

Minnesota Department of Natural Resources
500 Lafayette Road Saint Paul, Minnesota 55155-4037
Office of the Commissioner
651-259-5555



December 1, 2015

Governor Mark Dayton

Senator John Marty
Chair, Environment and Energy Committee

Senator David Osmek,
Ranking Minority Member, Environment and
Energy Committee

Senator David J. Tomassoni
Chair, Environment, Economic
Development and Agriculture Budget
Division

Senator Bill Ingebrigtsen, Ranking Minority
Member
Environment, Economic Development and
Agriculture Budget Division

Representative Denny McNamara
Chair, Environment and Natural Resources
Policy and Finance Committee

Representative Rick Hansen,
Ranking Minority Member, Environment and
Natural Resources Policy and Finance
Committee

Mr. Greg Hubinger, Director
Legislative Coordinating Commission
greg.hubinger@lcc.leg.mn

Ms. Michele Timmons, Revisor
Office of the Revisor of Statutes
revisor@revisor.mn.gov

**Subject: Annual Report on Obsolete, Unnecessary, or Duplicative Rules as Required by
Minnesota Statutes, section 14.05, subdivision 5**

Dear Governor Dayton, Senators, Representatives, Revisor Timmons, Director Hubinger:

Minnesota Statutes, section 14.05, subdivision 5, directs the Department of Natural Resources (DNR) to report to you by December 1 of each year whether any of its rules are obsolete, unnecessary, or duplicative of other state or federal statutes or rules.

1. The Department has reviewed its rules and found that the following rules are or have become obsolete, unnecessary, or duplicative. We are not contemplating any action on this item at this time.

Minn. Rules, parts 6122.0100 to 6122.0400, concern appraising DNR leased lands adjacent to public waters. Since 1973, no leases may be issued per Minn. Stat., sec. 92.46, subd. 1a. Ownership of most of the lakeshore leased properties have been conveyed through lease sale or land exchange to private parties under two legislatively mandated programs. Three lakeshore leases remain in effect. Those three leases are located at Horseshoe Bay in Cook County. The valuation of the property and the rental payment for those three leases is as provided in Laws 2003, First Special Session, chapter 9, article 1, rather than the rules. Thus, Minn. Rules, parts 6122.0100 to 6122.0400, are unnecessary at this time. However, if the 2003 law was ever repealed, these rules would still be needed. Since there is a possibility the rules may be needed during the term of the leases (issued for lifetime of lessee and lifetime of party within second degree of kinship if the lease is transferred), we have decided to leave the rules in places and unused.

2. The DNR previously declared its intention to repeal or update the following obsolete rules carried forward in this report.
 - a. We will address obsolete rules in Chapter 6100 “Outdoor Recreation” in a permanent rulemaking package still under development or use the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion. Our 2012 report contains a detailed list of the obsolete rule parts.
 - b. We will address obsolete rules in Chapter 6105 “Wild, Scenic, and Recreational Rivers” in a permanent rulemaking package or use the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion.
 - c. Part 6120.3300, subpart 2, item D, establishes standards for lots of record in shoreland areas, specifically for when nonconforming lots of record may be allowed as building sites without variances from lot size requirements. These provisions are superseded by *Minnesota Statutes*, sections 462.357, subdivision 1e, (d) to (j), and section 394.36, subdivision 5. We will address this item in a permanent rulemaking package or use the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion.
 - d. Part 6115.0110 relating to annual water appropriation processing fee is obsolete and unnecessary because it is superseded by more recent statutes. We will address this item in a permanent rulemaking package or use the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion.
3. The DNR previously declared its intention to repeal part 6230.0250, subpart 1 (duplicate definition for “waterfowl season”); part 6232.0300, subpart 1, item B, subitem 3 (deer hunting regulations in an area of the state where bovine tuberculosis is no longer found); and part 6236.0810 (obsolete definition of wild turkey hunting permit areas). Repealers were included with permanent rules effective January 5, 2015, (Revisor’s File No. R-04250) and these items are completed.
4. The DNR previously declared its intention to repeal chapter 6212 “Licenses and Permits” (which is obsolete in its entirety); part 6260.1500 (concerning regulation of commercial fishing on Namakan and Sand Point Lakes); and part 6280.0250 (concerning prohibition on the harvest of *Nelumbo lutea* (American lotus) in areas designated for their protection). Repealers were included with permanent rules effective December 22, 2014, (Revisor’s File No. R-04114) and these items are completed.

If you have any questions regarding this report, please contact Beth Carlson, DNR Administrative Rules Coordinator (651-259-5531 or beth.carlson@state.mn.us).

Sincerely,

/s/ Tom Landwehr

Commissioner

REFERENCE ATTACHMENT: Copy of the DNR’s 2012 Annual Report on Obsolete, Unnecessary, or Duplicative Rules

c: Beth Carlson, DNR Administrative Rules Coordinator

LEGISLATIVE REPORT – Cost of Preparation

NAME OF LEGISLATIVE REPORT:

Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2015

Based on:Communications from rule writing contacts in agency divisions; also past reports

Minnesota Statute Reference:.....*Minnesota Statutes*, section 14.05, subdivision 5

Prepared by:Elizabeth P. Carlson, DNR Rules Coordinator, Operations Services Division

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Description of Cost	Further explanation if necessary	Amount
Staff Time:		
Operations Services Division (professional services rate @ \$73/hr)	5.0 hours (rules coordinator)	\$365
Ecological and Water Resources Division	3.0 hours (2 staffs)	\$148
Lands and Minerals Division		nominal
Parks and Trails Division	2.0 hours (1 staff)	\$79
Duplication Cost (includes paper)		nominal
Other:		n.a.
	TOTAL TO PREPARE REPORT	\$592