

Minnesota Pollution Control Agency (MPCA)

Request for Comments on Planned Amendments to Rules Pertaining to the Control of Particulate Emissions and Other Pollutants from Silica Sand Projects

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is requesting comments on plans to amend rules relating to silica sand projects as directed by the 2013 Legislature. The Agency may amend Chapters 7011 (standards of performance for specific types of facilities), 7001 (water permitting), 7007 (air permitting), 7009 (air standards), 7017 (air testing), 7050 (water standards), or other related and affected chapters.

Subject of Rules: The Agency requests comments on plans to amend its rules or establish new rules pertaining to the control of particulate emissions and other pollutants from silica sand projects that may affect the state's air or water resources. As will be discussed in this rulemaking, "silica sand" is well-rounded, sand-sized grains of quartz that is commercially valuable for use in the hydraulic fracturing of shale to obtain oil and natural gas. Silica sand does not include common rock, stone, aggregate, gravel, sand with a low quartz level, or silica compounds recovered as a by-product of metallic mining. "Silica sand project" means the excavation, mining and processing of silica sand; the washing, cleaning, screening, crushing, filtering, drying, sorting, stockpiling and storing of silica sand, either at the mining site or at any other site; the hauling and transporting of silica sand; or a facility for transporting silica sand to destinations by rail, barge, truck or other means of transportation.

The Legislature has directed the Agency to adopt rules pertaining to particulate emissions from silica sand projects. The Agency will also consider adopting rules to control other potential pollutants from silica sand projects, such as those that might contribute to water pollution. This Request for Comments is the Agency's initial notice of its intent to begin rulemaking. This is only the first of several opportunities for public comment and input on this rulemaking.

Where to Get More Information: If you are interested in being notified when a draft of the rules is available, or of other activities related to this rulemaking, please register for GovDelivery at: <https://public.govdelivery.com/accounts/MNPCA/subscriber/new>. The "Pollution from Silica Sand Projects Rules" subscriber link is located under the Public Notices and Rulemaking topic. This Request for Comments and future notices will be published on the Agency's Public Notice website: <http://www.pca.state.mn.us/index.php/public-notices/list.html>. The Agency will establish a page on its website <http://www.pca.state.mn.us/> for this rulemaking where additional information will be posted as it becomes available.

Persons Affected: The Agency's planned rulemaking potentially affects any owner or operator of an existing or proposed silica sand project and those persons potentially impacted by particle emissions or water discharges from silica sand projects.

Statutory Authority: Laws of Minnesota 2013, Chapter 114, Article 4, Section 105, (a) directs the Agency as follows: "The commissioner of the Pollution Control Agency shall adopt rules pertaining to the control of particulate emissions from silica sand projects. The rulemaking is exempt from Minnesota Statutes, § 14.125." The exemption from § 14.125 is that the Agency is not limited by an 18-month time limit to adopt, amend, or repeal rules following legislative direction. Further, the Agency plans to use existing general authorities under § 115.03, subs. 1(e) and (g); 5, and 5c; and § 116.07, subd. 4(b) to maintain rules that protect state waters.

Rules Draft: The Agency has not yet drafted the rule amendments. Persons interested in being notified when a draft of the rules is available and of other activities relating to this (or other Agency rulemakings) are encouraged to register at: <https://public.govdelivery.com/accounts/MNPCA/subscriber/new>.

Public Comment: The Agency presently has no proposed rules on which to comment, but encourages interested parties to submit written comments or information regarding the Agency's plans to amend rules on this subject until 4:30 p.m. on September 30, 2013. The Agency cannot publish a Notice of Intent to Adopt Rules until at least 60-days from the date of this Request for Comments. Comments or information should be submitted to the Agency contact at the address below.

Note: Written comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The Agency is required to submit to the judge only those written comments received in response to the rules proposed in a Notice of Intent to Adopt Rules. If you submit written comments in response to this notice or during the development of the rules, and you want to ensure that the administrative law judge reviews those comments, you should resubmit those same comments in accordance with the instructions found in the Notice of Intent to Adopt Rules.

The Agency does not anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation under Minnesota Statutes, § 14.128. Local governments are welcome to submit written information to the contrary if this belief is incorrect.

Agency Contact Person: Written comments, requests to receive a draft of the rules when it is available, and requests for more information on these planned rule amendments should be directed to:

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Alternative Format: Upon request, this information can be made available in an alternative format, such as large print, Braille or audio. To make such a request, please contact the rule process contact person at the telephone number or address listed above.

Dated: 10 July 2013

John Linc Stine, Commissioner
Minnesota Pollution Control Agency