

CHAPTER 6135

DEPARTMENT OF NATURAL RESOURCES

MISCELLANEOUS

UTILITY CROSSING OF PUBLIC LANDS AND WATERS		WILDLIFE EXHIBITS	
6135.0100	POLICY.	6135.2500	PURPOSE.
6135.0200	DEFINITIONS.	6135.2600	SCOPE.
6135.0300	SEVERABILITY	6135.2700	SEVERABILITY.
6135.0400	FEE SCHEDULES.	6135.2800	DEFINITIONS
6135.0510	RATE TABLE I. SHORT UNDERWATER CROSSINGS.	6135.2900	PERMIT.
6135.0610	RATE TABLE II. LONGER UNDERWATER CROSSINGS.	6135.3000	KNOWLEDGE AND BACKGROUND OF CARETAKERS.
6135.0710	RATE TABLE III. OVERWATER CROSSINGS	6135.3100	FACILITIES AND OPERATING STANDARDS.
6135.0810	RATE TABLE IV. PUBLIC LAND CROSSINGS.	6135.3200	ANIMAL HEALTH AND HUSBANDRY.
6135.1000	PROTECTING THE ENVIRONMENT.	6135.3300	PERMIT FEE
6135.1100	STANDARDS FOR ROUTE DESIGN.	6135.3400	REVIEW OF PERMIT DECISIONS.
6135.1200	STANDARDS FOR STRUCTURE DESIGN.	6135.3500	REVOCATION.
6135.1300	CONSTRUCTION METHODS:	6135.3600	DISCLAIMER.
6135.1400	SAFETY CONSIDERATIONS.	6135.3700	PENALTY.
6135.1500	RIGHT-OF-WAY MAINTENANCE.	SCIENTIFIC AND NATURAL AREAS	
6135.1600	RELATIONSHIP TO OTHER LAWS.	6135.4500	PURPOSES.
6135.1700	LICENSE CONDITIONS	6135.4600	POLICY.
6135.1800	CANCELLATION OF LICENSE.	6135.4700	DEFINITIONS.
		6135.4800	USE OF SCIENTIFIC AND NATURAL AREAS.
		6135.4900	RESTRICTED USES AND ACTS
		6135.5000	PENALTIES.

UTILITY CROSSING OF PUBLIC LANDS AND WATERS

6135.0100 POLICY.

Pursuant to Minnesota Statutes, section 84.415, as amended by Laws of Minnesota 1973, chapter 479, section 1, the commissioner of natural resources hereby establishes rules concerning utility crossings over public lands and waters under the control of the commissioner, setting forth fees, standards, and criteria for minimizing the environmental impact of such crossings.

Statutory Authority: *MS s 84.415*

6135.0200 DEFINITIONS.

Subpart 1. **Electric transmission.** "Electric transmission" means lines, cables, or conduits used to transport large blocks of power between two points, generally, 69 kilovolt-amperes or more. As distinguished from "distribution" which means lines, cables, or conduits used to distribute power to the utility company's customers, generally, less than 69 kilovolt-amperes.

Subp. 2. **Public waters.** "Public waters" means all waters of the state which serve a beneficial public purpose, as defined in Minnesota Statutes, section 105.38.

Subp. 3. **Utilities.** "Utilities" means lines, cables, and conduits for telephone, telegraph, or electric power, and pipelines for gases, liquids, or solids in suspension, and any other such item covered by the licensing requirements of Minnesota Statutes, section 84.415.

Statutory Authority: *MS s 84.415*

6135.0300 SEVERABILITY.

The provisions of these rules are severable, and the invalidity of any lettered or numbered paragraph, subparagraph, or subdivision thereof, shall not invalidate any other part.

Statutory Authority: *MS s 84.415*

6135.0400 FEE SCHEDULES.

Subpart 1. **Purpose.** The following fees defray administrative costs and provide a reasonable return for private use of public land or water.

Subp. 2. **Application fee.** The applicant shall include \$40 with each application for a license to construct utility crossings over or under public lands. An application may contain more than one crossing.

The applicant shall include \$40 with each application for a license to construct utility crossings over or under public waters. An application may contain more than one crossing. In the case of underwater crossings, the application fee charged shall satisfy the application fee requirements of parts 6115.0010 to 6115.0100 but the crossings shall be subject to all inspection and monitoring fees required by law or regulation.

