



Minnesota Department of Transportation

395 John Ireland Boulevard
Saint Paul, MN 55155

December 1, 2016

The Honorable Mark Dayton, Governor
State of Minnesota
116 Veterans Service Building
20 W 12th Street
Saint Paul, MN 55155

The Honorable Scott Dibble, Chair
Senate Transportation and Public Safety Committee
Minnesota State Senate
2107 Minnesota Senate Building
Saint Paul, MN 55155

The Honorable Tim Kelly, Chair
House Transportation Policy & Finance Committee
559 State Office Building
Saint Paul, MN 55155

The Honorable Patricia Torres Ray, Chair
Senate State and Local Government Committee
Minnesota State Senate
3225 Minnesota Senate Building
Saint Paul, MN 55155

The Honorable Tim Sanders, Chair
House Government Operations Committee
553 State Office Building
Saint Paul, MN 55155

The Honorable Richard Cohen, Chair
Senate Finance Committee
75 Rev. Dr. MLK Jr. Blvd.
Saint Paul, MN 55155

Mr. Paul Marinac, Revisor
Office of the Revisor of Statutes
700 State Office Building
Saint Paul, MN 55155

Mr. Greg Hubinger, Director
Legislative Coordinating Commission
72 State Office Building
Saint Paul, MN 55155

RE: MnDOT’s 2016 Annual Report on Obsolete, Unnecessary or Duplicative Rules

Dear Governor, Legislators, Revisor, and Director:

[Minnesota Statutes 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 [Minn. Stat. 446A.085](#). See the [2007 Laws of Minnesota, Ch. 96, Art.1, Sec.11](#). The department will update the rule in a future rulemaking or through legislation.

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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 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.

Chapter 8810 Trunk Highway System.

8810.6000 through 8810.7000 Bicycle, Pedestrian, and Recreational Vehicle Use and Lanes. 8810.9910 through 8810.9913 Figures and Tables for Traffic Criteria: Bicycle, Recreational Vehicle Lane, Bike Lane with No Barrier and Bike Lane with Barrier.

In 2014, the department reported that the above rules were obsolete, unnecessary, or duplicative of other state or federal statutes or rules. In 2015, the commissioner convened the Bicycle Law Advisory Task Force to further review the rules and statutes regarding bicycle policy and design and make recommendations for how they could be improved and updated. The scope of this review was limited to what is under the authority of the MnDOT Commissioner, specifically related to the Trunk Highway system. The State Aid Rules were not a part of the work of the task force. Minnesota’s rules and statutes regarding bicycle facilities have not had a comprehensive review since most were written in the 1970s. Some statutes have been amended or added to, but the rules have not been updated since 1976. The out-of-date rules and subsequent statutes create ambiguity on the authority and create a barrier to the incorporation of new research and innovative solutions to bikeway design and implementation.

The task force members included representatives from state and local agencies and advocacy organizations interested in bicycling issues. Legislative members were also invited to participate in the task force. The task force met throughout 2015 and issued its report in January 2016. The task force’s work resulted in the creation of proposed legislation, as well as recommendations regarding repeal of administrative rules and changes to the MnDOT Bikeway Facility Design Manual. Specifically, the task force made the following three recommendations:

1. ***Put forward proposed legislation*** — The task force developed legislation that will clarify agency roles and responsibilities, giving the MnDOT Commissioner clear authority to plan, design, establish, and maintain bikeways within the right-of-way of state trunk highways. In addition to updating and clarifying the roles and responsibilities of the MnDOT Commissioner, the legislative proposal also updates the statutory language to reflect the current MnDOT practice for designing bikeway facilities. The current bikeway design process mirrors the process for roadway design. Roadway design and bikeway facility design follow concurrent practices which allow for design flexibility on a case-by-case basis based on criteria and standards detailed in the MnDOT Road Design Manual which includes the Bikeway Facility Design Manual.

2. **Repeal MnDOT bicycle rules** — Relevant bicycle rules will be covered in MnDOT’s Bikeway Facility Design Manual or incorporated into the proposed legislation. “Any definitions not covered by existing statute, a MnDOT manual, or proposed to be added to Minn. Stat. 160.02 were deemed unnecessary or outdated and could be repealed.”

3. **Enhance the MnDOT Bikeway Facility Design Manual** — Update and incorporate relevant administrative rules into the facility design manual as they are repealed and update the manual to reflect current national best practices.

The proposed legislation was submitted during the 2016 legislative session and may be re-submitted for the 2017 legislative session.

Chapter 8810 Trunk Highway System, Outdoor Advertising Devices

8810.0200 Definitions, Subps. 3 and 4. These definitions can be repealed because the term “controlled freeway” is no longer necessary and is now covered by the term “expressway” as defined in [Minn. Stat. 173.02, subd. 19a.](#)

8810.0400 Exclusions and Exemptions. “Fully controlled” language in subp. 2 needs to be removed in accordance with above-mentioned 2009 statutory amendments.

8810.0800 Scenic Areas. Subp. 3 is obsolete and directly contradicts federal law, which states that newly erected signs are prohibited in commercial and industrial zones or unzoned areas in scenic byways.

8810.1100 Spacing and Location for Business Areas. “Fully controlled access” in subp. 3 is obsolete and needs to be removed in accordance with 2009 “expressway” statutory amendments.

8810.1200. Additional Spacing Requirements. “Fully controlled access” in subp.2 and “controlled freeway” are obsolete and need to be removed in accordance with 2009 statutory amendments.

8810.1300 Permits, Fees and Renewals, Subps. 2, 3, and 4. Subp. 2, Payment, and subp.3, Deadline, and subp. 4, Expiration are obsolete because deadlines are outdated. Additionally, these requirements are already covered in [Minn. Stat. 173.13, subd. 6.](#)

The department will repeal or update these provisions either through rulemaking or through legislation.

Chapter 8880, Limousine Service, Permit Requirements

8880.0100 Definitions, Subps. 9, 22, and 26. [2014 Laws of Minnesota, Ch. 175](#), made changes to the statutory definition of limousine that makes the definitions of “limousine,” “station wagon,” and “van” in this rule part obsolete.

In the following rule parts, the MnDOT address provided in the rule for the submission of applications and requests for hearing is obsolete and should be deleted from the rules. **8880.0400 Limousine Service Permit Application; Fees, Subp. 1**

8880.0600 Limousine Identification Decal Application; Fees, Subp. 1

8880.1200 Administrative Penalties, Subp. 3

8880.1300 Suspension or Revocation of Permit, Subp. 4

The following rule parts contain cross-references to other statutes and / or rules that have been repealed and those references should be removed from the rule.

In part **8880.0300, subp. 3**, part **8855.0600**, Names on Insurance Certificates and Bonds, and part **8855.0850** Authorized Insurance and Bonding Companies, are referenced but were repealed 2010. Please note, these repealed rule subparts do not change the requirement that anyone providing for-hire limousine service must still follow the insurance standards and requirements in **Minn. Stat. 168.128** and **Minn. Stat. 221.141**.

In part **8880.0800, subp. 6(8)**, **Minn. Stat. 609.21**, is referenced but has been renumbered and repealed and should be removed from the rule part.

The department will update the rule provisions either through rulemaking or through legislation.

If you have questions regarding this report, please contact me at laura.nehl-trueman@state.mn.us or at 651 366-3066.

Sincerely,



Laura Nehl-Trueman
MnDOT Rules Coordinator

Ecc: Charlie Zelle, Commissioner
Susan Mulvihill, Deputy Commissioner
Betsy Parker, Chief Counsel
Scott Peterson, Government Affairs Director