



VIA EMAIL

December 6, 2024

Legislative Reference Library
sonars@lrl.leg.mn

**In the Matter of the Proposed Permanent Rules Relating to State Airport Zoning Standards;
Revisor's ID Number R-04655;**

Dear Legislative Reference Library:

The Minnesota Department of Transportation intends to adopt rules relating to state airport zoning standards. We plan to publish a Dual Notice in the December 30, 2024, *State Register*.

We have prepared a Statement of Need and Reasonableness. As required under Minnesota Statutes, sections 14.131 and 14.23, we are sending the library an electronic copy of the Statement of Need and Reasonableness at the same time that we are sending our Notice of Intent to Adopt Rules.

If you have any questions or concerns, please contact me at andrea.barker@state.mn.us or 651-366-4029.

Sincerely,

Andrea Barker
Policy and Rules Coordinator

Enclosure: Statement of Need and Reasonableness



STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Relating to State Airport
Zoning Standards; Minnesota Rules Chapter 8800;
Revisor's ID Number R-04655

Minnesota Department of Transportation
Office of Aeronautics

November 2024

General information:

1. Availability: The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Agency's Public Notices website: <https://www.dot.mn.gov/rules/airport-zoning.html>.
2. View older rule records at: [Minnesota Rule Statutes https://www.revisor.mn.gov/rules/status/](https://www.revisor.mn.gov/rules/status/)
3. Agency contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Andrea Barker, Policy and Rules Coordinator, Minnesota Department of Transportation, 395 John Ireland Blvd., MS 130, St. Paul, MN 55155; telephone: 651-366-4029; email: andrea.barker@state.mn.us; or use your preferred telecommunications relay service.
4. How to read a Minnesota Statutes citation: Minn. Stat. § 999.09, subd. 9(f)(1)(ii)(A) is read as Minnesota Statutes, section 999.079, subdivision 9, paragraph (f), clause (1), item (ii), subitem (A).
5. How to read a Minnesota Rules citation: Minn. R. 9999.0909, subp. 9(B)(3)(b)(i) is read as Minnesota Rules, chapter 9999, part 0909, subpart 9, item B, subitem (3), unit (b), subunit (i).

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Acronyms

AMT	Association of Minnesota Townships
APA	Administrative Procedures Act
ALJ	Administrative Law Judge
CFR	Code of Federal Regulations
ERN	Existing Residential Neighborhood
FAA	Federal Aviation Administration
JAZB	Joint Airport Zoning Boards
LMC	League of Minnesota Cities
MAC	Metropolitan Airports Commission
MAT	Minnesota Association of Townships
Minn. R. pt.	Minnesota Rules part
Minn. Stat.	Minnesota Statutes
MMB	Minnesota Management and Budget
MN	Minnesota
MORS	Minnesota Office of the Revisor of Statutes
NPIAS	National Plan of Integrated Airport Systems
OAH	Office of Administrative Hearings
RDC	Regional Development Commission
RPZ	Runway Protection Zone
SASP	State Aviation System Plan
SONAR	Statement of Need and Reasonableness

Introduction and Overview

Statement of General Need

In this rulemaking, the Minnesota Department of Transportation (Department) is proposing amendments to the Minnesota rules governing airport zoning. The proposed amendments are necessary to align the rules with changes to Minn. Stat. Chapter 360. In 2019, the legislature made several changes to Chapter 360 regarding airport zoning, including:

- Revising the process of submission and review of airport zoning regulations based on the commissioner's standards;
- Replacing language providing for the protection of existing residential neighborhoods (ERNs) in established urban areas with broader language regarding the protection of existing land uses;
- Providing a new process and review criteria for custom airport zoning ordinances;
- Requiring municipal and county comprehensive plans to consider the location and dimension of airport safety zones and include them on maps that illustrate boundaries of zoning districts and that are adopted as official controls; and
- Clarifying the changes to runway lengths or configurations that require an update to an existing airport zoning ordinance.

The proposed rule amendments clarify and make minor modifications to the size, shape, and land use restrictions of the commissioner's standard for airport safety zoning ordinances. The proposed amendments replace obsolete language regarding ERNs with new language protecting existing land uses as provided in statute. Additionally, the proposed amendments include reformatting to increase the readability of the rules.

The proposed amendments also include new language about the clear zone. Since 1978, it has been the policy of the Department to require that the clear zone (the area immediately adjacent to the runway similar to the Federal Aviation Administration's Runway Protection Zone (RPZ)) be owned by the airport in fee-simple to be eligible for state funding, with exceptions in the case of routine maintenance, safety, or other considerations unique to the airport and surrounding land use. The dimensions of the clear zone are determined by the type of aircraft served, landing aids available, and approach minimums planned or established. Incorporating the Department's policy into rules clarifies the requirements for airport projects, clear zone dimensions, and ownership.

Scope of Proposed Amendments

The following parts of Minnesota rules are affected by the proposed amendments:

- 8800.0100, Definitions
- 8800.2400, Airport Zoning Standards, subp. 5, Land use safety zones.
- 8800.2400, Airport Zoning Standards, subp. 6, Use restrictions.
- 8800.2500, Financial Aid for Municipal Airport Projects.

Statutory Authority

The statutory authority for the Commissioner of Transportation to engage in rulemaking is established in Minn. Stat. § 360.015, subd. 3:

The commissioner may perform such acts, issue and amend such orders, and make, promulgate, and amend such reasonable general or special rules and procedure and establish such minimum standards, consistent with the provisions of sections 360.011 to 360.076, as the commissioner shall deem necessary to carry out the provisions of sections 360.011 to 360.076, and to perform duties thereunder: all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, using, or traveling in, aircraft, and of persons and property on land or water, and to develop and promote aeronautics in this state. No rule of the commissioner shall apply to airports or other air navigation facilities owned or controlled by the federal government within this state.

Whenever valid rules of the commissioner and rules and regulations of a municipality are inconsistent, the rules of the commissioner shall control and the rules and regulations of the municipality are void insofar as they are inconsistent with the rules of the commissioner. Nothing herein contained shall be construed to limit the right of a metropolitan airports commission created under Laws 1943, Chapter 500, as amended, to make its own rules and regulations governing the internal administrative operations of an airport owned or operated by it as distinguished from rules governing flight and flight operations promulgated by the commissioner in the interests of safety.

Minn. Stat. § 360.015, subd. 13, empowers the commissioner to render assistance in the acquisition, construction, improvement, or maintenance of airports and other air navigation facilities from the state airports fund and requires that all work done on projects using state funds be done under the supervision of the commissioner.

The commissioner may render assistance in the acquisition, construction, improvement, or maintenance of airports and other air navigation facilities owned, controlled, or operated, or to be owned, controlled, or operated, by municipalities in this state, the cost of such assistance to be paid out of the state airports fund provided for by sections 360.011 to 360.076, and from appropriations made by the legislature for that purpose. State funds appropriated or made available for the acquisition, construction, improvement, or maintenance of such airports and other air navigation facilities may be expended only upon projects which are included in the

state airways system established by the commissioner. No such state funds shall be available for work upon any project that is not done upon the supervision of the commissioner.

Minn. Stat. § 360.305, subd. 5, empowers the commissioner to order and supervise the preparation of plans for the construction, improvement, and maintenance of all airports which receive financial assistance from the state airports fund.

The commissioner of transportation shall cause to be prepared or supervise the preparation of plans and specifications for the construction, improvement, and maintenance of all airports and air navigation facilities upon which expenditures are made pursuant to this section; approve such plans and specifications; supervise and inspect all work; approve all lawful changes in plans and specifications; approve estimates for payments; and approve the construction when completed according to such plans and specifications.

Minn. Stat. § 360.305, subd. 6, prohibits the commissioner from expending money for the construction, improvement, or maintenance of airports unless the controlling authority has made a good faith showing that it is in the process of and will complete with due diligence, an airport zoning ordinance in accordance with sections 360.061 to 360.074.

The commissioner must not expend money for planning or land acquisition, for the construction, improvement, or maintenance of airports, or for air navigation facilities for an airport, unless the municipality, county, or joint airport zoning board involved has or is establishing a zoning authority for that airport, and the authority has made a good-faith showing that it is in the process of and will complete with due diligence, an airport zoning ordinance in accordance with sections 360.061 to 360.074. The commissioner may provide funds to support airport safety projects that maintain existing infrastructure, regardless of a zoning authority's efforts to complete a zoning regulation. The commissioner must make maximum use of zoning and easements to eliminate runway and other potential airport hazards rather than land acquisition in fee.

Background

Statutory Amendments

The 2012 Minnesota State Aviation System Plan (SASP) public involvement efforts identified revisions to Minnesota's zoning statutes as a priority for the system. As a result, the Department committed to evaluating the statutes and rules to more appropriately balance public safety and economic development opportunities near and around public airports.