The checks shall be made payable to the state treasurer. The commissioner will acknowledge the receipt of the application, indicating whether or not the correct application fee was included. The commissioner will take no other action on the application until the commissioner has received the correct fee. The commissioner will not return application fees, even if the application is withdrawn or denied.

Subp. 3. Utility crossing fees. One-time payment fees securing a 50-year license, made payable to the state treasurer, shall be established for two classes of utility crossings as follows:

A. Fees for crossing of public waters:

(1) for utility crossings under public waters involving a disturbance of less than ten feet in width at the water's edge, Rate Table I in part 6135.0500 shall apply;

(2) for utility crossings under public waters involving a disturbance of ten feet or more in width at the water's edge, Rate Table II in part 6135.0600 shall apply;

(3) for utility crossings over public waters, Rate Table III in part 6135.0700 shall apply.

B. Fees for crossing of public lands:

(1) for utility crossings over, under, or across public lands, Rate Table IV in part 6135.0800 shall apply; and

(2) the minimum utility crossing fee for any utility crossings of public lands shall be \$25.

Subp. 4. Option for 25-year license. An applicant may request a 25-year license instead of a 50-year license. In such a case, a one-time payment fee securing a 25-year license shall be established based on 60 percent of the fee for a 50-year license as computed under subpart 3 and Rate Tables I to IV in parts 6135.0500 to 6135.0800.

Subp. 5. Renewal of license. At the end of the license period if both parties wish to renew, the renewal fee and time period will be determined by such methods as are developed by the commissioner or a successor.

Subp. 6. Scope of application fees. Application fees required under these parts shall be charged for all applications received after the effective date of these parts.

The license fees required under these rules shall apply to all licenses which have not been fully executed at the effective date of these parts.

Statutory Authority: *MS s 84.415*

History: *15 SR 1362*

6135.0500 [Repealed, 15 SR 1362]

6135.0510 RATE TABLE I, SHORT UNDERWATER CROSSINGS.

The following table applies to underwater crossings involving a disturbance of less than ten feet in width at the water's edge.

Total Length in Feet, All Crossings Per Application						
Type of Utility	0 -100	101 -200	201 -300	301 -400	401 -500	500+
BASE RATE						
Pipeline	\$210	\$260	\$310	\$360	\$410	\$410 plus \$50 per 100 feet or fraction thereof additional

MINNESOTA RULES 1995

555

MISCELLANEOUS 6135.0610

Electric Transmission	160	200	230	270	310	\$310 plus \$40 per 100 feet or fraction thereof additional
Electric Distribution, Telephone and Telegraph	110	130	160	180	210	\$210 plus \$15 per 100 feet or fraction thereof additional

The length of an underwater crossing is measured by the number of feet of line between banks or shores. The license fee is determined by adding the length of all such underwater crossings on the same application and, using this total distance, selecting the appropriate column to determine the base rate. The license fee is the base rate plus \$25 for each crossing in excess of one listed in the application.

Example #1. Electric distribution line application. Five water crossings.

	Length (feet)			
Crossing #1	40	Base rate	\$130	(from 101–200 feet column)
Crossing #2	10	Plus	100	(four crossings in excess of one)
Crossing #3	75			
Crossing #4	22	License fee	230	
Crossing #5	35			
Total	182			

Example #2. Pipeline application. One crossing.

Crossing #1, 650 feet	Base rate	\$512	(from the 500+ column)
	Plus	\$ 0	(no crossings in excess of one)
	License fee	\$512	

Statutory Authority: *MS s 84.415*

History: *15 SR 1362*

6135.0600 [Repealed, 15 SR 1362]

6135.0610 RATE TABLE II, LONGER UNDERWATER CROSSINGS.

The following table applies to underwater crossings involving a disturbance of more than ten feet in width at the water's edge.

