

2019 DNR Policy Fact Sheet



Model Standard Development for Silica Sand Reclamation Rules

It is needed because

The purpose for rulemaking, under Chapter 14, is for an agency to implement or make specific the laws enforced or administered by that agency (see Minn. Stat. § 14.02, subd. 4).

In 2013, the DNR was directed to develop rules pertaining to the reclamation of silica sand mines (see 2013 Minn. Laws ch. 114, § 105). However, the DNR does not enforce or administer any existing laws regulating silica sand reclamation. In fact, reclamation of non-metallic mining lands is subject to local, rather than state, control (see Minn. Stat. § 394.25) since 1974. As a result, the rulemaking directive creates legal uncertainty and ambiguity for the agency, local governments, and the citizens of the State.

Since 2013, the DNR has invested significant time and effort, involving rigorous public input, to develop draft preliminary rules. For the following reasons, the DNR believes a model ordinance published in the State Register, is preferable to publishing rules.

- Silica sand reclamation rules would not result in statewide standards because counties would not be required to codify the rules in ordinance and the DNR has no independent enforcement authority.
- For local governments in need of assistance the model ordinance would

offer well-developed standards that could be incorporated into local ordinance.

- For local governments satisfied with their current regulatory program, jurisdictions would be able to opt out.
- Rulemaking would require additional funding to complete the Administrative process, estimated at \$75,000.
- Adoption of rules would require developing a new DNR program to administer the rules. This would require an on-going appropriation of \$200,000/year.

Major program elements

If the proposed change of developing and publishing a model ordinance is approved, the state would not incur any ongoing rule implementation costs. Assistance for local governments could be accessed through the Environmental Quality Board (EQB) Silica Sand Technical Assistance Team. See Minn. Stat. § 116C.99, subd. 3.

Sec 1. Amends Minn. Stat. § 116C.99 to state the DNR will develop and publish in the State Register a model ordinance pertaining to the reclamation of silica sand mines.

Fiscal impacts

- This proposal does not have a fiscal impact.

For further information contact

Bob Meier, Assistant Commissioner

Minnesota Department of Natural Resources

500 Lafayette Rd, St. Paul, MN 55155-4047

651-259-5024

bob.meier@state.mn.us

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such as large print, braille or audio tape by emailing
info.dnr@state.mn.us or calling 651-259-5016