

North Dakota Game and Fish Department
Testimony Concerning Administrative Rules
December 12, 2013

1. The rules did not result from statutory changes made by the most recent Legislative Assembly.
2. The rules are not related to any federal statute or regulation.
3. Public notice concerning these administrative rules was published in each official county newspaper. A public hearing was held at the ND Game and Fish Department's Bismarck office on Sept., 5, 2013 at 1:15pm. Written comments were accepted by the Department.
4. Summary and Response of Oral and Written Comments
There were no oral or written comments received for the following proposed rules:
 - Chapter 30-03-01.1 Bait Vendors
 - Chapter 30-03-03 Construction and Use of Fishhouses for Winter Fishing
 - Chapter 30-04-02-01 Public Access and Use
 - Chapter 30-04-02-05 Firearms

Chapter 30-04-02-14.1 Tree Stands and Ground Blinds. There were no written comments received.

Oral comment *from Rick Tischaefter*, president of the North Dakota Fur Hunters and Trappers Association – stated the marking of tree stands and ground blinds should be done with an anonymous identification number instead of name, address and phone number. He wasn't sure the hunter safety number was the best idea.

Oral comment *from Ray Utter* – supported the idea of using a universal number to identify personnel with their various fish houses, tree stands and other use.

Department Response: The Department does not disagree and has discussed instituting a unique identification number for everyone who purchases a license or who receives other services from the department.

Over the next couple of years as the Department moves to a mandatory online system for licensing, the unique identification number will likely be implemented. Based on the oral comment, the Department added language referring to a unique identification number to the proposed rule changes.

5. The cost of publishing notice of the rules was \$1,737. Other than staff time, there were not any other significant costs for making these rules.
6. **Chapter 30-03-01.1 – Bait Vendors.** Changes dealing with smelting for bait vendors in recreational fisheries (reinstates old language formerly found in old fishing proclamations). Clearly defining what bait is legal to import into North Dakota. Other changes include allowing for permitted private fish ponds to be stocked by bait vendors with fathead minnows, a relaxation of an equipment size restriction for wholesale bait vendors, and eliminating some reporting requirements.

Chapter 30-03-03 – Construction and Use of Fishhouses For Winter Fishing. A technical change that now allows for any structure, including vehicles, to be on the ice as long as its occupied. If unoccupied it still needs to include owner's information and be constructed of material that will allow it to float and be readily removable from the ice at any time.

Chapter 30-04-02-01 – Public Access and Use. A change to increase the penalty amount for certain violations as long as it is written or posted accordingly.

Chapter 30-04-02-05. Firearms. An amendment to prohibit the use of tracer rounds and/or exploding targets on all Wildlife Management Areas.

Chapter 30-04-02-14.1. Tree Stands and Ground Blinds. An amendment to add permanent and portable ground blinds. Also, currently all tree stands on Wildlife Management Areas must be identified with a metal or plastic tag displaying their name, address, and telephone number. By adding language, the Department is proposing to clarify that the identification tag needs to be visible for enforcement inspection. In addition, an amendment to allow hunters to use their hunter education number or a unique identification number issued by the department instead of their name, address, and telephone number.

7. A regulatory analysis was not required by NDCC Section 28-32-08, so none was prepared.
8. Small entity regulatory analysis and small entity economic impact statement was prepared and copies are attached.
9. These rules do not have a fiscal effect.
10. A takings assessment was not prepared since the rules will not limit the use of private property.
11. These rules were not adopted as emergency rules.

Small Entity Regulatory Analysis

For Amendments to NDAC

Chapter 30-03-01.1 Bait Vendors:

- 1. Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?**
Yes and one minor change was adopted – bait vendors no longer need to keep copies of their annual reports for two years (now annual submission only is required).
- 2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?**
They were considered and current schedules/deadlines are not stringent and considered very reasonable.
- 3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? To what result?**
Compliance and reporting requirements have been consolidated and are as simplified as possible.
- 4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?**
Performance standards are used when possible.
- 5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? To what result?**
They were considered but any additional changes are not practical or reasonable.

Chapter 30-03-03 Construction and Use of Fishhouses for Winter Fishing:

1-5. Not Applicable.

Chapter 30-04-02-01 Public Access and Use, Chapter 30-04-02-05 Firearms, & Chapter 30-04-02-14.1 Tree Stands and Ground Blinds:

1-5. Not Applicable. The rules apply to individuals recreating on wildlife management areas.

Small Entity Economic Impact Statement

For Amendments to NDAC

Chapters 30-03-01.1 Bait Vendors and Chapter 30-03-03 Construction and Use of Fishhouses for Winter Fishing:

- 1. Small Entities that may be subject to the proposed rule.**
All licensed wholesale and retail bait vendors in the state would be subject to the changes to the Bait Vendors rules.
- 2. The administrative or other costs required for small entities to comply with the proposed rule.**
These rule amendments do not increase administrative or other costs for small entities.
- 3. The probable cost and benefit to private persons and consumers who may be affected by the proposed rule.**
There will be no costs to private persons and consumers by these proposed rules. There will however be potential benefits to some wholesale bait vendors who trap their bait with the proposed changes to the Bait Vendors rules.
- 4. The probable effect of the proposed rule on state revenues.**
There will be no effects on state revenues.
- 5. Whether there are any less intrusive or less costly methods of achieving the proposed rule's purpose.**
There are no less intrusive or less costly methods of achieving the purposes of the proposed rules.

Chapters 30-04-02-01 Public Access and Use, Chapter 30-04-02-05 Firearms, & Chapter 30-04-02-14.1 Tree Stands and Ground Blinds:

- 1. Small Entities that may be subject to the proposed rule.**
None. The rules apply to individuals recreating on wildlife management areas.
- 2. The administrative or other costs required for small entities to comply with the proposed rule.**
None. The rules apply to individuals recreating on wildlife management areas.

- 3. The probable cost and benefit to private persons and consumers who may be affected by the proposed rule.**

There is no cost to individuals legally recreating on wildlife management areas. The benefit will be simplified regulations relating to the use of portable ground blinds and an option to use your hunter education number for tree stand identification instead of your name.

- 4. The probable effect of the proposed rule on state revenues.**

There will be no effects on state revenues.

- 5. Whether there are any less intrusive or less costly methods of achieving the proposed rule's purpose.**

No less intrusive or less costly methods of achieving the purposes of the proposed rules were considered feasible in order to meet the ND Game and Fish Department's objectives.