STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

PRELIMINARY DRAFT RULES

61XX

**Silica Sand Mine Reclamation**

Draft 03/03/2015

*PURPOSE OF THIS DOCUMENT:**This document contains preliminary draft language related to silica sand mine reclamation rules. The formation of draft rules is and continues to be an iterative process and language in this document may change.*

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# GENERAL PROVISIONS

**61XX.0010 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 61XX.0020 to 61XX.0430 have the following meanings:

Subp. 2. **Above grade pond.** “Above grade pond” means any water body used in the processing of silica sand where the top of the constructed embankment is greater than six feet above the outside ground surface of the water body.

Subp 3. **Air blast.** “Air blast” means the airborne shock wave or acoustic transient wave generated by an explosive.

Subp 4. **Borrow site.** “Borrow site” means a temporary mine associated with a specific road construction or transportation-related project.

Subp. 5. **Contingency reclamation.** “Contingency reclamation” means the reclamation of a mine that meets 61XX.0010 through 61XX.0430 after an unexpected shutdown of operations.

Subp. 6. **Corrective actions.** “Corrective actions” means measures specified by the regulatory authority to an operator to mitigate violations of an approved reclamation plan.

Subp. 7. **Existing mining project.** “Existing mining project” means any mine area recognized by the local zoning authority as a legal nonconforming land use for mining operations or a mine area where the operator possesses a valid permit by a regulatory authority issued before the date of adoption of chapter 61XX.

 Subp. 8. **Financial assurance.** “Financial assurance” means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in 61XX.0220 and sufficient to pay for corrective actions and reclamation activities required by this chapter.

Subp. 9. **Highwall.** “Highwall” means a vertical or nearly vertical face in bedrock or a slope of consolidated or unconsolidated material that is steeper than 3:1 horizontal to vertical.

Subp. 10. **Intermittent mining.** “Intermittent mining” means mining with expected periods of inactivity greater than nine months, with the intent to resume mining at a future date.

Subp. 11. **Mine area.** “Mine area” means contiguous or adjacent lands, under control of the same person, used in connection with mining. Mine area includes the lands used in combination with mining on which:

1. earthen material is deposited;
2. silica sand facilities are located;
3. water bodies used in the mining process are located; and
4. auxiliary lands that are used or intended to be used in a particular mining operation are locaterd.

Mine area excludes access roads outside of the mine area or lands that have been release from financial assurance under 61XX.0420.

Subp. 12. **Mine waste.** “Mine waste” means silica sand that remains after processing or earthen material displaced by mining.

Subp. 13. **Mining.** “Mining” means all or part of the process involved in extracting silica sand for the sale or use by the operator. Mining includes use of mining equipment or techniques to remove materials from silica-rich sandstones, including drilling and blasting, as well as associated activities such as excavation, grading, and dredging. Mining does not include removal of earthen materials that contain minimal or incidental amounts of silica sand.

Subp. 14. **New mining project.** “New mining project” means any mine area that meets the following criteria:

1. proposed mine area requiring a first-time permit to mine silica sand by a regulatory authority;
2. existing mine area requiring a new or amended permit to expand beyond the permitted boundary;
3. existing mine area requiring a new or amended permit to increase their permitted production rate greater than 25%; or
4. existing mine area requiring a new or amended permit to change the geologic material being excavated to silica sand.

Subp. 15. **Operator.** “Operator” means any person who is engaged in, or has applied for an approval of a reclamation plan for silica sand mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

Subp. 16. **Overburden.** “Overburden” means earthen material that is displaced during mining excluding topsoil and subsoil.

Subp. 17. **Person.** “Person” means an individual, owner, operator, firm, partnership, corporation, joint venture, or other legal entity.

Subp. 18. **Phased reclamation.** “Phased reclamation” means the sequential or progressive reclamation of portions of the mine area in advance of final site reclamation. Phased reclamation may or may not be final reclamation, but is performed to minimize the area exposed to erosion at any one time by mining activities.

Subp. 19. **Qualified Professional.** “Qualified professional” means a person who is registered and licensed as provided by Minnesota Statutes, chapter [326](https://www.revisor.mn.gov/statutes/?id=326).

Subp. 20. **Reclamation.** “Reclamation” means the rehabilitation of a mine area that achieves a land use specified in an approved reclamation plan identified in 61XX.0100 to 61XX.0260.

Subp. 21. **Regulatory authority.** “Regulatory authority” means the governmental unit responsible for approving the permit to mine for a new mine area within their jurisdiction and includes the Department of Natural Resources, as provided by [Minnesota Statutes 103G.217](https://www.revisor.mn.gov/statutes/?id=103G.217).

Subp. 22. **Self-sustaining.** “Self-sustaining” means the ability to maintain and self-renew without intervention.

Subp. 23. **Silica sand**. “Silica sand” means an earthen material derived from silica-rich sandstones.