The outreach efforts identified several issues with the existing statute. The process for enacting an airport zoning ordinance was considered cumbersome because it required two public hearings to be

conducted and notice to be given in two newspapers. Many localities do not have two newspapers and found the second public hearing did not generate meaningful feedback if no changes were made to the ordinance after the first public hearing.

Because airport zoning ordinances are often created by Joint Airport Zoning Boards (JAZB), but enforced by each jurisdiction within the zoned area, confusion resulted in some zoning ordinances not being enforced at all. Additionally, because airport zoning powers and process are different than municipal land use zoning found in Chapter 462 of state statute, airport zoning ordinances were frequently not integrated into the communities local planning and zoning codes and maps, further discouraging their enforcement.

The law allowed no flexibility for airports to adapt the state zoning standards to fit the local conditions unique to their airport. This has led to situations where the community would stop the zoning process rather than enact land use restrictions it considered to be arbitrary and too restrictive.

To address these issues the following goals for statute change were identified:

- Streamlining the process for municipalities, counties, and joint airport zoning boards to enact an airport safety zoning ordinance
- Making it easier for local officials to understand their role in creating and enforcing airport zoning ordinances
- More closely integrating airport zoning with other local zoning and planning processes
- Removing references to sizes and shapes of safety zones to allow for unconstrained rulemaking
- Creating a framework for enacting a custom ordinance to provide flexibility for regulated parties

In 2019, the Minnesota Legislature amended Minn. Stat. Chapter 360 as follows:

360.062 AIRPORT HAZARD PREVENTION; PROTECTING EXISTING ~~NEIGHBORHOOD~~ LAND USES.

(a) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thereby impairing the utility of the airport and the public investment therein. It is also found that the social and financial costs of disrupting existing land uses around airports ~~in built-up urban areas, particularly established residential neighborhoods,~~ often outweigh the benefits of a reduction in airport hazards that might result from the elimination or removal of those uses.

(b) Accordingly, it is hereby declared: (1) ~~that~~ the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (2) ~~that~~ it is ~~therefor~~ necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented and that this should be accomplished to the extent legally possible, by exercise of the police power, without compensation; and (3) ~~that~~ the elimination or removal of existing land uses ~~particularly established residential neighborhoods in built-up urban areas~~, or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety.

(c) It is further declared that the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are essential public purposes services for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

Airport Zoning

The Minnesota state model airport zoning ordinance was first issued by the (then) Department of Aeronautics in 1946 and last comprehensively amended in 1990. The model ordinance provides a recommended structure for implementing height and land use regulations intended to minimize airport safety hazards and protect airport operations. These minimum regulations are outlined in Minn. Stat. Chapter 360, and further defined in Minn. R. 8800.2400. Collectively, the minimum regulations are referred to as the “commissioner’s standard.”

The purpose of airport zoning is to prevent the creation of hazards which endanger the lives and property of airport users and of occupants of the land in its vicinity, or which impair the utility of, and threaten the public investment in, the airport by reducing the area available for the safe landing, takeoff, and maneuvering of aircraft.

Chapter 360 prohibits the commissioner of transportation from expending money for planning, land acquisition, construction, improvement, or maintenance of airports unless the municipality, county, or JAZB has a current airport zoning ordinance or is in the process of and will complete with due diligence an airport zoning ordinance.

While any person or governmental body having airport zoning powers under Minn. Stat. §§ 360.061 to 360.074 may adopt airport zoning ordinances, orders, or regulations more restrictive than the commissioner’s standard, most airport zoning ordinances in Minnesota were drafted to comply with the commissioner’s standard. The legislature has deemed it essential to the protection of the public investment into the airport and to the safety of the air-traveling public as well as those on the ground that all publicly owned airports in Minnesota have an enacted airport zoning ordinance in accordance with Chapter 360.

Minn. R. 8800.2400 defines the commissioner's standard for airport land use safety zones. Currently, the distance for safety zone A is two-thirds of the existing or planned runway length and safety zone B extends outward from safety zone A a distance equal to one-third of the existing or planned runway length, for a total safety zoning area equal to the existing or planned runway length. For longer runways, these zones impact a significant amount of land. Because of this, airports have struggled to find the balance between airport safety and local economic development.

Until 2019, the commissioner's standard was the only process available for airports to comply with airport zoning requirements under Chapter 360. The 2019 statute update provided the option for custom zoning. However, custom zoning requires greater effort and is more costly, therefore most airports still prefer to follow the process for the minimum requirements found in the commissioner's standard.

Even with the minimum requirements found under the current commissioner's standard and the recently enacted option for custom zoning, Minnesota airports have not attained one-hundred percent compliance for airport zoning around the state. There are factors that prevent airports from meeting the minimum requirements. For example, as airports expand, the zoning boundaries can become far reaching and create difficulties for airports to encumber new land that may already be developed. There is a need to consider ways to assist airport owners in becoming compliant with state laws regarding airport zoning and it is reasonable to propose opportunities that allow more flexibility in airport zoning.

Prior to 2019, Chapter 360 contained a provision allowing for the protection of existing residential neighborhoods that were built before January 1, 1978. This provision, which is currently reflected in rules, allowed airport zoning authorities to designate areas as "established residential neighborhoods in a built up urban area," also known as ERNs. This allowed certain residential properties to remain without being designated as non-conforming uses. While non-conforming land uses are allowed to remain, the rights to modify the existing structures or rebuild when the structure is destroyed are limited. In 2019, Chapter 360 was revised and replaced "established residential neighborhoods" with "existing land uses" which expands the protection from non-conforming status to non-residential land uses. These existing land uses are now exempt from the restrictions which would otherwise have applied under the commissioner's standard.

The proposed rules replace "existing residential neighborhoods in built up urban areas" with "existing land uses" throughout part 8800.2400. This change is intended to align with the statute and be less restrictive than the current ERN language in the existing rules.

The proposed rules make the commissioner's standard less restrictive and easier for airport owners to comply with by providing a broad exemption for all existing land uses and limiting the maximum amount of land zoned.

Clear Zones

Clear zones are trapezoidal shaped areas off each runway end, the size of which is determined by the runway category (paved/turf, utility/other-than-utility), visibility minimums (as applicable), and the most critical approach ultimately planned for each runway configuration. Due to the altitude at which aircraft operate within the airspace above clear zones, maintaining clear zones free of obstructions is paramount to safe operations.

Minn. Stat. § 360.305, subd. 5, provides the powers of the commissioner of transportation regarding plans and specifications for the construction, improvement, and maintenance of all airports and air navigation facilities. Since the 1970's, it has been the policy of the Department that state participation in acquisition, construction, maintenance, operation, and improvement be limited to those airports at which adequate clear zones for the ultimate development of the airport have been acquired and maintained. The purpose of this policy is to restrict land uses which may be hazardous to the operational safety of aircraft and protect life and property in the runway approach areas.

The 2022 Minnesota State Aviation System Plan examined seven key state focus areas that aviation stakeholders identified as their top concerns during Phase I. This effort was designed to support the Department's ability to navigate complex decisions associated with these issues and provide standard and uniform guidance to airports. One of these focus areas was the clear zone ownership and compliance requirements. The Clear Zone Guidance Statement was published in 2020 and clarified clear zone dimensional standards based on planned build-out conditions, established an alternative compliance mechanism for airports unable to acquire 100 percent of clear zones in fee simple, and confirmed that airports must be compliant with clear zone guidance to be eligible for state support. The proposed amendments are based on the Clear Zone Guidance Statement.

The amendments to Minn. R. 8800.2500 codify the policy in rule which provides transparency about clear zone acquisition requirements. The proposed amendment does not change the existing clear zone policy and will not alter the compliance or status of any existing airport licensed as a public use airport.

The establishment of the clear zone under part 8800.2500 provides transparency to a process that authorizes the Department to ensure safe approaches to the landing areas of airports. Clear zone dimensions are provided in the amendments, as are clear zone property acquisition requirements. This law protects and ensures the public interest and safety.

Public Participation and Stakeholder Involvement

In 2013, the Department invited airport owners from around the state to participate in an advisory committee to review current airport zoning laws. As part of this effort, the Department conducted a state-by-state survey of airport zoning requirements around the country and shared the information

with the committee. From the data collected, it appeared that Minnesota had some of the most robust airport zoning laws in the country. These laws were designed to provide safety and protect the utility of the airport by restricting land uses around the airport. However, there were 58 airports in Minnesota that were not properly zoned, and the committee discussed a more appropriate balance of public safety and local development around an airport to provide greater opportunity for airports to bring their zoning into compliance.