Type of Utility	Total Length in Feet Per Each Crossing					
	0 –100	101 –200	201 –300	301 –400	401 –500	500+
RATE PER CROSSING						
Pipeline	\$260	\$320	\$390	\$450	\$510	\$510 plus \$65 per 100 feet or fraction thereof additional
Electric Transmission	200	240	290	340	390	\$390 plus \$50 per 100 feet or fraction thereof additional
Electric Distribution, Telephone and Telegraph	130	170	200	230	260	\$260 plus \$35 per 100 feet or fraction thereof additional

MINNESOTA RULES 1995

6135.0610 MISCELLANEOUS

556

The length of an underwater crossing is measured by the number of feet of line between banks or shores. The license fee is determined by calculating separately the length of each crossing, finding the rate for each crossing by referring to the appropriate column, and then adding together the resulting rate determinations.

Example. Pipeline application. Three underwater crossings.

	Length (feet)	Rate
Crossing #1	461	\$510
Crossing #2	24	260
Crossing #3	231	390
License fee		\$1,160

Statutory Authority: *MS s 84.415*

History: *15 SR 1362*

6135.0700 [Repealed, 15 SR 1362]

6135.0710 RATE TABLE III, OVERWATER CROSSINGS.

The following table applies to overwater crossings.

Type of Utility	Total Length in Feet,					All Crossings Per Application
	0 -100	101 -200	201 -300	301 -400	401 -500	500+
BASE RATE						
Pipeline	\$320	\$420	\$510	\$610	\$700	\$700 plus \$100 per 100 feet or fraction thereof additional
Electric Transmission	260	340	410	490	560	\$560 plus \$80 per 100 feet or fraction thereof additional
Electric Distribution Telephone and Telegraph	200	250	310	370	420	\$420 plus \$60 per 100 feet or fraction thereof additional

The length of an overwater crossing is measured by the number of feet of line between banks or shores. The license fee is determined by adding the length of all such overwater crossings on the same application and, using this total distance, selecting the appropriate column to determine the base rate. The license fee is the base rate plus \$25 for each crossing in excess of one listed in the application.

Example. Telephone line application. Three overwater crossings.

	Length (feet)			
Crossing #1	27	Base rate	\$200	(from 0-100 feet column)
Crossing #2	31	Plus	50	(two crossings in
Crossing #3	10			excess of one)
Total	68	License fee	250	

Statutory Authority: *MS s 84.415*

History: *15 SR 1362*

6135.0800 [Repealed, 15 SR 1362]

6135.0810 RATE TABLE IV, PUBLIC LAND CROSSINGS.

The following table applies to public land crossings.

Type of Utility	Width in Feet of Right-of-Way					
	0 -66	67 -99	100 -132	133 -165	166 -198	198+
RATE PER ROD OF LENGTH OF CROSSING						
Pipeline	\$3.90	\$5.80	\$7.70	\$9.60	\$11.50	\$13.40
Electric Transmission	2.60	3.90	5.10	6.40	7.70	8.90
Electric Distribution, Telephone and Telegraph	1.30	2.00	2.60	3.20	3.90	4.50

Example #1. Electric transmission line request: 100 foot right-of-way, across two descriptions of public land, 1,320 feet in length for each description.

Total length in feet of public land crossing	2,640
Total length in rods (16.5 feet/rod)	160
License fee at \$5.10 per rod (Rate Table IV)	\$816

Example #2. Pipeline request: 75 foot right-of-way, 400 feet across public land.

Total length in rods (16.5 feet/rod)	24.24
License fee at \$5.80 per rod (Rate Table IV)	\$140.61

If an additional crossing is to be placed in an existing right-of-way by the original licensee or any other licensee, the fee will be 50 percent of the amount which would be charged if this crossing were the original crossing in the right-of-way.

If the appraised value of the land over which a utility will cross is over \$100 per acre, a fee in addition to that contained in Rate Table IV will be charged. The additional fee shall not exceed 15 percent of the appraised value in excess of \$100 per acre of the actual acreage being taken by the right-of-way.

Statutory Authority: *MS s 84.415*

History: *15 SR 1362*

6135.1000 PROTECTING THE ENVIRONMENT.

Subpart 1. **Policy.** It is essential to regulate utility crossings of public lands and waters in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from utility crossings. These standards and criteria provide a basic framework of environmental considerations concerning such a proposed crossing. The standards deal with route design, structure design, construction methods, safety considerations, and right-of-way maintenance.