Subp. 24. **Silica-rich sandstone.** “Silica-rich sandstone” means an earthen material consisting of quartzose sedimentary rock of mostly sand-sized particles. Quartzose is a physical characteristic of a sedimentary rock formation where greater than 90% of the constituent rock particles consist of pure quartz. Examples of silica-rich sandstones include formally recognized and described sandstones defined in Paleozoic Stratigraphic Nomenclature for Minnesota, Minnesota Geologic Survey, Report of Investigation 65 (2008).

Subp. 25. **Silica sand facility.** “Silica sand facility” means any facility that:

1. operates silica sand processing equipment;
2. operates equipment used for transloading silica sand;
3. establishes and maintains an open or covered storage pile of silica sand; or
4. operates a silica sand storage system.

 Subp. 26. **Subsoil**. “Subsoil” means the layer or stratum of earthen material immediately under the topsoil. Like topsoil it is composed of variable amounts of silt, sand, or clay, but lacks the organic matter and humus content of topsoil. Subsoil is equivalent to the B horizon of a soil profile.

Subp. 27. **Topsoil**. “Topsoil” means the upper most portion of a soil where soil organic matter is mixed with mineral material and is more fertile than underlying soil layers. Topsoil is equivalent to the A horizon of a soil profile.

**61XX.0020 PURPOSE.**

The process of reclamation begins with planning for a new mining project, continues through mine operation, and concludes when the criteria for reclamation at the cessation of a mine area have been met. The purpose of parts 61XX.0010 to 61XX.0430 is to require reclamation of mine areas in order to:

1. control the possible adverse environmental effects of silica sand mining and to conserve natural resources;
2. ensure the usefulness, productivity, and scenic values of all lands and waters involved in silica sand mining within the state, that these lands will receive the protection and reclamation to the greatest extent practicable at the earliest opportunity following silica sand mining;
3. provide for the greatest practicable degree of statewide consistency in the reclamation of silica sand mining; and
4. ensure that reclamation is consistent with local land use plans.

This chapter establishes standards for the reclamation of mine areas, sets out requirements for reclamation plans, defines standards for blasting, defines procedures and requirements applicable to mines subject to parts 61XX.0010 to 61XX.0430, and defines procedures for administering silica sand reclamation plans, including the exercise of regulating authorities for inspections. These rules are promulgated under Laws 2013, chapter 114, article 4, section 105(b).

**61XX.0030 SCOPE.**

Subpart 1. **Approval.** No person may engage in silica sand mining or silica sand mining reclamation before receiving approval for a reclamation plan from the regulatory authority, unless the activity is exempted in subpart 5.

Subp. 2. **Applicability.** Parts 61XX.0010 to 61XX.0430 apply as indicated in items A through D.

1. Nothing in these parts waive the requirements of federal, state, and local regulations governing environmental regulations, public health, safety and welfare.
2. All new mining projects proposed after the adoption date of this rule, unless the activity is exempted in subpart 5.
3. The rules do not apply to mine areas where mining has permanently ceased before enactment of this rule.
4. Financial assurance requirements of 61XX.0220 do not apply to silica sand mining conducted on behalf of the state, a state agency, board, commission, department, or local government.

Subp. 3. **Joint applications.** When two or more operators are or will be engaged in silica sand mining, all persons shall join in the application, and the approved reclamation plan must be issued jointly.

Subp. 4. **Duration of reclamation plan approval.** The reclamation plan approved under parts 61XX.0010 to 61XX.0430 must last through the mine’s operation and final reclamation. To maintain a plan’s approved status, the operator must fulfill the annual reporting requirements under 61XX.0240. If changes occur within the mine area, the nature of planned reclamation, or other aspects of mining required by the approved reclamation plan, the operator shall apply for a modification of the reclamation plan under 61XX.0350.

Subp. 5. **Exempt activities.** Parts 61XX.0010 to 61XX.0430 do not apply to any of the following activities:

1. excavations or grading of silica sand under one acre by a person solely for domestic or farm use at that person’s residence or farm;
2. excavation or grading of silica sand conducted for the construction, reconstruction, maintenance or repair of a public highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility;
3. excavation or grading of silica sand conducted for preparing a construction site or restoring land following a flood or natural disaster;
4. dredging for navigational purposes;
5. constructing or maintaining drainage ditches;
6. remediation of environmental contamination and the disposal of spoils from these activities; and
7. excavation of a borrow site that will be opened and reclaimed within 36 months where the reclamation of the borrow site is specified under contract with a regulatory authority or the Minnesota Department of Transportation.

# STANDARDS

**61XX.0100 PERFORMANCE STANDARDS.**

Subpart 1. **Environmental regulations,** p**ublic health, safety and welfare.** Reclamation must be conducted and completed in a manner that assures compliance governing public health, safety and welfare.

Subp. 2. **Water Quality and Quantity.** Reclamation must be conducted and completed in a manner that assures compliance with applicable water quality and quantity standards.

Subp. 3. **Area disturbed and phased reclamation.** Reclamation must be conducted, to the extent practicable,

1. to minimize the area disturbed by mining; and
2. to phase new disturbances with the reclamation of depleted or unused portions of the mine area.