To properly inform the public and meet the needs of multiple stakeholder groups, the Department enacted an extensive public involvement effort. A major component of this effort was the convening of a stakeholder advisory group. The group was made up of approximately 90 members representing all interested parties, including airports, consultants, MnDOT and other Minnesota agencies, the league of Minnesota Cities, Minnesota Association of Townships, the Metropolitan Airports Commission, City of Minneapolis, Regional Development Commissions (RDCs), and others. This group met six times and ultimately made the recommendations that resulted in statutes being changed and these proposed rule changes. Additionally, many one-on-one meetings were held with these groups and others including the Metropolitan Airports Commission (MAC), League of Minnesota Cities (LMC), Association of Minnesota Townships (AMT), and Realtor associations.

Consistent with the Administrative Procedures Act (APA), the Department published a Request for Comments in the Minnesota State Register on October 25, 2021. Additionally, the Department emailed the Request for Comments to the managers of all publicly owned airports in Minnesota, the League of Minnesota Cities, the Association of Minnesota Counties, the Dakota/Minnesota Airport District Office (Minneapolis) of the Federal Aviation Administration, the Minnesota Business Aviation Association, the Minnesota Pilots Association, the Minnesota Small Cities Association, the Metropolitan Airports Commission, the Minnesota Department of Agriculture Inspection Unit, various consulting firms that do airport zoning projects in Minnesota, and all flight schools in Minnesota.

The Department also published the draft rule language and the Request for Comments on its website and sent an email notification to all users who had subscribed for notification of active rulemaking on the Department's GovDelivery service.

The Department received comments and questions from five people on the draft language. The Department amended its draft to address the comments and questions in the final proposed language.

Reasonableness of the Amendments

General Reasonableness

The proposed amendments to these rules were developed over the span of several years and reflect an ongoing dialogue with airport stakeholders. The Department has carefully considered all feedback from members of the public and stakeholders. The proposed amendments to the rules reflect these

considerations, along with the statutory requirements, to provide minimum standards for performance-based rules that allow both clarity and enforceability.

Rule-by-Rule Analysis

Proposed amendments to rules are identified through strikeouts and underlines. Strikeouts reflect deletions and underlines reflect additions. Following each proposed amendment is the justification for the change(s).

8800.0100 DEFINITIONS

Minor grammatical revisions were made to the definitions in subparts 11, 15, 18, 21, 22, 22a, 23, 24a, 24b, 26, 26a, and 28. Additionally, the following changes to the definitions are proposed:

*Subpart. 7a. **Building.** “Building” means any structure utilized or intended for supporting or sheltering any occupancy.*

Justification: This amendment defines the word “building,” which clarifies the land use restrictions of safety zone A in 8800.2400 Subp. 6. The definition is taken from the International Building Code.

*Subp. 17. **IFR.** “IFR” means ~~the symbol used to designate~~ instrument flight rules.*

Justification: “IFR” isn’t a symbol, it is an acronym for “instrument flight rules.” The language in the current definition is confusing and the amendment provides clarity.

*Subp. 34. **VFR.** “VFR” ~~is the symbol used to designate~~ means visual flight rules.*

Justification: “VFR” isn’t a symbol, it is an acronym for “visual flight rules.” The language in the current definition is confusing and the amendment provides clarity.

8800.2400 AIRPORT ZONING STANDARDS, Subparts 1-4

*Subpart 1. **Standards.** ~~Contained herein are minimum standards for~~ The zoning of public airports as to airspace, land use safety, and noise sensitivity must meet the minimum standards in this part.*

*Subp. 2. **Airport zoning powers.** Any person or governmental body having airport zoning powers under Minnesota Statutes, section 360.061 to 360.074 may adopt airport zoning ordinances, orders, or regulations more restrictive than the minimum zoning standards ~~set forth herein~~ in this part or in any other applicable law.*

*Subp. 3. **Airspace zones.** The following airspace zones are established with relation to an airport and each runway:*

- A. Primary zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary primary surface, as defined in part 8800.1200, subpart 5, item A.
- B. Horizontal zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary horizontal surface, as defined in part 8800.1200, subpart 5, item B.
- C. Conical zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary conical surface, as defined in part 1800.1200, subpart 5, item C.
- D. Approach zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary approach surface, as defined in part 8800.1200, subpart 5, item D.
- E. Precision instrument approach zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary precision instrument approach surface, as defined in part 1800.1200, subpart 5, item E.
- F. Transitional zone: all ~~that~~ land ~~which~~ that lies directly under an imaginary transitional surface, as defined in part 8800.1200, subpart 5, item F.

Subp. 4. **Height restrictions.** Except as necessary and incidental to airport operation, ~~no structure or tree shall~~ structures and trees must not be constructed, altered, or allowed to grow in any airport zone so as to project above any of the imaginary airspace surfaces ~~as established in~~ under subpart 3.

Justification: The changes to subparts 1 through 4 are clerical in nature.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 5

Subpart 5. **Land use safety zones.** The following land use safety zones are established with relation to an airport and each existing or planned runway:

Justification: This subpart defines the spatial dimensions of the three land use safety zones, A, B, and C. The first proposed amendment clarifies that these dimensions are established for each existing or planned runway. Describing the required zoning area in the overall statement at the beginning of subpart 5 is needed to provide better clarity and is reasonable to remove redundant language from the subsequent items below.

The second proposed amendment is to break up the safety zones into items and subitems for better clarity (see below for justification of each item and subitem).

8800.2400 AIRPORT ZONING STANDARDS, Subpart 5A

Subpart 5, Item A:

A. Safety zone A:

(1) In the approach ~~zones~~-zone of the runway, safety zone A extends outward from the end of the primary ~~surface~~ zone for a distance equal to two-thirds of the runway length ~~or planned runway length~~.

(2) In the instance of a planned extension or shortening of an existing runway, the length of safety zone A must be determined by the length of the planned or existing runway, whichever is longer.

(3) The length of safety zone A must not be required to exceed 4,000 feet.

Justification: The proposed amendment splits this item into three subitems for clarity. The first subitem contains the original language of the rule with two proposed revisions and two clerical changes. One revision is to replace the term “primary surface” with “primary zone” to match the defined language of the airspace zones in subpart 3. This is reasonable because the term “primary zone” is already defined whereas “primary surface” is not.

The second revision to subitem (1) is to remove the phrase “or planned runway length.” This is reasonable because it is covered under the proposed revision to the introductory language for this subpart.

The proposed new language for subitem (2) clarifies that in the instance of a planned runway extension or shortening of an existing runway, the length of safety zone A is determined by the longer runway length (the existing length in the case of a shortening and the planned length in the case of an extension). This is reasonable because it is how the Department currently interprets the existing rule and the amendment reduces ambiguity. One of the purposes of airport zoning is to protect the utility and public investment into the airport by preventing the creation of future airport hazards. If a runway extension is included on the airport layout plan but the airport zoning only protects the area corresponding to the existing runway length, the future runway extension may be compromised by the creation of an airport hazard. A proposed runway should be protected by airport zoning, which would not be the case if this item only applied to existing runways.

The proposed new language for subitem (3) limiting the maximum required length of zone A provides the sponsors of the longest runways with flexibility to comply with these rules. Requiring zoning for the full runway length is unnecessary and burdensome.

Because the zones follow the approach surface, they gradually expand in width as the distance from the primary zone increases. This means that the area included in the zones increases faster as the length increases. For example, 200.9 acres are included in zones A and B for an “other-than-utility runway” with a non-precision instrument approach and a length of 5,000 feet. When the length is increased to 6,000 feet, the zoned area increases to 261.7 acres and amounts to an additional 60.8 acres per 1,000 feet of runway length. When the same runway is increased to 7,000 feet, the total

zoned area increases to 329.4 acres and amounts to an increase of 67.7 acres per 1,000 feet of runway length (6.9 acres greater than the increase from 5,000 to 6,000 feet).

The relative benefit of restricting hazardous land use is proportional to its proximity to the end of the runway. According to the 2002 accident data study by the Institute of Transportation Studies at the University of California, Berkeley, accidents are more likely to occur closer to the runway end than farther away and accidents are more likely to occur on arrival than on departure. Landing an aircraft involves reducing speed and altitude which increases the possibility of a stall and reduces the margin of error in the event one occurs.

Aircraft arriving at an airport aim to land close to the runway threshold, regardless of the length of the runway, so that they have the longest distance available to roll to a stop. When aircraft take off, they lift off from the ground and start climbing as soon as their speed and lift enable them to, often well before the end of the runway. At any given distance from the runway threshold, aircraft taking off will be going faster and flying higher than aircraft landing will be.

This is why the land use restrictions of safety zone A are more stringent than safety zone B, which is farther from the runway end. Non-zoning land use controls also follow this hierarchy: the MnDOT Clear Zone and the FAA Runway Protection Zone (discussed in detail on page 35) are smaller than safety zone A and require more stringent control of land uses than safety zone A.