Subp. 2. **Application content.** For each environmental standard listed in these parts, the applicant shall indicate whether the applicant is satisfying the standard, where applicable, or if not, why not. In dealing with route design standards, the application must, where applicable, also supply data on relevant site conditions. Except when the commissioner determines that it is not feasible and prudent, or not in the best interests of the environment, the

applicant shall comply with the following standards in designing, constructing, and maintaining utility crossings.

Statutory Authority: *MS s 84.415*

History: *17 SR 1279*

6135.1100 STANDARDS FOR ROUTE DESIGN.

Subpart 1. **Topography.** With regard to topography:

- A. avoid steep slopes;
- B. avoid scenic intrusions into stream valleys and open exposures of water;
- C. avoid scenic intrusions by avoiding ridge crests and high points; and
- D. avoid creating tunnel vistas by, for example, building deflections into the route or using acceptable screening techniques.

Subp. 2. **Vegetation.** With regard to vegetation:

- A. avoid wetlands; and
- B. run along fringe of forests rather than through them, but if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest resources.

Subp. 3. **Soil.** With regard to soil characteristics:

- A. avoid soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction;
- B. avoid areas of plastic soils which would be subject to extensive slippage; and
- C. avoid areas with high water tables, especially if construction requires excavation.

Subp. 4. **Crossing public waters.** With regard to crossing of public waters:

- A. avoid streams, but if that is not feasible and prudent, cross at the narrowest places wherever feasible and prudent, or at existing crossings of roads, bridges, or utilities; and
- B. avoid lakes, but where there is no feasible and prudent alternative route, minimize the extent of encroachment by crossing under the water.

Crossings on or under the beds of streams designated by the commissioner as trout waters shall be avoided unless there is no feasible alternative. When unavoidable, maximum efforts shall be taken to minimize damage to trout habitat.

Subp. 5. **Special use areas.** With regard to special use areas, which are those areas designated under Minnesota Statutes, section 84.033 as scientific and natural areas; those areas designated pursuant to Minnesota Statutes, section 104.35 as units of the Minnesota Wild and Scenic River System; and those areas subject to special regulation for recreational, scenic, natural, scientific, or environmental purposes:

- A. avoid them, but if there is no feasible alternative route, then utilities shall be placed underground; and
- B. locate such crossings with existing public facilities such as roads and utilities.

Statutory Authority: *MS s 84.415*

6135.1200 STANDARDS FOR STRUCTURE DESIGN.

Subpart 1. **Location of utility.** With regard to locating the utility overhead or under the ground or water:

- A. Primary consideration shall be given to underground and underwater placement in order to minimize visual impact. If the proposal is for overhead placement, the applicant shall explain the economic, technological, or land characteristic factors, which make underground placement infeasible. Economic considerations alone shall not be the major determinant.

- B. If overhead placement is necessary, the crossing shall be hidden from view as much as practicable.

Subp. 2. **Appearance.** With regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color.

Subp. 3. **Right-of-way.** The right-of-way width shall be kept to a minimum.

Statutory Authority: *MS s 84.415*

6135.1300 CONSTRUCTION METHODS.

When crossing roads or rivers, leave a screen of vegetation between the structures and the road or river.

When crossing under public waters, take steps to prevent excessive erosion of lake or stream banks and construct temporary sediment traps to reduce sedimentation.

Construct across wetlands in the winter in order to minimize damage to vegetation and in order to prevent erosion and sedimentation.

Construct at times when local fish and wildlife are not spawning or nesting.

Statutory Authority: *MS s 84.415*

6135.1400 SAFETY CONSIDERATIONS.

Applicants for crossings of electrical transmission lines and pipelines shall adhere to federal and state safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill cleanup).

In order to ensure adequate safety for commercial or recreational navigational uses of waterways, overhead crossings shall be constructed at adequate heights to provide maximum safety compatible with existing or potential navigational uses.

Statutory Authority: *MS s 84.415*

6135.1500 RIGHT-OF-WAY MAINTENANCE.

Natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way.

Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees, recommended by the commissioner shall be planted and maintained on the right-of-way.

Chemical control of vegetation shall be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

Statutory Authority: *MS s 84.415*

6135.1600 RELATIONSHIP TO OTHER LAWS.

There are other Minnesota and federal laws and rules and regulations concerned with utility crossings and the environment. In case of conflict with other environmental regulations, the parts included herein will be subordinated to any law, rule, or regulation which is stricter in its protection of the environment. Other related environmental laws and rules and regulations include but are not limited to those associated with:

- A. federal and state wild, scenic, and recreational rivers;
- B. the Minnesota Environmental Protection Act; and
- C. natural and scientific areas.