Subp. 4. **Final Topography.** Unless specified by the final approved reclamation plan, the topography of reclaimed mine areas must comprise sinuous contours, rolling mounds and hills, and blend with adjacent topography to a reasonable extent. Straight planar slopes and right angles must be avoided. If the mine area intersects the Decorah Formation, topography restoration must provide for the creation of perched, vegetated, wetlands if they were present within the mine area prior to mining.

Subp. 5. **Stormwater runoff.** The mine area must be designed and graded to produce post-development hydrology that does not exceed predevelopment runoff rates and volumes to surrounding properties. Runoff related to the complete range of rainfall frequencies, up to and including a 100-year storm event, must be managed within the mine area.

Subp. 6. **Revegetation and site stabilization.** Except for permanent roads or similar surfaces, or areas otherwise approved for continued use as identified in the reclamation plan, all land surfaces affected by mining must be reclaimed and stabilized with vegetation or other means compatible with local land use plans and noxious weed laws. Revegetation and site stabilization must be in accordance with the approved reclamation plan and must be performed as soon as practicable after mining has permanently ceased in any part of the mine area. All seed and plant materials shall be certified noxious weed-free.

Subp. 7. **Ecological rehabilitation**. When the specified land use proposed by the approved reclamation plan requires ecological or habitat rehabilitation, it must be reclaimed, to the extent practicable, to an ecologically self-sustaining condition as outlined by the individual reclamation plan. The use of a state approved seed mix and native species from an appropriate Minnesota biome should be used whenever possible.

Subp. 8. **Invasive species.** The spread of non-native invasive species must be controlled within the mine area. Prior to moving equipment out of the mine area, the equipment must be cleaned and free from non-native invasive species to the extent practicable. If possible, cut wood must remain on-site. The transportation of cut wood out of the mine area must follow state and federal quarantine laws.

Subp. 9. **Mine waste.** Mine waste must be used in accordance with the approved reclamation plan. Other solid or hazardous wastes must be disposed of in accordance with applicable rules.

Subp. 10. **Blasting.** Blasting must be conducted in a manner that prevents injury to persons, damage to public or private property outside of the mine area, mitigates adverse impacts on any underground mine, and mitigates changes in the availability of surface or groundwater outside the mine area.

**61XX.0110 TOPSOIL AND OVERBURDEN MANAGEMENT.**

Subp. 1. **Volume.** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan.

Subp 2. **Removal.**

1. Topsoil and subsoil must be immediately used to reclaim newly disturbed portions of the mine area or stockpiled on site for use in future reclamation.
2. Topsoil must be carefully removed where mining activities destroy existing vegetation and cause erosion within the mine area. Handling of topsoil during wet conditions must be avoided.
3. Topsoil must be separated from subsoil and overburden to the extent practicable.
4. No topsoil must be sold or permanently removed from the mine area unless approved within the reclamation plan.

Subp. 2. **Storage requirements.**

1. Topsoil must be stored in separate piles from overburden and when possible stored separately from subsoil. Piles must be labeled by material type.
2. Stockpiled material must be placed on a stable site within the mine area. The site must be chosen to protect the material from compaction, erosion, further disturbance, and contamination.
3. For long-term storage, stockpiled material must be protected from wind and water erosion through prompt establishment and maintenance of an effect, quick growing vegetative cover or through other measures approved by the regulatory authority.
4. Composting chipped wood and vegetative debris with topsoil is encouraged. Compost piles must be regularly turned and maintained.

Subp. 3. **Substitution.** If the topsoil retained from the mine area is insufficient in terms of quantity or quality to sustain the approved vegetative cover specified in the reclamation plan, topsoil may be substituted, amended, or brought from off-site. Topsoil amendments, substitution, or replacement must be free of contamination, free of plant parts or seed of noxious weed or invasive species, and is in a usable condition for sustaining vegetation during reclamation. If requested by the regulatory authority, operators must disclose sources of substitute materials.

**61XX.0120 GRADING AND SLOPES.**

Subpart 1. **Safe conditions.** All mine areas must be addressed in the approved reclamation plan, under 61XX.0200 through 61XX.0260, and provide for a stable and safe condition consistent with the operational procedures and post-mining land use.

Subp. 2. **Bedrock highwalls.** Upon approval of the regulatory authority, the reclamation plan may designate bedrock highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation.

Subp. 3. **Benching.** Unless approved by the regulatory authority, individual benches must not be greater than 30 feet high.

Subp. 4. **Final slopes**.

1. Must not be steeper than a 3:1 horizontal to vertical incline, unless a steeper slope is determined to be acceptable by meeting one of the following:
2. Steeper slopes existed naturally within mine area prior to commencement of mining or are required to blend with surrounding natural and stable topography.
3. Steeper slopes are shown to be stable through a field plot demonstration approved or within a reclamation plan;
4. A steeper slope is determined to be stable through a site-specific engineering analysis performed by a qualified professional engineer. All areas in the mine area where topsoil or topsoil substitute material is to be reapplied must be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide optimal adherence between the topsoil or topsoil substitute material and the underlying material; or
5. An alternative requirement is approved by the regulatory authority, as specified in part 61XX.0370.
6. Must be compacted if significant backfilling is required to produce the final reclaimed slopes and if the regulatory authority determines that compaction is necessary.
7. May be left roughly graded but not rutted with small depressions and mounds to provide micro-topographic variability, trap clay-bearing soil and promote diverse natural revegetation when reasonable.

