



Minnesota Department of Natural Resources
Operations Services Division
500 Lafayette Road
St. Paul, Minnesota 55155-4010

December 1, 2018

Governor Mark Dayton

Senator Carrie Ruud, Chair, Environment and
Natural Resources Policy and Legacy Finance
Committee (sen.carrie.ruud@senate.mn)

Senator Bill Ingebrigtsen, Chair, Environment and
Natural Resources Finance
(sen.bill.ingebrigtsen@senate.mn)

Representative Dan Fabian, Chair, Environment and
Natural Resources Policy and Finance
Committee (rep.dan.fabian@house.mn)

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

Senator Chris A. Eaton, Ranking Minority Member,
Environment and Natural Resources Policy and
Legacy Finance Committee
(c/o Legislative Assistant david.gross@senate.mn)

Senator David J. Tomassoni, Ranking Minority
Member, Environment and Natural Resources
Finance
(c/o Legislative Assistant laura.bakk@senate.mn)

Representative Rick Hansen, Ranking Minority
Member, Environment and Natural Resources
Policy and Finance Committee
(rep.rick.hansen@house.mn)

Mr. Ryan Inman, 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 Marinac, 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.

WILDLIFE

1. The DNR previously declared its intention to repeal or update the following obsolete rules carried forward in this report. We plan to address these items in a permanent rulemaking package to be completed in 2019.

Part 6230.0295, subpart 2, references parking restrictions on the Vermillion Highland Wildlife Management area. They 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 they were vacated by commissioner's order as authorized under *Minnesota Statutes*, chapter 97A.085, subd. 9.

Part 6230.0700, subpart 3, references a permit 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 TB. The disease was eradicated and the zone is no longer 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 could change.

Part 6232.1300, subpart 5, references taking antlerless deer with firearms licenses. The licenses referenced are obsolete, such as the all season license. The requirements are 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 Statue* section 97B.031 subpart 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 they were vacated by commissioner's order as authorized under *Minnesota Statutes*, chapter 97A.085, subd. 9.

INFESTED WATERS

2. The DNR previously declared its intention to repeal or update the following obsolete rules carried forward in this report. The DNR has found that part 6216.0500, subpart 3, which requires people to drain water after leaving certain infested waters, is duplicative and unnecessary. Minnesota Statutes, section 84D.10, subd. 4, contains more comprehensive requirements for people leaving any water of the state. This item is repealed in a permanent rulemaking package to be completed in 2018.

OUTDOOR RECREATION

3. 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 website on the rulemaking page. 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 2019.

WILD, SCENIC, AND RECREATIONAL RIVERS

4. The DNR previously declared its intention to repeal or update the following obsolete rules carried forward in this report. We plan to address these items in a permanent rulemaking package to be completed in 2019. 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 planned 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, and 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.

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 to the variance criteria made by the 2011 legislature to *Minnesota Statutes*, chapters 394 and 462.

5. Upon review this year, the DNR identified that the following rule has become obsolete or unnecessary. 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 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.

6. The DNR previously declared its intention to repeal or update the obsolete rules outlined under Chapter 6105 "Wild, Scenic, and Recreational Rivers," in our [January 2013 Agency Report on 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 6105.0740 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Kettle River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and willing sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.0750 consists of legal descriptions of parcels proposed for fee acquisition on the Kettle River. With limited opportunity to purchase land from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.0920 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Mississippi River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.0930 consists of legal descriptions of parcels proposed for fee acquisition on the Mississippi River. With limited opportunity to purchase land from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.1110 consists of legal descriptions of parcels proposed for scenic easement acquisition on the North Fork Crow River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.1300 consists of legal descriptions of parcels proposed for scenic easement acquisition on the Minnesota River. With limited opportunity to purchase easements from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.1310 consists of legal descriptions of parcels proposed for fee acquisition on the Minnesota River. With limited opportunity to purchase land from willing sellers, managers need flexibility to make purchases when funds and sellers are available and not be bound by acquisition goals set 25 years ago.

Part 6105.0230, subpart 1, items B and C, subpart 2, items B and 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. [NOTE: this citation is more complete and correct than in earlier reports.]

Part 6105.0230, subpart 2, contains criteria for the review of variances, some of which are not consistent with changes to the variance criteria made by the 2011 legislature to Minnesota Statutes, chapters 394 and 462.

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.

7. The following items listed in the January 2013 report are no longer considered obsolete, unnecessary, or in need of repeal, for the reasons provided.

Part 6105.0710 consists of a series of maps of the riverway boundary on the Kettle River that are not available in the on-line version of the rule, are nearly illegible in the book version of the rule, and describe land acquisition goals with specificity no longer needed.

These maps are now available on the Revisor's site and are important for verifying the boundary.

Part 6105.0760 is a typical trail design graphic that is not available in the on-line version of the rule and was intended to be an illustration, not a regulatory standard for trail design.

These graphics are now available on the Revisor's site and have come in handy to aid in interpretation.

Part 6105.0960 also consists of a series of maps of the Mississippi River that are not available in the online version of the rule, are nearly illegible in the book version of the rule, and describe land acquisition goals with specificity no longer needed.

These maps are now available on the Revisor's site and are important for verifying the boundary.

Part 6105.1120 consists of a series of maps of the riverway boundary on the North Fork Crow River that are not available in the on-line version of the rule, are nearly illegible in the book version of the rule, and are duplicative of the legal description found in Part 6105.1100.

These maps are now available on the Revisor's site and are important for verifying the boundary.

Part 6105.1130 is a typical site design graphic that is not available in the online version of the rule and was intended to be an illustration, not a regulatory standard for site design.

These drawings are now available on the Revisor's site and are helpful for interpretation.

Parts 6105.1320 through 6105.1370 are a series of graphics that are not available in the on-line version of the rule and were intended to be an illustration, not a regulatory standard for site design.

These graphics are now available on the Revisor's site and are helpful for interpretation.

WATER APPROPRIATION FEES

8. 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. 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.

SHORELAND

9. 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, 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 because the DNR currently lacks authority to conduct rulemaking for this rule part.

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,



Tom Landwehr, Commissioner
Department of Natural Resources

c: Beth Carlson, DNR Rules Coordinator

LEGISLATIVE REPORT – Cost of Preparation

NAME OF LEGISLATIVE REPORT:

Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2018

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:	Time costs calculated at hourly salary rates except as noted	
Operations Services Division	5 hours (rules coordinator invoices a professional services rate @ \$74/hr)	\$370
Ecological and Water Resources Division	0.5 hours	\$19
Parks and Trails Division	1.5 hours	\$66
Duplication Cost (includes paper)		nominal
Other:		n.a.
	TOTAL TO PREPARE REPORT	\$455