Statutory Authority: *MS s 84.415*

6135.1700 LICENSE CONDITIONS.

In granting a license, the commissioner may include therein any terms, conditions, or reservations which may be necessary to minimize the adverse effect on the environment or to carry out the policies of these parts.

Statutory Authority: *MS s 84.415*

6135.1800 CANCELLATION OF LICENSE.

Upon violation of any of the terms, conditions, or reservations contained in a license, the commissioner may cancel any license granted under these parts.

Statutory Authority: *MS s 84.415*

WILDLIFE EXHIBITS

6135.2500 PURPOSE.

The purpose of parts 6135.2500 to 6135.3700 is to establish reasonable standards for the care and treatment of captive wildlife for public exhibition purposes, and a permit system

for such display, pursuant to the legislative mandate contained in Minnesota Statutes, section 97A.041.

Statutory Authority: *MS s 97A.041*

6135.2600 SCOPE.

Parts 6135.2500 to 6135.3700 shall apply to the care and treatment of all living captive wildlife for public exhibition in connection with any commercial enterprise, excluding displays owned by any municipality, county, or the state of Minnesota, any publicly owned zoo or wildlife exhibit, any privately owned traveling zoo or circus, or any pet shop.

Statutory Authority: *MS s 97A.041*

6135.2700 SEVERABILITY.

The provisions of parts 6135.2500 to 6135.3700 shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision, or any other part.

Statutory Authority: *MS s 97A.041*

6135.2800 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 6135.2500 to 6135.3700, the terms defined in this part have the meaning given in this part:

Subp. 2. **Captive.** "Captive" means all forms of human control including but not limited to confinement within physical barriers, limitation of movement through the use of any manner of attachment physically affixed to any wildlife, or limitation of movement of wildlife by restraining in some manner the parent or offspring.

Subp. 3. **Commissioner.** "Commissioner" is the commissioner of the Department of Natural Resources, state of Minnesota, acting directly or through authorized agents.

Subp. 4. **Pet shop.** "Pet shop" means any commercial business venture, including a game farm, where animals are displayed only for the purpose of the sale of the animals so displayed.

Subp. 5. **Public exhibition in connection with any commercial enterprise.** "Public exhibition in connection with any commercial enterprise" means any exhibition or display from which monetary gain is procured either directly or indirectly, including but not limited to any display or exhibition, the viewing of which is offered for a fee to the public, any display or exhibition which tends to attract customers to any business operated by the owner of such display or exhibition, or any business operated by a client or relative of the owner of such display or exhibition, or any live display used for advertising purposes.

Subp. 6. **Traveling zoo or circus.** "Traveling zoo or circus" means any display or exhibit of wildlife alone or in combination with domestic animals which does not remain in any one county for more than one month at a time, nor make consecutive engagements at the same location.

Subp. 7. **Wildlife.** "Wildlife" means any wild mammal, wild bird, reptile, or amphibian.

Statutory Authority: *MS s 97A.041*

History: *17 SR 1279*

6135.2900 PERMIT.

Subpart 1. **Requirement.** No person shall display captive wildlife under the jurisdiction of parts 6135.2500 to 6135.3700 in this state unless such display is pursuant to and in compliance with a permit acquired from the commissioner of natural resources. Application for such a permit shall be made on forms provided by the commissioner and shall be mailed or delivered to the Department of Natural Resources, regional supervisor, Division of Enforcement.

Subp. 2. **Issuance.** After receipt of the application, the local conservation officer will inspect the premises, and a permit will be issued only after applicant complies with or agrees to comply with standards for wildlife exhibits as described in these parts.

Subp. 3. **Nontransferability.** No permit issued under parts 6135.2500 to 6135.3700 shall all be transferable.

Statutory Authority: *MS s 97A.041*

6135.3000 KNOWLEDGE AND BACKGROUND OF CARETAKERS.

Subpart 1. **Minimum age; knowledge of caring.** The applicant must be at least 18 years of age and shall demonstrate that the applicant or any employee of the applicant who is primarily responsible for the care of the wildlife knows how to care for the involved species properly.