****61XX.0130 MINELAND WATER BODIES.****

Subpart 1. **Goal**. Water bodies within the mine area must be designed, constructed, and maintained to be structurally sound and minimize hydrologic impacts.

Subp. 2. **Operation.**

1. Water bodies must be designed and constructed to maintain sufficient freeboard and prevent overtopping of embankments.
2. Operators must maintain design capacity and function of water bodies through periodic dredging of settled material.

Subp. 3. **Construction of above grade ponds.**

1. An operator must take proper measures to prevent undesirable seepage from an above grade pond that could cause water quality degradation, cause flooding outside the mine area, or adversely affect the stability of the embankments or adjacent slopes.
2. Qualified professional engineers proficient in the design, construction, operation, and reclamation of settling ponds must approve the design of the above grade pond.
3. Design for above grade pond must include subitems 1 through 5.
	1. Rationale for the site selection, with regard to dam safety and characteristics of the site that could affect, or could be affected, by the pond;
	2. Description of materials, construction, and operating performance specifications and limitations that must be maintained to ensure protection of human safety and natural resources;
	3. Survey locations to ensure compliance with the design;
	4. Schedule for a qualified professional engineer to inspect the construction, operation, and maintenance of the pond; and
	5. Description how the pond will be deconstructed and reclaimed during closure of the mine area.

Subp. 4. **Reclaimed water body.**

1. Approved final grade at the edge of a mineland water body must:
2. have slopes no steeper than 3:1 horizontal to vertical at designated location or locations, depending on the size of the water body, to allow for a safe exit; and
3. extend into the water body vertically 6 feet below the lowest seasonal water level as feasible.
4. Operator shall provide measures within the reclamation plan to establish a beneficial water body by developing natural wildlife habitat and incorporating such features as irregular shoreline configurations, sinuous bathymetry and shorelines, varied water depths, peninsulas, islands, and subaqueous areas less than 1.5 foot deep.

Subp. 5. **Karst.** In areas where there is less than 50 feet of unconsolidated material directly over Prairie du Chien Group bedrock, St. Lawrence Formation, or other carbonate bedrock units, the design and construction of mineland water bodies requires:

1. a geotechnical investigation report signed by a qualified professional engineer;
2. a geophysical evaluation report, signed by a licensed professional geologist, characterizing the underlying bedrock for karst features and voids;
3. ponding depth less than 10 feet; and
4. a liner that meets Minnesota Pollution Control Agency standards for permeability.

****61XX.0140 BLASTING STANDARDS.****

Subpart 1. **Applicability.** Blasting requirements apply to buildings or other structures with the following exemptions:

1. buildings and structures owned by the operator or landowner and not leased to another person; and
2. buildings and structures owned by the operator or landowner and leased to another person, if a written and signed waiver by the lessee is submitted to the regulatory authority before blasting.

Subp. 2. **Air blast standards.** Air blasts due to blasting operations must not exceed the maximum limit of 133 dB(L) (0.013 psi). For structures and utilities not defined in subp. 1, air overpressure limits must be independently established based on technical justifications by qualified persons and experts familiar with blasting related projects.

Subp. 3. **Ground vibrations.** The ground vibrations or particle velocity on any axis must not exceed the limitations specified by [Code of Federal Regulations, title 30, chapter VII, subchapter K, part 816, section 816.67, paragraph (d)(4)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=17d4550f66825c3e69d1692894993dbe&n=pt30.3.816&r=PART&ty=HTML#se30.3.816_161) as amended. For registered historic structures, the ground vibration must be no greater than 0.5 inch per second for frequencies less than 10 Hz. For utilities, ground vibration limits must be independently established based on technical justifications by engineers or qualified personnel familiar with blasting-related projects.

Subp. 4. **Flyrock**. Flyrock travelling in the air or along the ground must not be cast from the blasting site in an uncontrolled manner that could result in personal injury or property damage. Flyrock must not be propelled from the mine area onto property for which the owner has not provided a written and signed waiver to the operator.

Subp. 5. **Pre-blast surveys.** The operator shall offer and conduct pre-blast surveys. Survey requirements must meet items A through D.

1. At least 45 days prior to the initial blasting, the operator shall notify a resident or owner of a dwelling or structure of the right to requesting a pre-blast survey for dwellings or structures located within one-half mile or at a distance of potential impact determined by a scale distance formula from of any part of the mine area. Means of this notification to the resident or owner must be approved by the regulatory authority.
2. A resident or owner of a dwelling or structure within one-half mile or distance of potential impact determined by a scale distance formula from of any part of the mine area may request a pre-blast survey. The request must be made, in writing, directly to the operator. The operator shall promptly conduct a pre-blasting survey of identified dwellings or structures and promptly prepare a written report of the survey. An updated survey of any additions, modifications, or renovations must be performed by the operator if requested by the resident or owner.
3. Pre-blast surveys must be completed by a third party, independent consultant.
4. Any survey requested within 14 days before the planned initial blast must be completed by the operator before the initial blasting.

