Minnesota Department of Natural Resources

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Office of the Commissioner

651-259-5555

November 28, 2012

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REVISOR OF STATUTES

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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, 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.

1. The DNR previously declared its intention to repeal the following obsolete rule.
   a. *Minnesota Rules*, part 6110.2000, subpart 1, relating to separate accounts in each county for boat and water funds is obsolete and unnecessary because the county allocations are now done as reimbursements rather than advances on deposits. The rule was repealed in 2012 using the process outlined in *Minnesota Statutes*, section 14.3895 in Revisor's No. R-04072.

2. The DNR previously declared its intention to repeal or update the following obsolete rules. These changes are included in the Revisor's No. R-03943 permanent rulemaking package, which we expect to finish by the end of 2012.

   b. *Minnesota Rules*, part 6262.0500, subpart 2a, item B, contains an obsolete end date.

   c. *Minnesota Rules*, part 6262.0600, subpart 2 relating to night bowfishing must be repealed to reflect statute changes effective in 2009.

   d. *Minnesota Rules*, part 6262.0200, subpart 1, item E, relating to the lake trout season end date for lake trout lakes outside the BWCAW needs to be updated to reflect statute changes effective in 2009.

   e. *Minnesota Rules*, part 6266.0500, subpart 1, item A, relating to taking of fish on Minnesota-Wisconsin boundary waters is obsolete due to a name change to Canadian Pacific following a change in railroad ownership.

3. DNR managers have reviewed the department's rules and identified a number of rules have become obsolete, unnecessary, or duplicative. A detailed list is enclosed and incorporated by reference in this annual report.

The DNR has found no other rules that have become obsolete, unnecessary, or duplicative over the course of the last year.

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

Sincerely,

Tom Landwehr, Commissioner
Department of Natural Resources

c: Beth Carlson, DNR Administrative Rules Coordinator

Chapter 6100 Outdoor Recreation.
The following items will be addressed in a permanent rulemaking package (currently under development) or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. Our target for completion is 2014.

- Parts 6100.5000, subparts 3 and 4 are recommended for repeal, as these subparts will duplicate new or existing language in other subparts.
- Part 6100.5100 is recommended for repeal because the restrictions on the use of snowmobiles during hunting season are found in other parts of Minnesota Rules.
- Part 6100.5200, subpart 3 is recommended for repeal as the prohibition against dumping is covered by *Minnesota Statutes* in chapter 609,
- Part 6100.5300, subparts 2 through 10 are recommended for repeal because the sign specifications are now covered in a publication known as the Department of Natural Resources SIGN MANUAL.
- Part 6100.5500, subpart 4 is recommended to be repealed because fees for safety training are now exempt from rulemaking under *Minnesota Statutes*, section 84.86, subdivision 1, item (6).
- Part 6100.5800 is recommended to be repealed because the penalty for violation of the rules is now found in *Minnesota Statutes*, section 84.88, subdivision 1.
- Parts 6100.7000 through 6100.7400 are obsolete and recommended for repeal. These rules have not been used or cited by the department since before 1986. They have been superseded by:
    - *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

Chapter 6105 Wild, Scenic, and Recreational Rivers.
The following items will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. We have not set a target for completion.

- 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.
- 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 sellers are available and not bound by rigid 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 bound by rigid acquisition goals set 25 years ago.
- Part 6105.0760 is a typical trail 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 trail design.
- 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 bound by rigid 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 bound by rigid acquisition goals set 25 years ago.
- Part 6105.0960 consists of a series of maps of the Mississippi 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.
- 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 bound by rigid acquisition goals set 25 years ago.
- 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.
- Part 6105.1130 is a typical site 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 site design.
- 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 bound by rigid 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 bound by rigid acquisition goals set 25 years ago.
- 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.
- Part 6105.0230, subpart 1, items B and C, and subpart 3 contain provisions for Department certification of variances and specified plats that are now obsolete following the "Hubbard" Supreme Court decision, which found that the Department did not have express statutory authority under *Minnesota Statutes*, chapter 103F to certify such local decisions.
- 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, which were removed from statewide Wild and Scenic River designation in 2012 Laws, chapter 236, section 11.

