of the Woods or Rainy Lake.
- C. 97A.223 Seizure and administrative forfeiture of certain firearms and abandoned property.
Subd 1. Property subject to seizure and forfeiture.
An enforcement officer must seize:
- (1) firearms possessed in violation of state or federal law or court order; and property described in section [97A.221, subdivision 1](#), where no owner can be determined.
- D. 97A.225 Seizure and confiscation of motor vehicles and boats.
Subd 1. An enforcement officer must seize all motor vehicles used to:
- (1) shine wild animals in violation of section [97B.081, subdivision 1](#);
 - (2) transport big game animals illegally taken, or fur-bearing animals illegally purchased; or
 - (3) transport minnows in violation of section [97C.501](#), [97C.515](#), or [97C.525](#).
 - (b) An enforcement officer must seize all boats and motors used in netting fish on Lake of the Woods, Rainy Lake, Lake Superior, Namakan Lake, and Sand Point Lake in violation of licensing or operating requirements of section [97A.475, subdivision 30](#), [97C.825](#), [97C.831](#), or [97C.835](#), or a rule of the commissioner relating to these provisions.
 - (c) An enforcement officer may seize all boats and motors with their trailers that are used to take, possess, or transport wild animals when the restitution value of the wild animals exceeds \$500.
- E. 97B.021 Possession of firearms by persons under age 16.
Subd 1. Restrictions.
- (a) Except as provided in this subdivision, a person under the age of 16 may not possess a firearm, unless accompanied by a parent or guardian.
 - (b) A person under age 16 may possess a firearm without being accompanied by a parent or guardian:
 - (1) on land owned by, or occupied as the principal residence of, the person or the person's parent or guardian;

- (2) while participating in an organized target shooting program with adult supervision;
- (3) while the person is participating in a firearms safety program or traveling to and from class; or
- (4) if the person is age 14 or 15 and has a firearms safety certificate.

Subd. 1a. Parent or guardian duties.

A parent or guardian may not knowingly direct, allow, or permit a person under the age of 16 to possess a firearm in violation of this section.

Subd. 2. Seizing unlawfully possessed firearms.

A law enforcement officer shall seize a firearm used in violation of this section. The officer must tag the seized firearm with the name and address of the person from whom it was taken and give the person a receipt. The firearm shall be placed in the custody of the conservation officer in charge of the area where the seizure was made.

F. Gray wolf. Officers shall seize any salvageable gray wolf or remains. Per directive O-14.

G. State lands (use/storage/abandonment)

State Trails	6100.3800, subp.3
State Parks and State Forest Lands	6100.1650, subp.3
State Wildlife Management Areas	6230.0250
BWCA	6140.0800, subp. 1
State Public Water Access	6218.0100, subp. 9

**The 90-day division retention period supersedes any statute time in the rule if there is one listed.

VI. NATURAL RESOURCES CONFISCATION/FORFEITURE

A. Forfeiture limitations

Property may not be confiscated/forfeited if one of the following conditions exist:

- 1. Must have a conviction. Game and Fish confiscations under 97A.221 subd 3 are based on a conviction. NOTE: Game and Fish revocations under 97A.412 are based on conviction.
- 2. Juvenile court adjudications are not convictions, 260B.245 subd 1 explains adjudications are not deemed a conviction.

B. Field initiated requirements

- 1. Seizure tag. A seizure tag shall be completed for all property seized. Similar items may be documented under the seizure tag. Example: One seizure tag may be used for 10 sunfish. Items with the potential for different dispositions shall have their own bar code seizure tag. Evidence documentation procedures shall be followed per directive O-11.