Subp 6. **Monitoring.** The operator shall monitor all blasts. Monitoring stations must be located adjacent to the nearest structure located on lands not owned or controlled by the operator and where the regulatory authority deems necessary to investigate complaints. Monitoring protocols include items A through D.

1. Blasting seismographs used to monitor ground and air vibrations must comply with current performance standards for blasting seismographs, as provided by the International Society of Explosives Engineers.
2. Blasting seismographs must be deployed in the field according to the current field practice guidelines for blasting seismographs, as provided by the International Society of Explosives.
3. When blasting monitoring with a blasting seismograph is not required by the regulatory authority, the operator must comply with the scaled distance factors at the nearest building or structure outside the mine area.
4. The operator shall notify the regulating authority if a blast exceeds the standards in subp. (2) and subp. (3) or if flyrock lands onto property for which the owner has not provided a written and signed waiver to the operator of the blast within seven days of the blast.

Subp. 7. **Records.** Operators shall keep a blaster’s log of production blasts at the mine area, which must be retained for 3 years from the date of the blast. The log must contain the following information:

1. date and time of blast;
2. type of explosive used;
3. ignition layout with locations of blast holes and time intervals of delay;
4. pounds of explosives per each delay of eight milliseconds or more;
5. total pounds of explosives;
6. types of material blasted;
7. monitoring locations and results of monitoring when conducted;
8. meteorological conditions that include cloud cover, wind speed and directions as can be determined from the United States Weather Bureau, and ground-based observations; and
9. directional orientation of free faces of bench to be blasted.

61XX.0150 INTERMITTENT MINING.

Intermittent mining may be conducted by an operator provided that the possibility of a temporary shutdown of operations is addressed in an operator's reclamation plan, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation under 61XX.0220 is maintained covering all remaining portions of the site that have been affected by silica sand mining and that have not been reclaimed.

# RECLAMATION PLAN

61XX.0200 APPLICATION REQUIREMENTS.

Subpart 1. **Application contents.** An operator who conducts or plans to conduct silica sand mining shall submit to the regulatory authority an application conforming to subsection A through I.

1. The names, addresses, and telephone numbers of all persons or organizations who are owners or lessors of the property on which the mine area is located.
2. The name, address, and telephone number of the person or organization who is the operator.
3. The organizational structure of the applicant including, parent companies, owners, partners, joint venturers or affiliated companies.
4. The organizational relationships between or among joint applicants.
5. A certificate issued by an insurance company authorized to do business in the United States that the operator has a public liability insurance policy in force for the mining operation for which the reclamation plan approval is sought, or evidence that the operator has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation.
6. The following certifications must be submitted as condition of the reclamation plan:
	1. A certification by the operator and landowner of their intent to comply with reclamation standards established by 61XX.0100 through 61XX.0150; and
	2. A certification that the operator will provide financial assurance as required by 61XX.0220 upon approval of the reclamation plan before mining construction begins or transfers of the reclamation plan under 61XX.0380.
7. List civil and criminal fines relating to the permit to mine or environmental violation that the operator or affiliate companies have been issued over the past 10 years.
8. A map of the location of the proposed mine area with a brief description of the nature of the mine area.
9. A reclamation plan approved and signed by a qualified professional with demonstrated knowledge on similar projects that conforms to 61XX.0100 through 61XX.0260.

Subp. 2. **Information.** The operator shall provide digital geospatial information used to fulfill the requirements of 61XX.0100 through 61XX.0260 to the regulatory authority upon request. To avoid duplication, the plan application and submittals required by subp (1), may incorporate existing plans or materials that meet the requirements of this chapter.

61XX.0210 PRE-MINING CONDITIONS.

Subpart. 1. **Goal.** To establish baseline measurements to be used for reclamation planning, existing conditions of the mine area must be described before construction of any mining operations.