There are social and economic costs associated with restricting land use, such as reduced property tax income, loss of space available for the development of housing, and opportunity costs associated with land uses that would be located in the safety zone being developed in other areas. While the marginal increase in safety decreases with the distance from the end of the runway, marginal costs of restricting land uses increase (due to the greater acreage of land to be restricted.)

Seventeen (17) of the 133 publicly owned airports in the state aviation system, including all 9 commercial service airports, have runways exceeding the proposed zoning length “cap.” The rest of the airports have runways less than 6,000 feet, and no planned extensions beyond 6,000 feet. This revision is needed to assist airports with longer runways to come into compliance with state airport zoning standards. It is reasonable because the proposed cap still requires more than three-fourths of a statute mile of the strictest land use restrictions for the area off the end of the runway. Additionally, the longest runways in the state have precision instrument approaches for aircraft which provide both lateral and vertical guidance, reducing the likelihood of crashes occurring and the need for a longer safety zone.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 5B

Subpart 5, Item B:

B. Safety zone B:

- (1) In the approach ~~zones~~ zone of a runway, safety zone B extends outward from the end of safety zone A a distance equal to one-third of the runway length ~~or planned runway length~~.
- (2) In the instance of a planned extension or shortening of an existing runway, the length of safety zone B must be determined by the length of the planned or existing runway, whichever is longer.
- (3) The length of safety zone B must not be required to exceed 2,000 feet.

Justification: The proposed amendment splits this item into three subitems for clarity. The first subitem contains the original language of the rule with two proposed revisions and two clerical changes. The first revision adds the phrase “the end of” to clarify that safety zone B begins at the end of safety zone A. The second revision removes the phrase “or planned runway length.” This is reasonable because it is covered under the proposed revision to the introductory language for this subpart.

The proposed new language for subitem (2) clarifies that in the instance of a planned runway extension or shortening of an existing runway, the length of the zone is determined by the longer runway length (the existing length in the case of a shortening and the planned length in the case of an extension). This is consistent with how the rule is currently applied and the change is only for clarity.

The proposed new language for subitem (3) limits the maximum required length of safety zone B to 2,000 feet. Limiting the maximum required length provides the sponsors of the longest runways flexibility to comply with these rules. This is reasonable for the same reasons described in subpart 5A above.

The lengths of safety zones A and B are defined as two-thirds and one-third of the runway length respectively. The proposed total zoning maximum is 6,000 feet (4,000 feet for safety zone A and 2,000 feet for safety zone B), one-third of which is 2,000 feet.

6,000 feet was chosen as the maximum required distance for the combined safety zones A and B as a balance between providing a reasonable level of safety and the social and economic costs of regulating land uses. Only a small number of runways in the state are 6,000 feet or greater, and they are located at heavily used airports with more developed infrastructure. The establishment of some land use zoning to protect the areas closest to the runway is more important than the areas farthest from the runway end because the probability of a crash at any location decreases as the distance from the runway threshold increases.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 5C

Subpart 5, Item C:

- C. Safety zone C: all ~~that~~ land ~~which~~ that is enclosed within the perimeter of the horizontal zone defined in subpart 3, item B and ~~which~~ that is not included in safety zone A or safety zone B.

Justification: The changes to safety zone C are clerical in nature and categorize it within the rule as item C.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6

Subpart 6. **Use restrictions.** ~~In order~~ To restrict ~~those~~ uses ~~which~~ that may be hazardous to the operational safety of aircraft operating to and from an airport, and ~~furthermore~~ to limit population and building density in the runway approach areas, ~~thereby creating~~ to create sufficient open space so as to protect life and property in case of an accident, the following use restrictions ~~are applied~~ apply to the land use safety zones.

- ~~A. No use shall be made of any land in any of the safety zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.~~

Justification: The proposed amendment moves the language from item A to item D and reorders the items so the land use restrictions applicable to safety zone A are located in item A, the land use restrictions applicable to safety zone B are located in item B, and so forth. This realignment of zoning language is needed to reduce confusion in writing airport zoning ordinances. The existing language has safety zone A as Subp. 6, item B. It is reasonable to realign the safety zones to match the items to enhance the zoning ordinance structure.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6A

(Subpart 6. Use restrictions, Currently numbered as Item B, Renumbered as Item A)

- ~~B.~~ A. Safety zone A ~~shall contain no~~ must not contain buildings, temporary structures, or exposed transmission lines, ~~or other similar land use structural hazards,~~ and ~~shall~~ must be restricted to ~~those~~ uses ~~which~~ that will not create, attract, or bring together an assembly of persons ~~thereon~~. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops),

horticulture, raising of livestock, ~~animal husbandry, wildlife habitat,~~ light outdoor recreation (nonspectator), cemeteries, ~~and~~ fencing, roadways, railways, trails, and auto parking.

Justification: The proposed amendment removes temporary structures as a prohibited use because it is confusing. Specifically prohibiting temporary structures implies that permanent structures are allowed, which is not the case. “Structure” is defined in part 8800.0100 as “an object constructed or installed by people, including, but without limitations, buildings, towers, smokestacks, earth formations, and overhead transmission lines.” The Department believes that prohibiting all structures is broader than the intent of safety zone A because some of the permitted uses imply the presence of some structures. For example, it is common for livestock areas, light outdoor recreation areas, and cemeteries to be contained within fencing. Similarly, a parking lot generally involves some earthworks. Structures that would have a negative impact on aviation would still be prohibited by the height limitations of subpart 4 and the land use restrictions in item D.

It is more reasonable to limit the structure prohibition to buildings and exposed transmission lines within safety zone A. Buildings are a specific type of structure intended for human occupancy. In the event of a crash, it is a greater hazard to those on the ground if an occupied building is involved. Exposed transmission lines are difficult for pilots to see, so it is reasonable for them to remain as prohibited structures.

The proposed amendment also revises the list of permitted uses. “Animal husbandry” has been removed because it is duplicative of “raising of livestock” and therefore unnecessary. “Wildlife habitat” has been removed because the creation of certain wildlife refuges (such as a bird sanctuary) could be hazardous to aviation. While it is not specifically a prohibited use, the rule should not imply that it is always a permitted use. Nothing in the rule requires removal of undeveloped land. “Fencing,” “roadways,” “railways,” and “trails,” have been added for clarity around the types of structures permitted within safety zone A.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6B

*(Subpart 6. **Use restrictions**, Currently numbered as Item C, Renumbered as Item B)*

*~~C.~~ **B. Safety zone B** ~~shall~~ must be restricted in use as follows. Each use ~~shall~~ must be on a site whose area ~~shall not be~~ is not less than three acres. Each use ~~shall~~ must not create, attract, or bring together a site population that would exceed 15 times that of the site acreage. Each site ~~shall~~ must have no more than one building plot upon which any number of structures may be erected.*

A building plot ~~shall~~ must be a single, uniform, and noncontrived area, whose shape is uncomplicated and whose area ~~shall~~ must not exceed the following minimum ratios with respect to the total site area:

<i>Site Area at Least (Acres)</i>	<i>But Less Than (Acres)</i>	<i>Ration of Site area to Building Plot Area</i>	<i>Building Plot Area square feet</i>	<i>Maximum Site Population (15 Persons/Acre)</i>
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,600	90
10	20	6:1	72,500	150
20	and up	4:1	218,000	300

The following uses are specifically prohibited in safety zone B: ~~churches~~ institutions of religious assembly, hospitals and clinics, nursing homes, schools, theaters, stadiums, hotels and motels, trailer courts, ~~camp grounds~~ campgrounds, and other places of ~~public or semipublic assembly~~ similar use.

Justification: The proposed amendments change the item letter, make clerical edits, and clarify the types of uses that are specifically prohibited in safety zone B. The term “churches” has been changed to “institutions of religious assembly” to be more encompassing of the places of worship used by all religions. Clinics and nursing homes have been specifically added to the list because they are of similar use as a hospital and therefore reasonable to include. Finally, the phrase “public or semipublic assembly” has been replaced by “places of similar use” to slightly ease the restriction. The terms “public and semipublic assembly” are potentially much broader than how this subpart has been applied in the past. Businesses open to the public such as coffee shops or bars are semipublic places, but it is not the intent of safety zone B to prohibit those uses. It is impossible to categorize and list every type of use so listing examples of uses that are prohibited and including the phrase “and other places of similar use” is reasonable.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6C

*(Subpart 6. **Use restrictions**, Currently numbered as Item D, Renumbered as Item C)*

~~D.~~ C. *Safety zone C is subject only to the general restrictions contained in item A D.*

Justification: The proposed amendment changes the item letter and the reference to the newly numbered item D. No changes to the land use restrictions of safety zone C are proposed.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6D

*(Subpart 6. **Use restrictions**, New Item D)*

D. *The use of any land in any of the safety zones is prohibited if the use:*

- (1) creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;
- (2) makes it difficult for pilots to distinguish between airport lights and other lights;
- (3) results in glare in the eyes of pilots using the airport;
- (4) impairs visibility in the vicinity of the airport; or
- (5) otherwise endangers the landing, taking off, or maneuvering of aircraft.