2. Motor vehicles. Officers shall receive approval from a supervisor prior to the seizure and/or towing of a motor vehicle.
3. Towing (if applicable). After supervisory approval, a motor vehicle or watercraft is seized and towed a division tow sheet/impound inventory form will be completed (document found under forms in PowerDMS). Tow invoices shall be uploaded to the Initial Complaint Report (ICR) and a copy sent to the regional office by the primary officer.
4. Lien status. Officers shall check the lien status of a motor vehicle by performing a records check using the CJIS database with a QML search. Officers shall also verbally check/verify lien information with the operator/owner.
5. Forfeiture checklist (necessary for game and fish over \$1,000 and felon possess firearm). Officers will complete the division forfeiture checklist and upload it to the ICR. The officer will continue to update the document as steps are verified and completed. (Document located under forms in PowerDMS)
6. Notice game and fish seizure and intent to confiscate/forfeit property. Officers shall serve the driver or operator of the vehicle and any person known to have an ownership, possessory, or security interest in the motor vehicle and or watercraft or items valued at over \$1,000 or more with this form (document located in PowerDMS) at the time of seizure if possible and in no case later than 24 hours of arrest, in all other cases by the end of the next calendar day, unless the officer will not be on duty the next day, in which case the submission must be completed before the officer goes off duty. A notice sent by certified mail to the registered owner's address shown in Department of Public Safety (DPS) records is considered sufficient notice.
7. ICR. Officers will complete an ICR and enter property as required in Directive O-11 Property and Evidence Standards and A-13 Written Report Requirements. The appropriate forfeiture game and fish custom attribute shall be checked.
8. Flagging of motor vehicle title
 - a. DPS registered vehicle: If a motor vehicle is seized that is registered under Minn. Stat. Chapter 168, the officer shall notify the DPS, Driver and Vehicle Services Division, that the vehicle is subject to forfeiture and ask them to "flag" the title by placing a note on the DPS copy of the vehicle forfeiture form included in the BCA E charging documents so that no additional liens may be placed against the vehicle.
 - b. Department of Natural Resources (DNR) registered vehicle: If the vehicle is an OHV or motorboat, the officer shall notify the administrative captain who shall then request the DNR license center flag the registration record as subject to forfeiture.

VII. STORAGE OF SEIZED PROPERTY

- A. All property (other than motor vehicles and watercraft) shall be stored in a secure area that will protect it from damage and maintains property chain of custody per directive

O-11.

- B. Motor vehicles and watercraft. The officer will arrange for secure storage at a DNR or other law enforcement facility to minimize storage costs. If the vehicle was towed to a commercial impound lot, the vehicle shall be moved to a state owned or other low-cost secure facility within 48 hours. If the vehicle is to be stored over winter, district supervisors shall ensure it is properly winterized. Storage invoices shall be uploaded to the ICR and a copy provided to the regional office by the primary officer.

VIII. RELEASE OF PROPERTY

Prior to the releasing of a motor vehicle or watercraft, the officer or their supervisor will ensure that the owner or authorized agent by the owner signs the division tow sheet/impound inventory form release authorization section.

In all other releasing of property, the officer or their supervisor will ensure that the division seizure return and acknowledgement form (in division forms folder) is completed. Other property releasing options include:

- A. Bond by owner. A request to release property by bond by the owner or person having legal right to possess shall be forwarded to the supervisor. The supervisor shall consult with their regional or program manager for guidance to facilitate the return. 97A.225 Subd. 4. Releasing property after posting bond. At any time after seizure of the property specified in this section, the property must be returned to the owner or person having the legal right to possession upon execution of a valid bond to the state with a corporate surety. The bond must be approved by a judge of the court of jurisdiction, conditioned to abide by an order and judgment of the court and to pay the full value of the property at the time of seizure. The bond must be for \$100 or for a greater amount not more than twice the value of the property seized.
- B. Court order. If the court orders property to be returned, the officer shall notify their supervisor to facilitate the return. 97A.225 Subd. 5

(a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and:

- (1) order it returned to the person legally entitled to it; and
- (2) order the commissioner to reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as

provided for publication of a summons in a civil action.

Subd. 6. Court-ordered sale after no answer. If an answer is not filed within the time provided in subdivision 5, the court administrator shall notify the court and the court shall order the commissioner to sell the property. The net proceeds of the sale shall be deposited in the state treasury and credited to the game and fish fund.