Subp. 2. **Requirements.**

1. Maps of the location of the mine area including property boundaries, ownership within the mine area and one-half mile adjacent to mine area.
2. Maps and description of current land use of mine area and one-half mile adjacent to the mine area including location and type of all structures, noting the location of registered historical structures, within and one-half mile adjacent to mine area, including pipelines and utilities.
3. Map of the distribution, thickness and type of topsoil within the proposed or existing mine area.
4. Geologic setting of the deposit to be excavated including the following:
5. a description of the bedrock geology;
6. areal extent, thickness, depth, and geologic composition of the deposit; and
7. thickness and characterization of overburden.
8. Description of the surface hydrology that includes the following;
9. the location of the mine area within the major and minor watersheds,
10. the location of existing draining patterns, streams, rivers, lakes, springs, seeps, and wetlands, including calcareous fens, located within or adjacent to the project area;
11. the location of sinkholes, caves or known surface karst features within or one-half mile adjacent to the mine area boundary.
12. Description of any part of the mine area that is within one mile of a designated trout stream contained within the boundaries of the Department of Natural Resources Paleozoic Plateau Ecological Section and requires a permit as provided by Minnesota Statutes, section 103G.217.
13. Hydrogeological description of the mine area that includes the location of the approximate elevation of groundwater in feet above mean sea level within the mine area, direction of ground water flow within the water table aquifer and confined aquifers within the mine area, the location of all wells, including wells not registered on the County Well Index, within 1.5 miles of the boundary of the mine area. In specific instances where the existing hydrogeological information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist.
14. Existing topography as shown on contour maps of the site at intervals specified by the regulatory authority.
15. Maps of existing roads, railroads, and transportation infrastructure within the proposed or existing mine area.
16. For proposed project sites that include previously mined areas, a plan view drawing that shows the location and extent of land previously affected by surface mining, including the locations of piles, wash ponds, sediment basins, and other features that may be specified by regulatory authority. The operator must include all approved reclamation plans associated with previous mining activity.
17. Map and description of pre-European settlement vegetation within the mine area.
18. Within the mine area, map or assessment of existing biological resources, known or inferred threatened or endangered species, and plant communities.
19. An official letter from the State Historical Preservation Office releasing the mine area of any additional cultural resource assessment requirements.

61XX.0211 DESCRIPTION OF MINING ACTIVITIES.

Subpart 1. **Goal.** A description of the expected mining activities must be provided to the regulatory authority.

Subp. 2. **Requirements.**

1. Description of the projected life of the operations including beginning and ending of operations and any phases or stages.
2. Description of blasting activities and submission of a blasting plan that meets the standards of 61XX.0140.
3. Map of the proposed mine area that includes subitems 1 through 7.
	1. Boundaries of the areas to be disturbed by mining.
	2. Setback boundaries that apply to the project site.
	3. Avoidance areas with description on the reason for avoidance.
	4. All permanent boundary markers.
	5. Location of buffers, berms, fences, and gated mine entrance.
	6. Location of proposed and existing water wells, operation plants, processing areas, load out sites, and transportation related infrastructure within the mine area.
	7. If applicable, the location of natural highwalls that will not be excavated.
4. A topsoil management and preservation plan that meets the standards of 61XX.0110.
5. Location and description of mineland water bodies. Descriptions of above grade pond design must include information specified in 61XX.0130, sub 2, item C.
6. Description of the anticipated lowest mined elevation in feet above mean sea level.
7. Description of how invasive species and noxious weeds will be controlled within the mine area including stockpiles, berms, and road shoulders.
8. If intermittent mining is expected to occur within the mine area, a description of subitems 1 through 5 for the periods of temporary shutdown.
	1. Reasonable efforts to address public safety.
	2. Reasonable efforts to prevent vandalism, illegal dumping, and trespassing.
	3. Maintenance or removal of mining infrastructure and on-site buildings.
	4. Control methods to prevent erosion and off-site sedimentation.
	5. Site-inspection schedule by the operator.

61XX.0212 POST-MINING LAND USE.

Subpart 1. **Goal.** The reclamation plan must specify a proposed post-mining land use for the mine area. The proposed post-mining land use must be consistent with local land use plans and local zoning at the time the plan is submitted, unless a future change to the land use plan or zoning is proposed. The proposed post-mining land use must also be consistent with any applicable state, local, or federal laws in effect at the time the plan is submitted.

Subp. 2. **Requirements.**

1. A description of the proposed earthwork and reclamation, including final slope angles, highwall reduction, benching, terracing, and other structural slope stabilization measures and if necessary a site-specific engineering analysis performed by a qualified professional.
2. The description of material used in reclamation and methods used to replace and stabilize topsoil, subsoil, overburden, topsoil substitute material, and waste sand. Redistribution of earthen materials must occur in stratigraphic order.
3. A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes.
4. A plan or map which shows remaining surface structures, roads, and related facilities after the completion of mining.
5. Indexed estimation of the cost of reclamation in the first stage of the project or the entire site if phased reclamation is not planned.
6. A revegetation plan delineating the timing and methods of seed bed preparation, rates and kinds of soil amendments, seed mix, seed application timing, mulching, netting and any other techniques needed to accomplish soil and slope stabilization. The revegetation plan must meet the criteria of 61XX.0240 or provide alternative criteria to be approved by the regulatory authority.
7. A description and drawing, showing erosion control measures to be employed during reclamation activities.
8. A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description must include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land use.

61XX.0220 FINANCIAL ASSURANCE.

Subpart 1. **Purpose.** The purpose of financial assurance is to ensure a source of funds exists to be used by the regulatory authority to cover all costs incurred by the regulatory authority for administrating the reclamation plan if the operator fails to perform items A and B.