Justification: As indicated above, the language in item D has been moved from item A. Other than making the list of prohibitions into a list, no other changes to the original language have been proposed.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E

(Subpart 6. **Use restrictions**, New Item E)

- E. ~~The provisions of items B and C shall not apply to land uses, in “established residential neighborhoods in built up urban areas.” Such “established residential neighborhoods in built up areas” shall be~~ Existing land uses are subject to the use restrictions contained in this paragraph item.

Justification: The proposed amendment removes language relating to “established residential neighborhoods in built up urban areas” and replaces it with the term “existing land uses.” This conforms with changes to Minn. Stat. § 360.062 which removed references to “residential neighborhoods in built up urban areas” and replaced them with “existing land uses.”

Note: Throughout the rest of this rule part, references to “residential neighborhoods in built up urban areas” have been changed to “existing land uses” for the same reasons described above.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(1)

(Subpart 6. **Use restrictions**, Item E, Subitem (1))

- (1) ~~Airport safety zoning balances the public interest involved in safety for persons on the ground, safety of persons traveling in aircraft, and the public interest in maintaining existing land uses. The legislature has mandated special protection for existing land uses in “established residential neighborhoods in built up urban areas.” The provisions of items A to D strike the appropriate balance with regard to other land uses and areas and shall therefore be applied in those cases. For purposes of this item, “existing land use” means the~~ land use present when the area is first encumbered by an airport zoning ordinance.

Justification: The first proposed amendment removes explanatory language regarding established residential neighborhoods because that phrase has been removed from statute and replaced with “existing land use.” The second proposed amendment provides the definition of existing land use. This is reasonable because it improves the readability of the rest of the item by first defining the term.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(2)

(Subpart 6. Use restrictions, Item E, Subitem (2))

- (2) Each governmental authority having airport zoning powers ~~shall~~ must determine which areas located in safety zones A and B of each airport within its jurisdiction are ~~also located in “established residential neighborhoods in built up urban areas.”~~ In making such determination, the factors enumerated in subitem (4) shall be considered. Such neighborhoods designated as existing land uses. Existing land uses located in whole or part in safety zones A or B shall must be specifically located on the airport zoning map and shall must be legally described in the airport zoning ordinance. Each governmental authority having airport zoning powers shall submit its proposed zoning map and ordinance to the commissioner of transportation for review and approval prior to holding a public hearing or taking other action thereon.

Justification: In addition to changing the language from “established residential neighborhoods in built up urban areas” to “existing land uses,” the proposed amendment removes the requirement for governmental authorities with airport zoning powers to submit its proposed zoning map and ordinance to the commissioner of transportation for review and approval prior to holding a public hearing or taking other action. All airport zoning ordinances enacted in compliance with Chapter 360 are reviewed by the Department and receive approval by the commissioner of transportation. The requirement in this subitem is duplicative of statute.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(3)

(Subpart 6. Use restrictions, Item E, Subitem (3))

- (3) ~~No land use in safety zones A or B and in an area designated as having been an “established residential neighborhood in a built up urban area shall be prohibited by~~ Areas designated as existing land uses are not subject to the land use restrictions of safety zones A or B in an airport zoning ordinance except as provided required in subitem (5)(4).

~~In addition, any isolated low density residential building lot or low density residential structure which existed on January 1, 1978, in an “established residential neighborhood in a built up urban area,” must either be allowed to continue as a conforming use under the terms of the local zoning ordinance or must be acquired, altered, or removed as provided in~~

~~subitem (6). For this purpose, a low density residential structure shall mean a single family or two family home and an isolated low density residential building lot shall mean a single lot located in an area which is zoned for single family or two family residences and in which the predominant land use is such type of residences.~~

Justification: The first paragraph of this item has been reworded for clarity and to reflect the statutory change from residential neighborhoods to “existing land uses.”

The second paragraph has been deleted because the language is obsolete. The revised language in the preceding paragraph establishes that the restrictions of safety zones A and B do not apply to existing land uses, therefore they are already conforming. The language regarding isolated low density residential building lots and structures is specific to the previous statutory language and is not required because “existing land use” is a broader category.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(4)

(Subpart 6. **Use restrictions**, Item E, Subitem (4) – current language)

~~(4) In determining what constitutes an “established residential neighborhood in a built up urban area” the governmental unit having zoning powers shall apply and consider the following criteria in relation to the neighborhood as it existed on June 30, 1979:~~

~~(a) location of the airport;~~

~~(b) nature of the terrain within safety zones A and B;~~

~~(c) existing land uses and character of the neighborhood around the airport;~~

~~(d) population of the community;~~

~~(e) that the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;~~

~~(f) population density near the airport compared with population density in other areas of the community;~~

~~(g) the age and the economic, political, and social stability of the neighborhood and the community as a whole;~~

~~(h) the proximity of supporting school, commercial, religious, transportation, and other facilities and their degree of integration with residential land uses;~~

- ~~(i) presence or absence of public utilities including, but not limited to public central sanitary sewer system electric service and gas mains;~~
- ~~(j) whether or not the factors listed in units (h) and (i) tend to make the community surrounding the airport a self-sufficient unit;~~
- ~~(k) whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and~~
- ~~(l) other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban, and built up.~~

Justification: The proposed amendment removes language describing how “established residential neighborhoods in built up urban areas” is to be determined. This is reasonable because the language is obsolete for the same reasons as described in subitem (1).

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(5)

(Subpart 6. **Use restrictions**, Item E, Currently Numbered as Subitem (5), Renumbered as Subitem (4))

- ~~(5) (4) Safety hazards: The following land uses if they exist The following existing land uses in safety zones A or B and in an “established residential neighborhood in a built up urban area” are considered by the commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air traveling public, or both, that they must be prohibited under local airport zoning ordinances:~~
 - ~~(a) any structure which a person or persons customarily use as a principal residence and which is that has more than half of its footprint located entirely within safety zone A and within 1,000 feet of the end of the primary zone;~~
 - ~~(b) any structure which a person or persons customarily use as a principal residence and which is that has more than half of its footprint located entirely within safety zone A or B and which that penetrates an imaginary approach surface as defined by part 8800.1200, subpart 5, item D; and~~
 - ~~(c) any land use in safety zone A or B which violates any of the following standards: the land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft; the land use must not make it difficult for pilots to distinguish between airport lights and other lights; and the land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport;~~

~~(d) any isolated residential building lot zoned for single family or two family residences on which any structure, if built, would be prohibited by unit (a), (b), or (c). An “isolated” residential building lot is one located in an area in which the predominant land use is single family or two family residential structures; and~~

(e) ~~(c)~~ any other land use ~~which~~ that presents, in the opinion of the commissioner, a material danger to the landing, taking off, or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the commissioner ~~shall~~ must consider the following factors:

- i. the possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;
- ii. the possibility that the land use may, in case of an aircraft accident, cause an explosion, fire, or the release of harmful or noxious fumes, gases, or substances;
- iii. the tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;
- iv. the effect of the land use on availability of clear areas for emergency landings; and
- v. flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

Justification: The introductory paragraph in the newly numbered subitem 4 was reworded for clarity. These changes are reasonable because the statute no longer references residential neighborhoods.

Units (a) and (b) have been broadened to include all structures, even those that are not used as a principal residence. Additionally, clarity has been added by removing the requirement that the structure be *entirely* within safety zones A or B to be prohibited. If at least half of the structure’s footprint is within safety zones A or B, it is prohibited. This is reasonable because structures that are within 1,000 feet of the end of the primary zone and those which penetrate the imaginary approach surface as defined in part 8800.1200 are significant hazards to aircraft and must be restricted, even if they are not entirely within safety zone A.

The existing language for unit (c) has been removed because the land use restrictions are the same as those in item D and still apply to areas designated as existing land uses.

The existing language for unit (d) has been removed because it is specific to established residential neighborhoods and the qualification is no longer required due to the new language regarding existing land use. Unit (e) has been renumbered as unit (c).

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(6)

(Subpart 6. **Use restrictions**, Item E, Currently Numbered as Subitem (6), Renumbered as Subitem (5))

~~(6)~~ (5) In the case of any land use prohibited by ~~subpart 6, item E, subitem (5)(4)~~ and ~~which that~~ is located in an ~~“established residential neighborhood in a built-up urban area”~~ area designated as an existing land use in an airport zoning ordinance, as defined by the local government unit and reviewed and approved by the commissioner, the prohibited land use must be acquired, altered, or removed at public expense by the governmental body ~~which that~~ owns the airport. This may be accomplished by an exchange of land, purchase of development rights, acquisition of easements, or other method to be negotiated with the landowner or by outright purchase or exercise of eminent domain, if necessary.

