

November 27, 2023

Governor Tim Walz

Senator Founj Hawj, Chair

Senator Justin Eichorn, Ranking Minority Member

Environment and Natural Resources Policy and Legacy 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 Yurich, Executive 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 Hawj and Eichorn; Representatives Hansen and Heintzeman; Revisor Inman; Director Weber:

Minnesota Statutes, section 14.05, subdivision 5, directs each agency 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, the Minnesota Department of Natural Resources (DNR) offers this 2023 report, comprised of this letter and an attached list of specific rule parts in the following rule chapters:

Chapter 6100 Outdoor Recreation

Chapter 6105 Wild, Scenic, and Recreational Rivers

Chapter 6115 Public Water Resources

Chapter 6120 Shoreland and Floodplain Management

Chapter 6230 Wildlife Management

It is DNR's practice to carry forward outstanding items in its annual report until we report them as resolved. For efficiency and cost effectiveness, we first look for opportunities to include repealers in a regular permanent rulemaking case. We can identify timetable for completion if work has commenced on a rulemaking case with the specified obsolete rule repeals.

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

Sincerely,

/s/ BOB MEIER

Bob Meier, Assistant Commissioner

Cc: Elizabeth Carlson, DNR Rules Coordinator
Committee Administrators
Legislative Reference Library

LEGISLATIVE REPORT—Cost of Preparation

LEGISLATIVE REPORT NAME: ***Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2023***

Based on: Communications from rule writing contacts in agency divisions and past Statute: *Minnesota Statutes*, section 14.05, subdivision 5
Prepared by Elizabeth P. Carlson, DNR Rules Coordinator
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Time costs calculated at hourly salary rates except as noted

Description of Cost	Time	Amounts
Staff time:		
Operations Services Division	7.0 hours	\$322
Ecological and Water Resources Division	1.0 hours	\$45
Fish and Wildlife Division	1.0 hours	\$50
Lands and Minerals Division	0.5 hours	\$29
Parks and Trails Division	2.5 hours	\$125
DNR Office of General Counsel (legal services professional services rate @ \$134/hr)	0.5 hours	\$67
TOTAL TO PREPARE REPORT	11.5 hours	\$638

2023 Rule Parts List for Annual Report on Obsolete, Unnecessary, or Duplicative Rules

New	Carried Forward	Rule Parts	Plans and Reasons
		OUTDOOR RECREATION	We plan to address these rules in an upcoming Outdoor Recreation rule package (R-03941). Targeted for completion in 2024.
	X	6100.5000, subparts 3 and 4	These subparts duplicate new or existing language in other subparts.
	X	6100.5100	The restrictions on the use of snowmobiles during hunting season is found in other parts of Minnesota Rules.
	X	6100.5200, subpart 3	The prohibition against dumping is covered by Minnesota Statutes in chapter 609.
	X	6100.5300, subparts 2 through 10	The sign specifications are now covered in the Department of Natural Resources <i>Sign Manual</i> .
	X	6100.5500, subpart 4	Fees for safety training are now exempt from rulemaking under Minnesota Statutes, section 84.86, subdivision 1, item (6).
	X	6100.5800	The penalty for violation of the rules is now found in Minnesota Statutes, section 84.88, subdivision 1.
	X	6100.7000 through 6100.7400	These obsolete rules have not been used or cited by the DNR since before 1986. They have been superseded by: <ul style="list-style-type: none"> Minnesota Statutes, section 84.0264, which designates the DNR as the state agency to receive funds from the federal Land and Water Conservation Fund (L&WCF) and directs how federal receipts will be accepted and deposited Public Laws 88-578, the Land & Water Conservation Fund Act as amended, which requires the state to prepare and implement a Statewide Comprehensive Outdoor Recreation Plan with priorities and policies for allocating L&WCF funds Minnesota Statutes, section 16B.97, which directs Minnesota Management and Budget to promulgate policies and rules for state agencies when administering grant programs, including the L&WCF.
		WILD, SCENIC, AND RECREATIONAL RIVERS	We plan to address these rules in a permanent rulemaking package or use the repeal process outlined in <i>Minnesota Statutes</i>, section 14.3895. We have not set a timetable for completion.
	X	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 <i>Minnesota Statutes</i> , chapter 103F, to approve or certify such local actions.

New	Carried Forward	Rule Parts	Plans and Reasons
	X	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 <i>Minnesota Statutes</i> , chapter 103F, to approve or certify such local actions.
	X	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.
	X	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.
	X	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 <i>Minnesota Statutes</i> , chapter 103F, to approve or certify such local actions.
	X	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.
	X	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 strategic land management goals and should not be bound by acquisition proposals from 25 years ago.
		PUBLIC WATER RESOURCES	We plan to address these rules in a permanent rulemaking package or use the repeal process outlined in <i>Minnesota Statutes</i>, section 14.3895. We have not set a timetable for completion.
	X	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 AND FLOODPLAIN MANAGEMENT	We plan to address these rules in a permanent rulemaking package or use the repeal process outlined in <i>Minnesota Statutes</i>, section 14.3895. We have not set a timetable for completion.
	X	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, is now obsolete because these provisions are superseded by <i>Minnesota Statutes</i> , sections 462.357, subd. 1e, items (d) to (j); and 394.36, subd. 5.

New	Carried Forward	Rule Parts	Plans and Reasons
	X	Part 6120.5800, Subpart 2	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).
	X	Part 6120.5900, Subpart 5.B.	Requires each local government to submit an annual report to DNR on a form that DNR provides. This is archaic language that came from the National Flood Insurance Program initially and is no longer required. It references <i>Minnesota Statutes</i> , section 104.03, which was repealed in 1990.
	X	LANDS AND MINERALS	We plan to address these rules in a permanent rulemaking package or use the repeal process outlined in <i>Minnesota Statutes</i>, section 14.3895. We have not set a timetable for completion.
		Parts 6125.6000 to 6125.7100	Relate to sand and gravel leases and mining under <i>Minnesota Statutes</i> , section 93.08, which was repealed by the 2000 legislature.
		WILDLIFE MANAGEMENT	We plan to address these rules in a permanent rulemaking package or use the repeal process outlined in <i>Minnesota Statutes</i>, section 14.3895. We have not set a timetable for completion.
	X	Part 6230.0295, subpart 2	References parking restrictions on the Vermillion Highland Wildlife Management Area. These restrictions are no longer required.
	X	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 <i>Minnesota Statutes</i> , section 97A.085, subd. 9.
	X	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.
	X	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.
	X	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.
	X	Part 6232.0900, subpart 2	References the all-season deer license, which is no longer available.
	X	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
	X	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.
	X	Part 6232.2400	References license requirements for special muzzleloader hunts that are duplicated in 6232.1600.

New	Carried Forward	Rule Parts	Plans and Reasons
	X	Part 6232.3000, subpart 9a	References a boundary description for a bear quota area that no longer exists.
	X	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.
	X	Part 6237.0550, subpart 2	References a boundary description for a prairie chicken permit area that no longer exists.
	X	Part 6240.1200	References the early goose season, which has been incorporated into the regular migratory waterfowl season.
	X	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 <i>Minnesota Statutes</i> , section 97A.085, subd. 9.