1. Reclamation activities including closure and postclosure maintenance needed if operations cease; and
2. Corrective action as required by the regulatory authority if noncompliance with design and operating criteria in the reclamation plan.

Subp 2. **Applicability.** Financial assurance is required for each mine area. Multiple mine areas may be combined as allowed in Subp. 6. A state, county, municipality, or township operating a mine area is not required to obtain financial assurance.

Subp. 3. **Reclamation cost estimates.** An operator intending to conduct a silica sand mining operation must submit to the regulatory authority, as part of the reclamation plan, a documented estimate of the cost necessary to implement the reclamation plan under part 61XX.0200 through 61XX.0230 and corrective actions 61XX.0260. Financial assurance must be payable exclusively to the regulatory authority that has jurisdiction and who issues the approval for the reclamation plan.

1. Cost estimate must be based on the following:
2. current dollar value at the time of the estimate;
3. an itemized cost estimate of each mine area for the regulatory authority of administer and hire third parties to implement either the final reclamation or contingency reclamation according to the approved reclamation plan of all silica sand sites the operator has under permit; and
4. the cost of necessary postclosure monitoring and maintenance requirements.
5. No salvage value attributed to the sale of wastes, silica sand stockpiles, facility structures, equipment, land or other assets must be used for estimating purposes.
6. The financial assurance is dictated by the period of time required for the site to be self-sustaining in a manner protective of natural resources and in accordance with the approved reclamation plan and when postclosure maintenance is no longer necessary.

Subp. 4. **Corrective action cost estimates.** When the regulatory authority determines that a corrective action plan is required under part 61XX.0260, the operator shall submit a documented estimate of costs to perform the corrective action before implementation.

1. The operator shall provide annually adjusted cost estimates for corrective action to the regulatory authority undertaken according to an approved corrective action plan under 61XX.0260, subp. 2.
2. Itemized cost estimate must be based on the following:
3. current dollar value at the time of the estimate; and
4. the cost to the regulatory authority of administering and hiring a third party to conduct corrective action activities.

Subp. 5. **Criteria for financial assurance mechanisms.** Financial assurance mechanisms for reclamation and for corrective action must meet the items A through F to be approved for use.

1. The mechanism must equal the amount determined by subp. 3, for post closure care, and corrective action and must be available to the regulatory authority at all times.
2. The mechanism must be fully valid, binding, and enforceable under state and federal law.
3. Assurance that the funds can be accessed by the regulatory authority by action within boundaries of the United States.
4. The financial assurance mechanism must not be dischargeable through bankruptcy.
5. Assurance the regulatory authority will be notified 120 days prior to the cancellation of a financial assurance mechanism.
6. The regulatory authority may accept a lesser initial amount of financial assurance at the beginning of a new project or transfer of a project provided that the operator initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account in cash may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of reclamation.

Subp. 6. **Form and management.** The operator shall provide financial assurance that is acceptable to the regulatory authority.

1. All terms and conditions of the financial assurance must be approved by the regulatory authority. The regulatory authority, in evaluating financial assurance, shall use individuals with documented experience in the analysis. The reasonable cost of the evaluation must be paid by the applicant.
2. Financial assurance must be submitted to the regulatory authority for approval before the approval of the reclamation plan and before granting a significant amendment to the plan.
3. Financial assurance arrangements may include, at the discretion of the regulatory authority, more than one mechanism.
4. The amount of financial assurance must be reviewed as needed but no less than every three years to assure the financial assurance equals outstanding reclamation costs. The regulatory authority may notify the operator in writing about the review of financial assurance.
5. If the new cost estimate approved by the regulatory authority is greater than the amount of the existing financial assurance, the operator shall provide additional financial assurance in an amount equal to the increase, or
6. If the new cost estimate approved by the regulatory authority is less than the amount of existing financial assurance, the operator shall be released from maintaining financial assurance in an amount equal to the decrease.
7. The regulatory authority may cancel a financial assurance mechanism, only after it is replaced by an alternate mechanism or after the operator is released from financial assurance according to subp. 8.
8. Financial assurance must meet the criteria of subp.5.

Subp. 7. **Multiple projects.** With approval by the regulatory authority, an operator who obtains a plan approval from the regulatory authority for two or more silica sand sites within their jurisdiction may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance mechanism for each silica sand mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, financial assurances previously posted on individual mining sites must not be released until the new financial assurance has been accepted by the regulatory authority and is in effect.

Subp. 8. **Multiple jurisdictions.** In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the operator needing to prove financial assurance with more than one regulatory authority for the same silica sand mining site.

Subp. 9. **Forfeiture of financial assurance.** Financial assurance must be made available to the regulatory authority under items A to C when the operator is not in compliance with either the reclamation plan or the corrective action plan.

1. A proceeding to access financial assurance must be commenced by:
2. serving an order to forfeit the financial assurance on the person, institution, or trustee holding the financial assurance; and
3. serving a notice to the operator of the measures required to correct the situation and the time available for correction.
4. If conditions that provided grounds for the order are corrected within a period established by the regulatory authority and if measures approved by the regulatory authority are taken to ensure that the conditions do not recur, the order must be canceled.
5. If the conditions that provided grounds for the order are not corrected, the regulatory authority shall proceed with accessing and expending the funds provided by this part to implement the contingency reclamation or corrective action plans.