Justification: As stated above, the statute no longer references existing residential neighborhoods and instead references existing land uses. The proposed revision reflects the statute change.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(7)

(Subpart 6. **Use restrictions**, Item E, Currently Numbered as Subitem (7), Renumbered as Subitem (6))

~~(7)~~ (6) The prohibited uses enumerated in ~~subpart 6, item E, subitem (5)(4)~~ are only those ~~which that~~ present the most severe safety hazards to the air traveling public or persons on the ground, ~~as the case may be~~. Local governmental units may also prohibit other land uses in safety zones A and B as being unsafe to the public. The restrictions contained in items A to D provide guidance as to what uses the commissioner deems not to be in the public interest in these safety zones. ~~See also subitem (5), units (c) and (e). The local governmental unit must note the requirement of Minnesota Statutes 1978, section 360.666, subdivision 1a, paragraphs (a) and (d) that certain prohibited land uses must be acquired, altered, or removed at public expense.~~

Justification: The proposed amendments make clerical edits and remove the reference to a requirement which has been removed from statute and is therefore obsolete.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(8)

(Subpart 6. **Use restrictions**, Item E, Currently Numbered as Subitem (8), Renumbered as Subitem (7))

~~(8)~~ (7) In the event that the provisions of this item, as reflected in a proposed local zoning ordinance, would require the acquisition, alteration, or removal of any land use, then, in such event, ~~at least 60 days prior to the first hearing on adoption of the ordinance, the local zoning authority shall so notify the airport owner. The airport owner shall then consider the alternatives of closing a runway, runway realignment or relocation, runway extension or~~

~~shortening, and displaced thresholds and shall then promptly notify the local zoning authority in writing, if it proposes to take any of such alternative actions the local zoning authority must notify the airport owner who must then notify the commissioner in writing. Within 90 days of receipt of the notification, the commissioner must evaluate whether the social and economic costs of acquisition, alteration, or removal of a land use outweigh the impacts that altering the airport would have on the utility of the airport, the state aviation system, and the state airports fund and provide a recommendation in writing to the airport owner.~~

Justification: The proposed amendment alters the process that must be followed if an airport zoning ordinance would require the acquisition, alteration, or removal of any land use by including coordination with the commissioner of transportation. This change is necessary to protect the state aviation system from detrimental changes due to the circumstances at one airport. This is reasonable as it provides more time and opportunity for all involved parties to find an acceptable solution.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 6E(9)

(Subpart 6. **Use restrictions**, Item E, Subitem (9))

~~(9) These rules shall be effective June 30, 1979, except as provided above as to isolated, low density residential building lots and low density residential structures.~~

Justification: Subitem 9 is no longer needed because it will become obsolete upon adoption of the proposed rules.

8800.2400 AIRPORT ZONING STANDARDS, Subpart 7

~~Subpart 7. **Noise sensitivity zones.** Land use sensitivity zones shall be established when requested by the commissioner or by the governmental unit having airport zoning powers. The governmental unit having zoning powers, when required by the commissioner, shall secure a study as to the boundaries of the area to be zoned for this purpose and the uses permitted herein.~~

Justification: The purpose of airport zoning is the safety of the public and to protect the airport from incompatible development in the surrounding area, not noise regulation. The FAA has specifications for mapping airport noise and developing airport noise compatibility programs under 14 CFR Part 150 which include participation by the general public, local municipalities, and the state. The Office of Aeronautics is not aware of any previous application of this subpart. It is reasonable to remove this subpart because alternate and more appropriate mechanisms exist for regulating airport noise.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subparts 1 and 2

Subpart 1. Airport projects. The commissioner ~~will~~ must make a substantive decision as to the merit or necessity of each project and project application. A substantial aeronautical requirement must be shown by the municipality whereby the contemplated or existing airport is a necessary part of a system of public airports adequate to meet the present and anticipated needs of civil aviation in Minnesota.

Subp. 2. Project requirements. The airport must be able to handle air traffic safely and adequately. The public interest and aeronautical progress of the state must be reflected in each project and project application. The municipality must show that:

- A. sufficient funds are available for that portion of the project costs to be borne by the municipality ~~and that;~~*
- B. the project will be completed without undue delay, ~~and that;~~ and*
- C. the municipality submitting the project application has legal authority to engage in the development as proposed.*

Justification: The proposed change divides the existing language into two subparts and three items. The change is needed and reasonable for clarity.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 3

Subp. 3. Clear zone. To be eligible for funding for the construction, improvement, or maintenance of airports or for air navigation facilities for an airport, each airport licensed as a public airport by the commissioner must comply with the clear zone provisions established in this part or provide written notice to the commissioner that demonstrates the airport's good faith efforts to make progress toward compliance.

Justification: Minn. Stat. § 360.015, subd. 3, empowers the commissioner to make rules which further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics.

The addition of this subpart codifies an existing Department policy regarding the clear zone which has been in place since 1978. The codification is necessary to provide more clarity to airport owners about the definitions and requirements for the clear zone. It is reasonable because this change does not add any new requirements that airport owners were not already subject to through the policy. Additionally, the language provides flexibility for airports that are not currently in compliance with the clear zone provisions to remain eligible for funding by providing written notice to the commissioner demonstrating their efforts to make progress toward compliance.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 4

Subp. 4. **Clear zone dimensions.** Clear zone dimensions must be based on an airport's planned build-out conditions. The dimensions of each clear zone are established for and based on the type of existing or planned approach for each runway end.

- A. The inner edge of the clear zone is the same width as, and coincides with, the end of the primary surface, as defined in part 8800.1200, subpart 5, item A.
- B. The clear zone extends outward under the approach surface, as defined in part 8800.1200, subpart 5, item D. The clear zone expands uniformly from the end of the primary surface, following the approach surface to a terminal distance of:
 - (1) 1,000 feet for a utility runway;
 - (2) 1,700 feet for a runway end of an other than utility runway with a visual or nonprecision instrument approach except those with visibility minimums as low as three-fourths of a statute mile; or
 - (3) 2,500 feet for a runway end of an other than utility runway with a nonprecision instrument approach lower than three-fourths of a statute mile or a precision instrument approach.

Justification: The dimensions of the clear zone are consistent with the approach surface as defined in part 8800.1200 and ensure that at the lowest point of flight, the area the aircraft travels through is clear of hazards. The lengths of the clear zones are reasonable because they were designed to ensure that aircraft can clear a 50-foot obstacle at the slope of the approach surface. For example, the approach surface for a nonprecision runway with visibility minimums as low as three-fourths of a statute mile rises upward at a slope of 34:1. This slope reaches a height of 50 feet above the runway end at a distance of 1,700 feet.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 5

Subp. 5. **Clear zone ownership.** To provide for the safety for aircraft operations and populations in runway approach zones, airports must meet the requirements in item A or B:

- A. an airport sponsor must own one hundred percent of all clear zones in fee simple based on planned build-out conditions in accordance with the dimensions provided in subpart 4; or
- B. the airport sponsor must prepare a clear zone acquisition plan as provided in subpart 6.

Justification: This subpart establishes the requirement for airport sponsors to own the entirety of the clear zone in fee simple. This is necessary because the clear zone is immediately proximate to the end of a runway and is the area where an airport hazard is most dangerous to the safety of pilots and

passengers, as well as the safety of those on the ground. Fee-simple ownership is reasonable because the safety issues that airport hazards in the clear zone present are so severe that the highest-level of control (fee-simple ownership, as opposed to acquisition of easements or land use zoning) is necessary to protect aviation safety.

Fee simple ownership is necessary because it provides the sponsor with maximum control of land use and power to remove any hazards. Other forms of control such as easements and land use zoning are insufficient for this area because they do not provide the airport with sufficient control to quickly and completely remove airport hazards and prevent the creation of new ones. This is reasonable because past experience with easements in the clear zone has shown that in practice, disagreements between the landowner and easement-holder impede their enforcement and are an uneconomical use of state funds as well as failing to provide the required level of safety.

