



December 1, 2020

Governor Tim Walz

Senator Carrie Ruud, Chair

Senator Chris A. Eaton, Ranking Minority Member

Environment and Natural Resources Policy and Legacy Finance Committee

Senator Bill Ingebrigtsen, Chair

Senator David J. Tomassoni, Ranking Minority Member

Environment and Natural Resources Finance Committee

Representative John Persell, Chair

Representative Dale Lueck, Ranking Minority Member

Environment and Natural Resources Policy Committee

Representative Rick Hansen, Chair

Representative Dan Fabian, Ranking Minority Member

Environment and Natural Resources Finance Division

Ms. Michelle Weber, Director, Legislative Coordinating Commission

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

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

Dear Governor Walz; Senators Ruud, Eaton, Ingebrigtsen, and Tomassoni; Representatives Persell, Lueck, Hansen, and Fabian; 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:

OUTDOOR RECREATION

1. 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](#). The DNR will address obsolete rules in Chapter 6100 "Outdoor Recreation" in an upcoming

permanent rulemaking package. We are planning to publish a notice of intent to adopt rules in 2021.

WILDLIFE

2. 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 prior to 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, and the length of the 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

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

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), North Fork Crow (Part 6105.1120) Rivers that are nearly illegible and are no longer needed.

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 using the repeal process outlined in *Minnesota Statutes*, section 14.3895. We have not set a timetable for completion. We rewrote the summaries this year to describe them more clearly and accurately.

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 consists of legal descriptions of parcels proposed for scenic easement and fee acquisition on the Kettle (Parts 6105.0740 & 6105.0750), Mississippi (Parts 6105.0920 & 6105.0930), North Fork Crow (Parts 6105.1110), and Minnesota (Parts 6105.1300 & 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, rather than being bound by acquisition proposals from 25 years ago.

5. Upon further review this year, the DNR determined that we should not have included the following rule parts in previous reports as obsolete or unnecessary because they need updating rather than repeal to conform to statutory changes. These rules are identified here for reference and will not appear in our 2021 report.

Parts 6105.0800; 6105.0870, subpart 7; 6105.0910; and 6105.0950, subparts 8 and 9, consist of legal descriptions, map panels, and references to the cities of Dayton and Ramsey that were removed from statewide Wild and Scenic River designation by the legislature under Laws 2012, chapter 236, section 11.

Part 6105.1610, subpart 7, contains development provisions for the Village of Welch within the Wild and Scenic District of the Cannon River. These provisions were superseded by *Minnesota Statutes*, section 103F.35 enacted by the 2018 Legislature.

WATER APPROPRIATION FEES

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 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

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 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.

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,



Sarah Strommen, Commissioner

Cc: Beth Carlson, DNR Rules Coordinator

LEGISLATIVE REPORT—Cost of Preparation

NAME OF LEGISLATIVE REPORT: **Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2020**

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

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

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Description of Cost	Further explanation if necessary	Amount
Staff time:	Time costs calculated at hourly salary rates except as noted	
Operations Services Division (rules coordination professional services rate @ \$75/hr)	6.0 hours (rules coordination professional services rate @ \$75/hr)	\$450
Parks and Trails Division	1 hour	41
Lands and Minerals Division	0.25 hours	14
Ecological and Water Resources	## hours	606
DNR Office of General Counsel (legal professional services rate @ \$117/hr)	## hours (legal services professional services rate @ \$117/hr)	59
Duplication Cost (includes paper)		nominal
Other:		n.a.
	TOTAL TO PREPARE REPORT	\$1,170