Subp. 2. **Visit by licensed veterinarian.** If the applicant or employee does not have such knowledge, the applicant may arrange for a regular semiannual visit to the display and housing facility by a licensed veterinarian who shall certify by mail to the commissioner on forms provided, that to the best of the veterinarian's knowledge, all requirements of the permit are being complied with and that any suggestions that the veterinarian could make to substantially improve the living conditions within the general limits of said permit are being or have been accomplished.

Subp. 3. **Amendment to permit.** In the event that the knowledge or background of an employee is deemed by the commissioner to be sufficient to satisfy this requirement for said permit, the applicant shall apply for an amendment to such permit before the termination of the employment of said employee or as soon thereafter as possible, setting forth the qualifications of a new caretaker if neither the permit holder nor another employee has previously been accepted as qualified. If said amendment is not granted by the commissioner, the permit will terminate concurrently with the denial of said amendment or the termination of the employment of the qualified employee, whichever is later.

Statutory Authority: *MS s 97A.041*

History: *17 SR 1279*

6135.3100 FACILITIES AND OPERATING STANDARDS.

Subpart 1. **In general.** The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

Reliable and adequate electric power, if required to comply with other provisions of this permit, and adequate potable water shall be available on the premises.

Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.

Subp. 2. **Indoor facilities.** Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature, to provide for their health, and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

A suitable sanitary method shall be provided to eliminate rapidly, excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage.

Subp. 3. **Outdoor facilities.** When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

Natural or artificial shelter appropriate to local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the individual climates.

A suitable method shall be provided to rapidly eliminate excess water.

Subp. 4. **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

Statutory Authority: *MS s 97A.041*

6135.3200 ANIMAL HEALTH AND HUSBANDRY.

Subpart 1. **Feeding.** The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration of the age, species, condition, size, and type of the animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

Food and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self-feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

Subp. 2. **Watering.** If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

Subp. 3. **Sanitation.** Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetter involuntarily.

Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard-surfaced pens or runs shall be sanitized either by washing them with hot water (180 degrees Fahrenheit at source) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt, shall be sanitized when necessary as directed by the attending veterinarian.

Areas in which animals are kept shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

A safe and effective program for the control of insects, ectoparasites (such as flies, ticks, and fleas), and avian and mammalian pests shall be established and maintained.

Subp. 4. **Separation.** Animals housed in the same primary enclosure must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

Subp. 5. **Veterinary care.** Programs of disease prevention and parasite control, euthanasia, and adequate veterinary care shall be established and maintained under the supervision of a licensed veterinarian. The pest control program shall be reviewed by the veterinarian for the safe use of materials and methods. Animals subject to rabies or distemper (skunks, raccoons, and members of the dog and cat families) shall receive vaccinations against these diseases by a licensed veterinarian, and records of this vaccination program shall be kept on the premises and made available to conservation officers at all reasonable times.

Animals shall be observed every day by the person in charge of the care of the animals or by someone working under that person's direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed.

Subp. 6. **Handling.** Handling of animals shall be done expeditiously and carefully in a way so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Care should be exercised also to avoid harm to the handler.

Animals within reach of the public shall only be displayed for periods of time and under conditions consistent with the animals' health and not leading to their discomfort.

During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between animal acts and the viewing public to assume safety to both the public and the animals.

Statutory Authority: *MS s 97A.041*

History: *17 SR 1279*

6135.3300 PERMIT FEE.

Subpart 1. **Amount; submission.** The fee for a permit shall be \$10 which shall be submitted with the original application and every amendment and annual renewal thereof.

Subp. 2. **Return of fee.** Such fee will be returned in the event the permit, or the amendment thereof, applied for is denied or in the event the permittee does not accept the permit as issued with conditions.

Subp. 3. **Annual renewal.** The permit shall be renewed annually.

Statutory Authority: *MS s 97A.041*

6135.3400 REVIEW OF PERMIT DECISIONS.

If the permit is granted with conditions, or is denied, the applicant may, within 30 days after mailed notice thereof, file with the commissioner of natural resources a demand for review of the application. The review shall be conducted as a contested case pursuant to Minnesota Statutes, chapter 14. If no demand for review is made within the 30 days, the permit decision becomes final.