Chapter 6120 Shoreland and Floodplain Management.
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. These provisions are superseded by *Minnesota Statutes*, section 462.357, subdivision 1e, (d) to (j), and section 394.36, subdivision 5. This item will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. We have not set a target for completion.

Chapter 6212 Licenses and Permits.
These rules are obsolete following the implementation of an electronic licensing system. These rules are either no longer necessary to the sale of licenses or are duplicative of Chapter 6213 Electronic Licensing rules. These items will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. The target for completion is 2013.

GAME AND FISH LICENSES
6212.0100 APPLICATIONS FOR GAME AND FISH LICENSE SUBAGENTS.
6212.0200 CONSIGNMENT OF GAME AND FISH LICENSES.
6212.0300 COMPLETION OF LICENSE FORMS.
6212.0400 RETURN OF "DNR COPY" OF LICENSES.
6212.0500 REQUIRED RECORDS, REPORTS, AND PAYMENTS FOR ISSUANCE OF GAME AND FISH LICENSES.
6212.0600 ISSUANCE OF DUPLICATE LICENSES.
6212.0700 PROHIBITIONS AND PENALTIES ON ISSUANCE OF GAME AND FISH LICENSES.

CROSS-COUNTRY SKI PASSES
6212.0800 APPLICATIONS FOR AGENCIES TO SELL CROSS-COUNTRY SKI PASSES.
6212.0900 CONSIGNMENT OF CROSS-COUNTRY SKI PASSES.
6212.1000 COMPLETION OF PASS FORMS AND RETURN OF DEPARTMENT COPIES.
6212.1100 REQUIRED RECORDS, REPORTS, AND PAYMENTS FOR ISSUANCE OF CROSS-COUNTRY SKI PASSES.
6212.1200 ISSUANCE OF DUPLICATE CROSS-COUNTRY SKI PASSES.
6212.1300 PROHIBITIONS AND PENALTIES ON ISSUANCE OF CROSS-COUNTRY SKI PASSES.

Chapter 6260 Commercial Fishing Operations.
The DNR intends to repeal part 6260.1500 concerning regulation of commercial fishing on Namakan and Sand Point Lakes. Minnesota can no longer regulate that activity on lakes that are situated entirely within Voyageurs National Park, and so the rule is obsolete and unnecessary. This item will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. We have not set a target for completion.

Chapter 6266 Border Waters Fishing Regulations.
The DNR will repeal parts 6266.0400, subparts 9 and 13, relating to liberalized fishing and waters closed to fishing on the South Dakota border waters. This item will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. The target for completion is 2013.

Chapter 6280 Aquatic Plant Management and Nuisance Control.
The DNR will repeal part 6280.0250 concerning prohibition on the harvest of *Nelumbo lutea* (American lotus) in areas designated for their protection, because we have no such protection areas and no process for designating them. Regulation of that plant is accomplished through the normal aquatic plant management permitting process. This item will be addressed in a permanent rulemaking package or will be repealed using the process outlined in *Minnesota Statutes*, section 14.3895. The target for completion is 2013.

DATE: November 26, 2012

LEGISLATIVE REPORT – Cost of Preparation

NAME OF LEGISLATIVE REPORT:

Annual Report on Obsolete, Unnecessary, or Duplicative Rules, 2012

Based on: Communications from rule writing contacts in agency divisions

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

Prepared by: Elizabeth P. Carlson, DNR Administrative Rules Coordinator

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Description of Cost	Further explanation if necessary	Amount
Staff Time		
Office of Management & Budget Services	6.5 hours	$212
Division of Fish & Wildlife	0.5 hours	15
Division of Lands and Minerals	0.5 hours	21
Duplication Cost (includes paper)		nominal
Other:		n.a.
	TOTAL TO PREPARE REPORT	$248