Finally, this rule change requires airport sponsors who do not own one hundred percent of all clear zones in fee simple to prepare a clear zone acquisition plan. This requirement is needed and reasonable because it allows airport sponsors the time and opportunity to prepare a plan to meet the ownership requirements.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 6

*Subp. 6. **Clear zone acquisition plan.** The airport sponsor must prepare a clear zone acquisition plan that documents the plan for acquiring all clear zones in fee simple and obtain approval from the commissioner as required under Minnesota Statutes, section 360.305, subdivision 5.*

Justification: Requiring a clear zone acquisition plan is necessary to prevent airports from remaining non-compliant indefinitely. Requiring such a plan is reasonable because it enables the airport sponsor to document the reasons for non-compliance and obstacles to obtaining compliance, as well as establish a path towards compliance. An approved clear zone acquisition plan is one way an airport sponsor can demonstrate that it is in the process of obtaining compliance with the clear zone requirements under subpart 3 and remain eligible for funding.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 7

*Subp. 7. **Exceptions.** In cases where it is not feasible to own the entire clear zone in fee simple due to airport-specific constraints, such as cost burdens that present a hardship for the airport sponsor; the need to obtain a parcel that is not readily severable from other land; or natural features of the terrain, such as a river that make acquisition impracticable, the airport sponsor may request an exception. To request an exception, a clear zone acquisition plan must be prepared and include:*

- A. a list of property interests currently owned and property interests identified for future acquisition;*

- B. any natural and manmade features within clear zones based on the dimensions provided in subpart 4, items A and B, including those that may result in congregations of people or exceed height standards defined by part 8800.1200;
- C. factors limiting clear zone acquisition;
- D. existing or proposed future land use control strategies to support airport-compatible land uses within clear zones; and
- E. an explanation of any potential negative safety impacts that not owning the entire clear zone in fee simple may have on aircraft operations and populations in the runway approach zones.

Justification: This subpart provides the requirements for requesting an exception to owning the entire clear zone in fee simple. It is necessary because many airports do not currently own one hundred percent of the clear zone in fee simple and would therefore not be eligible for funding. The Department recognizes that there are many factors specific to the unique location of each airport that may affect the feasibility or reasonability of acquiring the entirety of the clear zone in fee simple. As such cases arise, it is reasonable for the airport sponsor to include in the clear zone acquisition plan details about the inhibiting factors and exploring suitable alternatives.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 8

Subp. 8. Evaluation of clear zone acquisition plan. The commissioner must evaluate the clear zone acquisition plan and the information required by subpart 7. If the commissioner approves the clear zone acquisition plan, the airport sponsor must be notified in writing. If the commissioner does not approve the clear zone acquisition plan, the commissioner must notify the airport sponsor in writing and provide the reasons for disapproval. The commissioner must disapprove a plan upon finding that a requested exception does not adequately provide for the safety of aircraft operation and populations in the runway approach zones. The airport sponsor may revise and resubmit the clear zone acquisition plan within 90 days of the disapproval for further evaluation until the plan is approved.

Justification: This subpart provides the requirements for evaluation and approval of the clear zone acquisition plan. As described above, the purpose of clear zone ownership requirements is to provide for the safety of aircraft operations and populations in the runway approach zones. It is reasonable to require approval of the clear zone acquisition plan to ensure the airport sponsor and commissioner agree on the plan for acquiring the clear zone in fee simple. The rule provides flexibility by requiring the commissioner to provide the reasons for disapproval and by allowing the airport sponsor to revise and resubmit the plan until the plan is approved. It is also reasonable to require the plan to be resubmitted within 90 days of each disapproval to ensure the plan development continues.

8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS, Subpart 9

Subp. 9. **Applicability.** Airports with airport layout plans approved under Minnesota Statutes, section 360.305, subdivision 5, on or after the effective date of this part must meet the criteria in subpart 5, items A or B. Airports without approved airport layout plans or airports with airport layout plans approved before the effective date of this part must meet the criteria in subpart 5, item A or B, when they next update their airport layout plan.

Justification: This subpart is necessary so that all airports that do not currently own the entirety of the clear zone in fee simple do not become ineligible for funds automatically upon the adoption of this rule. This is reasonable so that as airports periodically revise their airport layout plans, they can draft a clear zone acquisition plan at the same time.

Regulatory Analysis

Minn. Stat. § 14.131 requires the Department to address eight factors as part of the SONAR. These factors are laid out and addressed in detail below.

Classes Affected

A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule will affect municipalities, counties, and Joint Airport Zoning Boards (JAZB) which are involved in the establishment or amendment of an airport zoning ordinance. The Department does not believe that the proposed rule will burden such authorities with any additional costs.

The proposed rule will benefit municipalities, counties, and joint airport zoning boards by providing clarity and increasing flexibility of the commissioner's standard of airport zoning and reducing the social and economic costs of complying with the commissioner's standard. Compliance with state airport zoning standards will benefit counties, municipalities, and JAZB through the prevention of the creation of airport hazards which may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thereby impairing the utility of the airport and the public investment therein.

Compliance with state airport zoning standards will benefit pilots and the public by preventing the creation of airport hazards which endanger the lives and property of users of the airport and occupants of the land in its vicinity. Additionally, it protects public airport investments.

Department/Agency Costs

The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department does not expect any costs to the agency or any other agency with the implementation and enforcement of the proposed rule, nor does it expect any impact on state revenues. The worktime required for the Department to administer the revised airport zoning standards and the clear zone requirements is not more than is currently used to administer the existing rules.

Less Costly or Intrusive Methods

A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department is unaware of any way to achieve the intended effects of the proposed amendments to these rules other than through rulemaking. The proposed amendments were developed to update existing rule requirements and to comply with statutory changes.

Airport zoning under Minn. Stat. Chapter 360 was amended to provide greater opportunity for airports to come into compliance with state law. By adding a custom zoning option and changing language to permit existing land use beyond established residential neighborhoods were instrumental in providing a path for airports within the state to properly zone land uses around the airport. The cost to conduct rulemaking is insignificant in comparison to the benefit airports will realize in their ability to properly zone.

Alternative Methods

A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

The Department did not seriously consider any alternative methods other than the proposed amendments. As stated above, the proposed amendments were developed to update existing rule requirements and to comply with statutory changes.

Since Minn. Stat. Chapter 360 was amended, it is imperative that the Minnesota Administrative Rules reflect and support the changes and intent in statute. The Department was urged by airports around the state to make significant changes to airport zoning. The Department worked diligently with airport sponsors to develop language and cohesive rules are necessary to bring those zoning changes in statute to fruition.

Costs to Comply

The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

As noted above, the Department does not believe there will be a significant increase in costs associated with the proposed rule amendments because it already reviews and approves airport zoning ordinances. The proposed changes simply change the standards regarding the content of those ordinances.

Costs of Non-Adoption

The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

The probable consequences of not adopting the proposed rule includes continued lack of clarity for state airport zoning standards and the Department's clear zone policy, and continued incongruity between Minn. Stat. § 360.062 and Minn. R. 8800.2400.

Differences from Federal Regulations

An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

There are no existing federal regulations that are comparable to the commissioner's airport zoning standards. The federal government has no authority over land use beyond the FAA's requirements for Runway Protection Zones. Currently, Minn. Stat. Chapter 360, and Minn. R. Chapter 8800, require airports in the State of Minnesota to zone as described by law.

14 CFR 77 defines a Runway Protection Zone (RPZ) that is similar to the shape and purpose of the clear zone in the proposed rules. RPZs are a trapezoidal area off the end of the runway that serves to enhance the protection of people and property on the ground in the event an aircraft lands or crashes beyond the runway end. RPZs underlie a portion of the approach zone closest to the airport. While the RPZ has limitations on obstructions (objects which interfere with safe air navigation), the primary purpose is the protection of people and property on the ground. Under FAA design criteria, airports must own sufficient interest in the RPZ to protect the area from both obstructions and incompatible land uses.

There are several important differences between RPZs and the proposed clear zone. First, FAA design criteria applies only to airports which are part of the National Plan of Integrated Airport Systems (NPIAS). 96 of the 133 publicly owned public-use airports in Minnesota are part of the NPIAS. The remaining 37 do not receive federal funding and are not subject to RPZ requirements, therefore the proposed clear zone is needed for those airports.

Second, the FAA design criteria does not require fee simple ownership of the RPZ; easements or restrictive zoning also satisfy the requirements. Through experience, the Department has learned that it is usually less expensive in the long run to acquire the clear zone in fee simple rather than acquiring an easement. This is because an easement must be very restrictive in order to provide adequate control, and the existence of an easement creates continuous friction between the landowner and the airport owner.

Third, the RPZ dimensions differ from the clear zone dimensions. The proposed clear zone is based on the approach surface as defined in Minn. R. 8800.1200, the physical characteristics of the runway (pavement type and strength), and the visibility minimums of the approach. The RPZ is based on the aircraft approach category and the airplane design group. Additionally, there are separate approach and departure RPZs for each runway end. Neither state statute nor rules contains an analogue to the FAA's airplane design group.

Cumulative Effect

An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

There are no other state or federal regulations related to airport zoning. Therefore, the proposed changes to 8800.2400 do not have a greater regulatory cumulative effect.

The changes to 8800.2500 have minimal effect. Because the clear zone is similar in dimensions and land use requirements to the Federal Runway Protection Zone, in many situations both regulations can be met simultaneously. In cases where the clear zone is larger than the Runway Protection Zone, the additional land required to be acquired would be a fraction of the size of the RPZ. The rule changes provide an exemption option if airport owners consider acquiring area outside the RPZ to be too burdensome. If the owner does acquire land, the state will participate in funding for that acquisition.