Statutory Authority: *MS s 97A.041*

6135.3500 REVOCATION.

The commissioner of natural resources may at any time revoke all or part of any permit issued under these parts under the following conditions, whenever, in the commissioner's opinion, it is necessary to protect the interests of the public, or to protect the wildlife covered by said permit:

A. The permit holder must be informed in writing of the nature of the revocation and of the conditions which in the commissioner's opinion require such revocation at least 14 days prior to the effective date of the revocation.

B. The permit holder, at any time prior to revocation, shall have the opportunity to apply for an amendment to the permit or to demand a hearing pursuant to part 6135.3400 to contest the revocation, support the holder's proposed amendment, or both.

Upon receipt of such an application or demand, the revocation is stayed until a determination by the commissioner can be made on the matter.

If no such application or demand be made, the permit shall be revoked on the date stated in the revocation notice.

C. Nothing in this part shall preclude legal action by the commissioner at any time for injunctive relief from a permit violation pursuant to Minnesota Statutes, section 97A.041, subdivision 6. All costs associated with seizures of neglected or mistreated animals shall be borne by the owner thereof including the expenses of keeping, disposing of, and treating animals pursuant to Minnesota Statutes, section 343.23.

Statutory Authority: *MS s 97A.041*

History: *17 SR 1279*

6135.3600 DISCLAIMER.

Any permit issued under the provisions of these parts is permissive only and no liability shall be incurred by the state or by any of its officers, agents, or employees by reason of the issuance of such permit or by reason of any acts or operations of the permittee or any wildlife.

At all times, the state of Minnesota, its officers, agents, and employees shall be held harmless from any liability for damage or injury arising from the issuance of such permit.

Statutory Authority: *MS s 97A.041*

6135.3700 PENALTY.

Anyone who violates any provision of these parts or any provision of a permit issued hereunder shall be guilty of a misdemeanor.

Statutory Authority: *MS s 97A.041*

SCIENTIFIC AND NATURAL AREAS

6135.4500 PURPOSES.

The legislature has provided for creation and establishment of scientific and natural areas for the purpose of preserving, protecting, and managing lands or waters possessing inherent natural values, including soils, waters, or sediments, sites of scientific value, habitats of rare or endangered species of plants and animals, places of historic or prehistoric interest and scenic beauty, and areas uniquely suitable for teaching natural history and conservation.

The purpose of parts 6135.4500 to 6135.5000 is to provide for the use and protection of scientific and natural areas for educational and research purposes in such manner and by such means as will leave them conserved for future generations.

Statutory Authority: *MS s 84.03*

6135.4600 POLICY.

The following rules notwithstanding, the commissioner of natural resources, the commissioner's agents and employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers may take such steps as may be necessary to enforce these rules and to establish, maintain, manage, and operate scientific and natural areas. The following rules notwithstanding, the commissioner of natural resources also may suspend any one or more of such rules by written permit to a specific applicant or applicants for scientific or educational purposes.

Statutory Authority: *MS s 84.03*

History: *17 SR 1279*

6135.4700 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of these parts, unless a different meaning is manifest from the context, the terms defined in this section have the following meanings.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Natural Resources.

Subp. 3. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor found in schedules I through V of Minnesota Statutes, section 152.02.

Subp. 4. **Intoxicating liquor.** "Intoxicating liquor", for the purposes of these parts, means liquors which are intoxicating pursuant to Minnesota Statutes, section 340A.101, subdivision 14, and malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subp. 5. **Marijuana.** "Marijuana" means the substance marijuana as it is defined in Minnesota Statutes, section 152.01.

Subp. 6. **Motor vehicle.** "Motor vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle including, but not be limited to, automobiles, trucks, dunebuggies, minibikes, motorcycles, trail bikes, all terrain vehicles (ATV'S), and snowmobiles.

Subp. 7. **Person.** "Person" means any individual, partnership, corporation, or association.

Subp. 8. **Scientific and natural area.** "Scientific and natural area" means any area so designated by the commissioner of natural resources under the authority of Minnesota Statutes, section 84.033.

Subp. 9. **Watercraft.** "Watercraft" means any contrivance used or designed for navigation or travel on or under water, except a seaplane.