Subd. 7. Hearing after answer. If an answer is filed within the time provided in subdivision 5, the court shall schedule a hearing within 10 to 30 days after the time expired for filing the answer. The court, without a jury, shall determine whether any of the property was used in a violation specified in the complaint and whether the owner had knowledge or reason to believe that the property was being used, or intended to be used, in the violation. The court shall order the commissioner to sell the property that was unlawfully used with knowledge of the owner and to return to the owner property that was not unlawfully used with the knowledge of the owner. If the property is to be sold, the court shall determine the priority of liens against the property and whether the lienholders had knowledge that the property was being used or was intended to be used. Lienholders that had knowledge of the property's use in the violation are not to be paid. The court order must state the priority of the liens to be paid.

IX. DISPOSAL AUTHORITY

- A. 97A.221 Subd. 4 Disposal of confiscated property.
Confiscated property may be disposed of or retained for use by the commissioner or sold at the highest price obtainable as prescribed by the commissioner. Upon acquittal or dismissal of the charged violation for which the property was seized:
- (1) all property, other than contraband consisting of a wild animal, wild rice, or other aquatic vegetation, must be returned to the person from whom the property was seized; and
 - (2) the commissioner shall reimburse the person for any seized or confiscated property that is sold, lost, or damaged.
- B. 97A.223 Certain firearms and unknown owner.
Subd. 5. Disposal of forfeited property.
Forfeited property under this section may be disposed of as contraband according to section [97A.221, subdivision 4](#).
- C. 97A.225 Seizure and confiscation of motor vehicles and boats.
Subd. 3. Complaint against property. The commissioner shall file with the court a separate complaint against the property held. The complaint must identify the property, describe its use in the violation, and specify the time and place of the violation. A copy of the complaint must be served upon the defendant or the owner of the property.
- D. 97B.021 Subd. 3. Return or forfeiture of seized firearms.
A firearm seized under this section must be returned to the person from whom it was seized when the person presents a firearms safety certificate to the conservation officer. The person must present the certificate within 90 days after the beginning of the first firearms training course in the county after the firearm was seized. If the

person does not present a certificate, the firearm is contraband and forfeited to the state, and shall be disposed of as prescribed by the commissioner.

E. 97C.355 Shelters on ice; dark houses and fish houses. (Summary)

Subd. 7. Shelters prohibited; dates and times.

(a) A shelter, including a fish house or dark house, may not be on the ice unattended between midnight and one hour before sunrise after the removal deadline.

A shelter, including a fish house or dark house, on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b).

(b) A conservation officer must confiscate a fish house, dark house, or shelter in violation of paragraph (a). The officer may remove the house or shelter. The officer shall seize the contents of the house or shelter and store and dispose of the property per the appropriate section of this directive.

Houses or shelters valued under \$1000 may be disposed of under 97A.221. Houses or shelters valued over \$1000, follow procedures outlined in 97A.225 subp. 3 complaints against property. This provision does not prevent the officer from returning seized item(s) after consultation with their supervisor and appropriate forms are completed.

Subd. 8. Confiscating unlawful structures; civil penalty.

(a) Structures on the ice in violation of this section may be confiscated and disposed of, retained by the division, or sold at the highest price obtainable, in a manner prescribed by the commissioner.

(b) In addition to other penalties provided by law, the owner of a structure left on the ice in violation of this section is subject to a civil penalty under section [115A.99](#).

(c) This subdivision also applies to structures left on state public access sites for more than 48 hours past the deadlines specified in subdivision 7.

X. DISPOSAL OF PROPERTY AFTER FINAL CASE DISPOSITION

Property retained for division use requires supervisor approval and must be documented on the proper officer or station inventory.

Natural resources.

Efforts shall be made by the officer to maximize the use of natural resources that are confiscated/forfeited by officers. The gifting of natural resources shall be determined based on the property's suitability for its intended use.

Natural resources may be gifted in accordance with state and federal laws, division directives, and department operational orders. When gifting property that is intended for personal use, the health and safety of the public shall be the overriding principle in making the determination of its suitability.

Officers shall never use confiscated/forfeited natural resources for personal use, consumption, or gain, gift any property to a family member, or gift any property to an individual or group that may be deemed a conflict of interest. Officers are encouraged to

give salvageable game and fish to charitable organizations. Required possession permits shall be issued.

A. Wild animal/wild rice/aquatic vegetation.

Certain property seized under 97A.221 may be disposed of immediately. The 90-day division standard retention policy does not apply to this section.

