



December 6, 2021

Governor Tim Walz

Senator Carrie Ruud, Chair

Senator Fong Hawj, Ranking Minority Member

Environment and Natural Resources Policy and Legacy Finance Committee

Senator Bill Ingebrigtsen, Chair

Senator Patricia Torres Ray, Ranking Minority Member

Environment and Natural Resources Finance Committee

Representative Rick Hansen, Chair

Representative Josh Heintzeman, Ranking Minority Member

Environment and Natural Resources Finance and Policy Committee

Mr. Ryan Inman, Revisor, Office of the Revisor of Statutes

Ms. Michelle Weber, Director, Legislative Coordinating Commission

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

Dear Governor Walz; Senators Ruud, Hawj, Ingebrigtsen, and Torres Ray; Representatives Hansen and Heintzeman; Revisor Inman; Director Weber:

Minnesota Statutes, section 14.05, subdivision 5, directs the Minnesota 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. In response to that directive, we offer the following:

LANDS AND MINERALS

1. The DNR has reviewed its rules and found that the following rules are or have become obsolete, unnecessary, or duplicative. We plan to use either the good cause exemption procedure provided in *Minnesota Statutes*, section 14.388, or the repeal process outlined in *Minnesota Statutes*, section 14.3895, to repeal the rules in conformance with the repeal of the underlying statutory authority. We have not set a timetable for completion.

Parts 6125.6000 to 6125.7100 relate to sand and gravel leases and mining under *Minnesota Statutes*, section 93.08, which was repealed by the 2000 legislature.

OUTDOOR RECREATION

2. The DNR previously declared its intention to repeal or update the obsolete rules outlined in our [January 2013 Agency Report on Rules](#). The report is available on the [DNR's rulemaking webpage](#). We plan to address obsolete rules in Chapter 6100 "Outdoor Recreation" in an upcoming permanent rulemaking package. We have not set a timetable for completion.

WILDLIFE

3. The DNR reviewed its rules and found that the following rules are or have become obsolete, unnecessary, or duplicative. We plan to 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.

Part 6232.2400 references license requirements for special muzzleloader hunts that are duplicated in 6232.1600.

4. The DNR previously declared its intention to repeal or update the following obsolete rules, which are thus carried forward in this year's report. We plan to address these rules 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.

Part 6230.0295, subpart 2, references parking restrictions on the Vermillion Highland Wildlife Management Area. These restrictions are no longer required.

Part 6230.0400, subparts 24, 28, 40, 42, 44, 45, 47, 53, and 54, reference state game refuges that were open to all hunting and trapping for at least five years before 2013, when the refuges were vacated by commissioner's order as authorized under *Minnesota Statutes*, section 97A.085, subd. 9.

Part 6230.0700, subpart 3, references a permit needed to enter the Lac qui Parle Wildlife Management Area to hunt migratory waterfowl. The permit is no longer required.

Part 6230.0700, subpart 6, references a requirement to report the harvest of any geese at Lac qui Parle Wildlife Management Area. Reporting is no longer required.

Part 6232.0400 references a special disease management zone for Bovine tuberculosis. The disease was eradicated and the zone is no longer necessary or in use.

Part 6232.0900, subpart 2, references the all-season deer license, which is no longer available.

Part 6232.1000, subpart 1, references a 13-digit firearms safety identification number. It is unnecessary to reference the number of digits in the identification number, and the length of the identification number may change.

Part 6232.1300, subpart 5, references licenses to take antlerless deer with firearms. The licenses referenced are obsolete and the requirements associated with this activity are now described elsewhere in rule or statute.

Part 6232.2000 references the multi-zone buck license, which is no longer available.

Part 6232.2050 references the all-season deer license, which is no longer available.

Part 6232.2200 prohibits the use of scopes on muzzleloaders during the muzzleloader deer season. This was rendered obsolete by a change to *Minnesota Statutes*, section 97B.031, subd. 6.

Part 6232.3000, subpart 9a, references a boundary description for a bear quota area that no longer exists.

Part 6232.4700, subparts 16, 21, 32, 45, 61, 75a, 77b and 91, reference deer registration blocks that are no longer used due to a realignment of areas in the northeast.

Part 6237.0550, subpart 2, references a boundary description for a prairie chicken permit area that no longer exists.

Part 6240.1200 references the early goose season, which has been incorporated into the regular migratory waterfowl season.

Part 6240.1850 references open goose hunting on goose refuges that were open to all hunting and trapping for at least five years prior to 2013, when the refuges were vacated by commissioner's order as authorized under *Minnesota Statutes*, section 97A.085, subd. 9.

WILD, SCENIC, AND RECREATIONAL RIVERS

5. The DNR reviewed its rules and found that the following rules are or have become obsolete, unnecessary, or duplicative. We plan to 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.

Parts 6105.0710, 6105.0960, and 6105.1120 contain a series of recreational management maps on the Kettle (Part 6105.0710), Mississippi (Part 6105.0960), and North Fork Crow (Part 6105.1120) Rivers that are nearly illegible and are no longer needed.