Subp. 10. **Wildlife.** "Wildlife" means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks.

Statutory Authority: *MS s 84.03*

History: *L 1985 c 305 art 3 s 1*

6135.4800 USE OF SCIENTIFIC AND NATURAL AREAS.

Subpart 1. **Open to the public.** Each scientific and natural area is open to the public under such restrictions or limitations as the commissioner may impose for the area for the purpose of protecting and preserving the area. These restrictions or limitations may include but are not limited to the following: restrictions on travel within an area, restrictions on hours of visitation, and limitations on numbers of persons within the area at any given time, through issuance of permits or other methods determined necessary by the commissioner. The commissioner may provide exceptions to the general rules in a specific scientific and natural area as may be necessary to the following: establishment, maintenance, management, or operation of the area; or authorize activities which are not inconsistent with the purpose for which an area is established. *The commissioner shall impose such restrictions, limitations, or exceptions by commissioner's order, filed with the secretary of state and posted in conspicuous places at the scientific and natural area.*

Subp. 2. **Environmental protection.** It is unlawful for any person to destroy, injure, damage, molest, or remove any natural resources within scientific and natural areas, including but not limited to, trees, vegetation, ruins, relics, birds, fish, animals, other wildlife, or geological formations.

It is unlawful for any person, excepting state agents acting in their official capacity, to destroy, damage, deface, or remove any public property or private property belonging to another, including but not limited to, signs and research, testing, or monitoring equipment, within scientific and natural areas.

Statutory Authority: *MS s 84.03*

6135.4900 RESTRICTED USES AND ACTS.

Subpart 1. **Camping and picnicking.** Camping and picnicking are not permitted in scientific and natural areas.

Subp. 2. **Fires and refuse.** Fires are not permitted in scientific and natural areas. It is unlawful for any person to burn or otherwise dispose of garbage, refuse, sewage, or trash of any kinds, within a scientific and natural area except in designated receptacles or facilities.

Subp. 3. **Boating, fishing, and other water uses.** It is unlawful to operate or use any watercraft within any scientific and natural area. It is unlawful for any person to fish or swim in any waters within any scientific and natural area.

Subp. 4. **Motor vehicle operation.** It is unlawful to operate any motor vehicle within any scientific and natural area.

Subp. 5. **Aircraft.** It is unlawful for any person to land any aircraft on lands or waters or fly over at disturbing levels within the boundaries of any scientific and natural area.

Subp. 6. **Pets and horses.** It is unlawful to bring or allow horses or other pet animals into any scientific and natural area.

Subp. 7. **Personal behavior.** It is unlawful for any person to engage in any violent, immoral, abusive, loud, obscene, or other conduct creating or tending to create a breach of the peace or to disturb the educational or research values and resources of scientific and natural area lands and waters.

Subp. 8. **Intoxicating liquors.** It is unlawful for any person to consume intoxicating liquors within a scientific and natural area. It is unlawful for any person under the influence of intoxicating liquors to be within a scientific and natural area.

Subp. 9. **Drugs.** It is unlawful for any person to use, be in possession of, or be under the influence of marijuana or any controlled substance within a scientific and natural area, unless such use, possession, or influence is pursuant to and in compliance with a prescription from a licensed physician.

Subp. 10. **Hunting, firearms, and public safety.** It is unlawful for any person to display or have in possession within a scientific and natural area, a firearm or air gun unless

unloaded in both barrels and magazine and cased. It is unlawful for any person to have in possession within a scientific and natural area explosives of any kind. It is unlawful for any person to use or display within a scientific and natural area any other type of weapon, including but not limited to, slingshots, switchblade knives, bow and arrows, and traps.

Subp. 11. **Protection from peddling and soliciting.** It is unlawful for any person to engage in or solicit business of any nature whatsoever from persons in a scientific and natural area. It is unlawful for any person to advertise in any manner within a scientific and natural area any private activity or function.

Statutory Authority: *MS s 84.03*

History: *17 SR 1279*

6135.5000 PENALTIES.

Any person who shall violate any of the provisions of these parts shall be guilty of a misdemeanor and be punished by a fine of not more than \$300, or by imprisonment for not more than 90 days, or both.

Statutory Authority: *MS s 84.03*