

**Transportation Building**

395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

November 28, 2012

Governor Mark Dayton
130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1606

Senator Gimse, Chair
Senate Transportation
303 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1606

Senator Vandever, Chair
Senate Local Government and
Elections
328 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1606

Senator Robling
Senate Finance
226 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

Representative Beard, Chair
House Transportation Policy and Finance
417 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

Representative Peppin, Chair
House Government Operations and Elections
503 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

Representative Lanning, Chair
House State Government Finance
379 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

Mr. Greg Hubinger, Director
Legislative Coordinating Commission
72 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

Ms. Michele Timmons, Revisor
Office of the Revisor of Statutes
700 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1206

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 and Legislative Coordinating Commission Director:

Minnesota Statutes, section 14.05, subdivision 5, directs the 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.

The Department of Transportation has reviewed its rules and found that the following rules have become obsolete, unnecessary or duplicative:

Chapter 8805, Transportation Project Loans

8805.0050 Purpose. The references to the “transportation committee” in this rule part are obsolete because the authority for the committee was removed from Minnesota Statutes, section 446A.085. See Laws 2007, chapter 96, article 1, section 11. The department will update the rule in a future rulemaking or through legislation.

Chapter 8800 Aeronautics

8800.2800, subp. 2(A) Seven-County Metropolitan Region Seaplane Operations. Part 8800.2800, subpart 2, item A, identifies lakes in which seaplane operations are permitted within the public waters within the seven-county metropolitan area. Two of the lakes identified in part A are Howard Lake and Mud Lake. The department has become aware that both Howard and Mud Lakes are within a Wildlife Management Area known as Lamprey Pass Wildlife Management Area in Anoka County. Under the DNR rules, part 6230.0250, subpart 13, certain aircraft are prohibited over wildlife management areas as follow: “Aircraft activities that chase, herd, scare, or otherwise disturb wildlife are prohibited over wildlife management areas, except in emergencies or by authorization of the wildlife manager.” Therefore, Howard Lake and Mud Lake need to be removed from the Aeronautics rules so they do not conflict with the DNR rules. The department in practice has implemented the change, but the rules need to be updated to conform to the DNR requirements. The department will either update these rules through rulemaking or legislation.

Status of rules identified in the 2011 Obsolete Rule Report

Chapter 8895, Port Development Assistance

8895.0700 State Participation, Limitations, subp. 1. State participation, limitations. Subpart 1 provides that the state’s share of project costs must not exceed 50% of the nonfederal share of the eligible costs to be incurred by the applicant for the project. However, since the rules were adopted there has been a change in the enabling legislation that has changed the maximum limit for the state’s share under this provision from 50% to 80%. (See Minn. Stat. § 457A.03) The department will update subpart 1 to be consistent with the statute through rulemaking or legislation.

Status update- Minn. R. 8895.0700, subd. 1 was repealed in Minn. Laws 2012, Ch. 293, Sec. 54. The repeal of part 8895.0700, subd. 1 removed the inconsistency between the statute and the rule and clarifies for the public that the statutory provision contains the correct percentage amounts.

Chapter 8810, Bridge Inspection Standards

8810.0900 – 8810.9700. With the recent focus on bridge management, changes have been made to national bridge inspection policies. Because of this state rules need to be updated to reflect current national bridge inspection standards. Therefore, the department is currently reviewing the bridge inspection rule provisions and is in the process of identifying obsolete, unnecessary or duplicative provisions and will either update the identified provisions through rulemaking and/or legislation.

Status update- The Bridge Inspection and Inventory Rules, Minnesota Rules, parts 8810.9000; 8810.9100; 8810.9200; 8810.9300; 8810.9400; 8810.9500; 8810.9600; 8810.9700, and 8810.9800 were repealed in Minn. Laws 2012, Ch. 287, Art 3, Sec. 65. The Bridge Inspection and Inventory rules were repealed and the relevant portions of the rules were added to Minnesota Statutes, sections 165.01-165.04.

If you have any questions regarding this report, please contact me at 651/366-3066.

Sincerely,

A handwritten signature in cursive script, reading "Laura Nehl-Trueman". The signature is fluid and extends to the right with a long horizontal stroke.

Laura Nehl-Trueman
MnDOT Rules Coordinator

cc: Thomas K. Sorel, Commissioner
Bernie Arseneau, Deputy Commissioner
Betsy Parker, Office of Chief Counsel
Scott Peterson, Office of Government Relations