6. The DNR previously declared its intention to repeal or update the following obsolete rules, which are thus carried forward in this year's report. We plan to address these rules in a permanent rulemaking package or using the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion.

Part 6105.0140, subpart 3, item A, and part 6105.0400, subpart 3, contain provisions for DNR approval of preliminary plans for cluster developments on all state-designated Wild and Scenic Rivers and on the Lower St. Croix National Scenic Riverway prior to enactment by the local zoning authority. These provisions are now obsolete following the Minnesota Supreme Court's 2010 "Hubbard" decision, which found that the DNR did not have express statutory authority under *Minnesota Statutes*, chapter 103F, to approve or certify such local actions.

Part 6105.0230, subpart 1, items B and C; subpart 2, item C; and subpart 3, items A and E, contain criteria for certifying variances and plats on Wild and Scenic Rivers. These provisions are now obsolete following the Minnesota Supreme Court's 2010 "Hubbard" decision, which found that the DNR did not have express statutory authority under *Minnesota Statutes*, chapter 103F, to approve or certify such local actions.

Part 6105.0230, subpart 2, item B, contains criteria for the review of variances on all state-designated Wild and Scenic Rivers, some of which are not consistent with changes the 2011 legislature made to variance criteria in Minnesota Statutes, chapters 394 and 462.

Part 6105.0520 contains criteria for the review of variances on the Lower St. Croix National Scenic Riverway, some of which are not consistent with changes the 2011 legislature made to variance criteria in Minnesota Statutes, chapters 394 and 462.

Part 6105.0540, subparts 1, item B, and subpart 3, items A. and E, contain provisions for DNR certification of variances on the Lower St. Croix National Scenic Riverway. These provisions are now obsolete following the Minnesota Supreme Court's 2010 "Hubbard" decision, which found that the DNR did not have express statutory authority under *Minnesota Statutes*, chapter 103F, to approve or certify such local actions.

Parts 6105.0740, 6105.0750, 6105.0920, 6105.0930, 6105.1110, 6105.1300, and 6105.1310 consist of legal descriptions of parcels proposed for scenic easement and fee acquisition on the Kettle (parts 6105.0740 and 6105.0750), Mississippi (parts 6105.0920 and 6105.0930), North Fork Crow (parts 6105.1110), and Minnesota (parts 6105.1300 and 6105.1310) Rivers. With limited opportunity to purchase easements from willing sellers, the DNR needs flexibility to make purchases when funds and willing sellers are available and the easement aligns with our current strategic land management goals, and should not be bound by acquisition proposals from 25 years ago.

WATER APPROPRIATION FEES

7. The DNR previously declared its intention to repeal or update the following obsolete rules, which are thus carried forward in this year's report. We plan to address this item in a permanent rulemaking package or using the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion.

Part 6115.0110 relating to annual water appropriation processing fee is obsolete and unnecessary because the underlying statutory authority was repealed in 1990 and superseded by more recent statutes.

SHORELAND MANAGEMENT

8. The DNR previously declared its intention to repeal or update the following obsolete rules, which are thus carried forward in this year's report. We plan to address these rules in a permanent rulemaking package or using the repeal process outlined in *Minnesota Statutes*, section 14.3895.

We have not set a timetable for completion because the DNR currently lacks authority to conduct rulemaking for this rule part.

Part 6120.3300, subpart 2, item D, which 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, is now obsolete because these provisions are superseded by *Minnesota Statutes*, sections 462.357, subd. 1e, items (d) to (j); and 394.36, subd. 5.

FLOODPLAIN MANAGEMENT

9. The DNR reviewed its rules and found that the following rules are or have become obsolete, unnecessary, or duplicative. We plan to 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.

Part 6120.5800, Subpart 2, which describes how land can be removed from the floodplain. Under new FEMA mapping processes, this approach to removing floodplains is no longer allowed by FEMA. The process now requires a formal Letter of Map Revision (LOMR).

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Saul Steen".

Cc: Beth Carlson, DNR Rules Coordinator

LEGISLATIVE REPORT—Cost of Preparation

NAME OF LEGISLATIVE REPORT:

Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2021

Based on Communications from rule writing contacts in agency divisions and past reports

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

Prepared by Elizabeth P. Carlson, DNR Rules Coordinator,
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Description of Cost	Further explanation if necessary	Amounts
Staff time:	Time costs calculated at hourly salary rates except as noted	
Operations Services Division	4.5 hours (rules coordination professional services rate @ \$78/hr)	\$351
Ecological and Water Resources Division	2.0 hours (total from two units)	\$106
Fish and Wildlife Division	0.5 hours	\$23
Lands and Minerals Division	0.5 hours	\$28
Parks and Trails Division	1.0 hours	\$41
DNR Office of General Counsel	1.0 hours (legal services professional services rate @ \$124/hr)	\$124
Duplication Cost (includes paper)		n.a.
Other:		n.a.
	TOTAL TO PREPARE REPORT	\$673