Notice Plan

Minnesota Statutes, section 14.131, requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

Required Notice

The Department is required under Minn. Stat. Chapter 14 to identify and send notice to several groups. The steps the Department will take to meet those statutory requirements are laid out in detail below.

Details on the initial measures taken to ensure stakeholders received both required and additional notice of this rulemaking can be found on pages 12-13 of this SONAR.

Consistent with Minn. Stat. § 14.14, subd. 1a, on the day the Dual Notice is published in the *State Register*, the Department will send via email or U.S. Mail a copy of the Dual Notice and the proposed rule to the contacts on the Department's list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. There are roughly 30 people on the Department's list of persons who have requested notice via United States Postal Service, and roughly 350 persons who have requested notice of all rule proceedings via GovDelivery. The Dual Notice will be sent at least 33 days before the end of the comment period.

Consistent with Minn. Stat. § 14.116(b), the Department will send a copy of the Dual Notice, a copy of the proposed rules, and a copy of the SONAR to the chairs and ranking minority party members of the Transportation Finance and Policy Committee, Health and Human Services Committee, and the Legislative Coordinating Commission. These documents will be sent at least 33 days before the end of the comment period.

Consistent with Minn. Stat. § 14.131, the Department will send a copy of the SONAR to the Legislative Reference Library when the Dual Notice is sent.

There are several notices required under Minn. Stat. Chapter 14 in certain situations that do not apply for this rulemaking. These notices are laid out in detail below.

Minn. Stat. § 14.116 requires the Department "make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house of representatives and senate authors of the bill granting the rulemaking authority" if it is within two years of the effective date of the law granting rulemaking authority. This requirement does not apply because the Department was granted its original rulemaking authority for these rules in 1945 and no bill within the past two years granted the Department additional authority for this rulemaking.

Minn. Stat. § 14.111 requires the Department to provide the commissioner of agriculture with a copy of the proposed rule change if the agency plans to adopt or repeal a rule that affects farming operations. This requirement does not apply because the proposed amendments will not have any effect on farming operations in Minnesota.

Additional Notice

In addition to the required notice referenced above, the Department will make the Dual Notice, SONAR, and proposed rule amendments available on the web page created for this rulemaking. Members of the public may submit comments by U.S. mail, email, or by contacting Department staff directly.

The Department also intends to send an electronic notice with a hyperlink to electronic copies of the Notice, SONAR and the proposed rule amendments to:

- **Managers and owners of all publicly owned airports in Minnesota.** The Department maintains a list of airport managers and owner contacts. Airport owners are responsible for initiating the airport zoning process.
- **Minnesota Council of Airports.** MCOA is a non-profit organization that provides airport owners and operators with a forum to improve airports and aviation in the state.
- **League of Minnesota Cities.** Municipalities are airport sponsors and often members of Joint Airport Zoning Boards.
- **Association of Minnesota Counties.** Counties are airport sponsors and often members of Joint Airport Zoning Boards.
- **Dakota/Minnesota Airport District Office (Minneapolis) of the Federal Aviation Administration.** The FAA Dakota-Minnesota ADO issues grants for airports which are part of the National Plan of Integrated Airport Systems. The FAA provides funding for airport land acquisition for the Runway Protection Zone, which often overlaps with the clear zone.
- **Minnesota Business Aviation Association.** The MBAA is a non-profit organization that promotes the interests of the business aviation community. The MBAA membership includes representation from over 100 Minnesota based companies that utilize aircraft within their core business.
- **Minnesota Pilots Association.** The MNPA is a non-profit organization that promotes interests of pilots in Minnesota.
- **Minnesota Small Cities Association.** Municipalities are airport sponsors and often members of Joint Airport Zoning Boards.
- **Minnesota Association of Townships.** Some townships are airport sponsors and townships are often members of Joint Airport Zoning Boards.
- **Metropolitan Airports Commission (MAC).** The MAC owns and operates seven airports in the Minneapolis-St. Paul metropolitan area.

- **Minnesota Department of Agriculture Inspection Unit.** The Minnesota Department of Agriculture regulates the use of agricultural chemicals, including by aerial application (crop spraying.)
- **Consulting firms that work on airport projects in Minnesota.** The Department has a list of consulting firms that have participated in state-funded airport projects.

On November 25, 2024, the Department received confirmation from OAH that these steps meet the notice requirements for persons or classes of persons who may be affected by the proposed amendments to these rules under Minn. Stat. § 14.14, subd. 1a.

Performance-Based Rules

Minn. Stat. § 14.002, requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of the Department’s regulatory objectives while allowing maximum flexibility to regulated parties and to the Department in meeting those objectives.

Strictly, performance-based rules would set objectives and leave the manner of achieving those objectives to the regulated parties. Given the unique requirements for airport zoning and the need to ensure safe aircraft operations and the safety of the air-traveling public, true performance-based rules are not possible. However, the Department has made a significant effort to make these rules as flexible as possible while still ensuring that necessary safety requirements are in place.

The proposed amendments allow for greater flexibility to regulated parties than the existing rules. Specifically, the proposed amendments institute a cap on the required length of airport safety zones allowing airports to come into compliance with state statute while still maintaining a reasonable level of safety to the public. Additionally, the draft language incorporates provisions for protecting existing land uses beyond “established residential neighborhoods” as amended in statute. This provision reduces the regulatory impact of airport zoning compared to the existing rules by providing for the continuation and expansion of a broader range of land uses than just residential, reducing the impact of new airport zoning ordinances on existing commercial and other uses.

Consultation with MMB on Local Government Impact

As required by Minn. Stat. § 14.131, the Department will consult with Minnesota Management and Budget (MMB) by sending MMB copies of the documents that will be sent to the Governor’s Office for review and approval on the same day we send them to the Governor’s Office. The Department will do this before publishing the Dual Notice. The documents will include the Governor’s Office Proposed Rule and SONAR Form, the proposed rule amendments, and the SONAR. The Department will submit a copy

of the cover correspondence and any response received from MMB to OAH at the hearing or with the documents it submits for ALJ review.

Impact on Local Government Ordinance and Rules

Minn. Stat. § 14.128, subd. 1, requires an agency to determine whether a proposed rule will require a local government to adopt or amend any ordinances or other regulation to comply with the rule. The Department has determined that the proposed amendments will not have any effect on existing local ordinances or regulations.

The commissioner's standard establishes minimum requirements for airport zoning. Municipalities are empowered to enact airport zoning ordinances which are more restrictive than the commissioner's standards. Because the proposed changes are reducing the minimum requirements, no changes to existing airport zoning ordinances will be required because of this rule change.

Costs of Complying for Small Business or City

Minn. Stat. § 14.127, subd. 1 and 2, require an agency to “determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees.”

This rule applies to cities that own airports. The work that is required to develop and maintain an airport zoning ordinance will not change with the adoption of this rule. The rule changes what needs to be in the ordinance but does not change the overall requirement for an ordinance.

The proposed amendments to Minn. R. 8800.2500 require airports to either own the entirety of the clear zone in fee simple or submit a clear zone acquisition plan apply when an airport adopts or updates an airport layout plan following the effective date of the proposed rule amendments. There is no deadline or requirement for this to be done within a year. While acquiring land costs money, this has been a requirement for over 50 years and the adoption of this rule does not add any additional requirements. The amendments add flexibility by introducing a new procedure to request an exception to the clear zone ownership requirements when acquiring land in fee simple is not feasible.

The clear zone is also already required to be identified on an airport layout plan, so much of the work of creating a clear zone acquisition plan is incidental to drafting an airport master plan or airport layout plan. Two airports have already developed clear zone acquisition plans that would meet the requirements in the proposed rules and have provided feedback that creating the plan required minimal time and effort. Additionally, the Department provides grant funding to assist with the cost of clear zone property acquisition.

Additionally, existing businesses are not directly affected by this rule change. The proposed amendments do not require any stricter land use restrictions than current rules.

Therefore, the Department determined that the cost of complying with the proposed rules in the first year after the rule takes effect will not exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees.

Authors and Witnesses

Authors

The primary authors of this SONAR are John Fleming, Office of Aeronautics Principal Planner, Rylan Juran, Office of Aeronautics Planning Director, and Andrea Barker, Rules Coordinator.

Witnesses

The Department expects that the proposed amendments will be noncontroversial. If a hearing is necessary, the Department anticipates having the listed authors and subject matter experts from the Department's Office of Aeronautics testify as witnesses in support of the need for and reasonableness of the rules.

Conclusion

The Department has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules, Chapter 8800. The Department has provided the necessary notice and documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.

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Commissioner

Minnesota Department of Transportation