1. Fish and game that an officer believes is suitable for personal use.
2. Furs (except gray wolf) may be
 - a. Gifted or sold to either:
 1. A licensed fur buyer license under statute 97B.905 or
 2. A licensed taxidermist license under statute 97A.475 Subd.19.
 - b. Fisher, bobcat, pine marten and otter must have the appropriate registration or CITES tag attached before sale.
3. Payment for fur eligible to be sold shall be done by check or money order made payable to the Department of Natural Resources. The check or money order shall have the associated ICR number, and a description of item(s) sold and shall be sent to the regional enforcement office within 3 days of the sale.
4. Federally listed endangered and threatened species shall be disposed of as directed by the U.S. Fish and Wildlife Service.
5. Live animals may be released if their survival is likely. Those that are seriously injured should be destroyed. Specimens likely to survive with care may be turned over to a DNR Fish and Wildlife employee, the University of Minnesota Raptor Center, the Wildlife Rehabilitation Center of Minnesota, or a person with appropriate rehabilitation permit.
6. Animals may be transferred to a zoo or other learning institution upon approval by the director.
7. Wild animals may be surrendered to the Division of Fish and Wildlife for research when requested upon approval by the director.
8. Notwithstanding any departmental policies pertaining to a specific animal, nuisance animals may be relocated or destroyed.
9. Wild Rice and aquatic vegetation may be gifted, sold or destroyed. Wild rice seized from a tribal member shall be turned over to the appropriate tribal conservation officer unless directed otherwise by a supervisor immediately after weighing, photographing, and documenting for evidentiary purposes.
10. Property with the direction from the director or their designee.

B. Equipment.

All property seized under game and fish authority other than wild animals, wild rice and aquatic vegetation shall be transferred to the supervisor after completion of the retention period or as coordinated with the supervisor.

C. Firearms and bows.

The safe handling of all firearms and bows is a division priority. When a firearm or bow is seized and prior to any transportation or transfer, officers shall;

1. Visually and physically verify the firearm or cross bow is unloaded.
2. Unload any ammunition, remove bolt or arrow and remove broadhead.
3. A physical indicator shall be placed on the firearm ensuring that the firearm has been confirmed unloaded.
4. Complete a National Crime Information Center (NCIC) record check for lost/stolen.

5. The transferring officer is responsible for ensuring this process is completed each time a firearm or bow is transported.
- D. Heirlooms, collector pieces, or items that have special sentimental value.
The owner may request in writing to the director to purchase the item. If the sale is approved by the director, a minimum of two written value estimates from a brick-and-mortar store will be obtained and utilized to establish a sale price. No approvals will be made for firearms seized and forfeited from felons or other persons prohibited from possessing firearms under Statute 97A.223.
- E. Abandoned and found.
Owner known: Officer shall attempt to notify the owner in person or by phone. If the owner is not contacted a notification shall be sent by certified mail to their driver's license address. The owner shall have 45 days to respond to a notification. If no response is received, the owner shall be sent a final notice by certified mail and given an additional 45 days to respond. If no response is received to the final notice, the property is deemed abandoned and may be retained for division use with supervisor approval or transferred to Management Resources for sale or disposal. Attempts to contact the owner shall be documented in the ICR.
- Owner unknown: The property will be held for 90 days from the date of seizure. A document search for the owner shall be completed by the seizing officer. If the owner cannot be located and the property remains unclaimed, it may be retained for division use with supervisor approval or transferred to Management Resources for sale or disposal.
- F. Natural resources forfeited motor vehicle/watercraft.
1. Sales of forfeited motor vehicles and watercraft shall be coordinated through the regional manager and their respective Management Resources bureau manager. The regional manager shall forward copies of the sale documentation to, along with the forfeiture certification letter from the county attorney to the administrative manager.
 2. The administrative manager will work with the division's business office to confirm proper deposit of proceeds and coordinate any funds owed to the county attorney as required by law. Proceeds from the sale of a forfeited vehicle will be distributed per 97A.225.

XI. REQUIRED REPORTING OF ALL FORFEITURES

The administrative manager shall report all required forfeitures to the state auditor by the means and forms required by their office.

By Authority of:

**COL Rodmen Smith
Division Director
Division of Enforcement**