Subpart 10. **Failure to comply.** The regulatory authority shall take one or more of the following actions if the failure to comply with any portion of this part occurs:

1. deny the reclamation plan approval under part 61XX.0340;
2. modify the reclamation plan under part 61XX.0350; or
3. suspend or revoke a reclamation plan approval under part 61XX.0360.

61XX.0230 ANNUAL REPORTING REQUIREMENTS.

Subpart 1. **Goal.** To maintain approval status of the reclamation plan, the operator shall submit annual reports for all active and intermittent mining areas to the regulatory authority for each calendar year until silica sand mining reclamation at the site is certified as complete under 61XX.0230 subp. 2 or at the time of release of financial assurance under 61XX.0230.

Subp 2. **Requirements.** The annual report must include items A through H.

1. The name and mailing address of the operator.
2. Location of the mine area with permit number and parcel identification number if available.
3. The acreage currently affected by silica sand mining and not yet reclaimed.
4. The amount of acreage that has been reclaimed to date on a permanent basis and the amount reclaimed on a temporary basis.
5. A plan, map or diagram accurately showing the acreage described in subdivision D and E.
6. Updated financial assurance describing the cost estimate if operations were to close in the upcoming year.
7. A certificate issued by an insurance company authorized to do business in the United States that the operator has a public liability insurance policy in force for the mining operation for which the reclamation plan approval is sought, or evidence that the operator has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation.
8. The following certification, signed by the operator: “I certify that this information is true and accurate, and that the mine area described herein complies with all conditions of the applicable silica sand reclamation plan approval and Chapter 61XX, Minnesota Rules.

Subp. 3. **Submission.** The annual report must be submitted by a date specified by the regulatory authority.

Subp 4. **Alternative report.** A regulatory authority may, at its discretion, obtain the information required in subp. 2 for a calendar year by written documentation of its inspections of a silica sand mining site. If the regulatory authority obtains and documents the required information, the annual report need not be submitted by the operator. If the regulatory authority determines that the operator need not submit an annual report under this subsection, the regulatory authority shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the regulatory authority shall require the operator to submit the certification required in subp. 2, items F and G.

Subp 5. **Records.** A regulatory authority shall retain annual reports required by subp. 2 or equivalent records as provided in subp. 4 for 10 years after they are submitted, and shall make them available upon request by the public.

61XX.0240 CRITERIA FOR SUCCESSFUL COMPLETION OF RECLAMATION.

Subpart 1. **Goal.** The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released, shall be specified in the reclamation plan and approved by the regulatory authority. Reclamation criteria shall be specified in one, three, and five year increments.

Subp 2. **Upland requirements**. After five growing seasons following revegetation, a 90 percent cover consisting of living vegetation and its litter, must exist on all areas. No more than 10 percent cover of invasive, non-native vegetation is allowed.

Subp 3. **Wetland requirements**. After five growing seasons following revegetation, a 70 percent cover consisting of native grasses, sedges and forbs. No more than 10 percent cover of invasive, non-native vegetation is allowed.

Subp 4. **Comparisons.** If required by the regulatory authority, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success. Revegetation success may be determined by the following comparisons:

1. to an appropriate reference area;
2. to baseline data acquired at the mining site prior to its being affected by mining; or
3. to an approved alternate technical standard.

61XX.0250 POST-CLOSURE MAINTENANCE.

During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of finance assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of 61XX.0100 through 61XX.0150, or to meet the goals specified in the reclamation plan.

61XX.0260 CORRECTIVE ACTIONS.

 Subpart 1. **Goal.** On the observation of violations of the permit to mine, immediate actions shall be taken to correct the violation.

 Subp. 2. **Requirements.** Corrective action requirements include those in items A to D.

* 1. When the operator is aware that the reclamation requirements of parts 61XX.0200 and 61XX.0240 are not being met, the operator shall immediately notify the regulatory authority.
	2. On notification or observation of violations of parts 61XX.0100 through 61XX.0410, the regulatory authority shall order the operator to:
		+ 1. immediately take corrective action, or
			2. submit, within two weeks, a corrective action plan for approval before the operator implements corrective action that includes:

cause for failure to comply;

methods, sequence, and schedule of corrective action activities that will result in compliance

corrective action cost estimates, and

maps and cross sections at an appropriate scale.

* 1. If there is an immediate threat to human safety or natural resources resulting from the mining operation, the operator shall take immediate corrective action and report to the regulatory authority.
	2. The regulatory authority may take one or more of the following actions if the operator fails to comply with any portion of this part:
		+ 1. suspend or revoke the reclamation plan under part 61XX.0360.
			2. modify the reclamation plan under part 61XX.0350.

# ADMINISTRATIVE PROCESSES

61XX.0300 RECLAMATION PLAN SUBMISSION.

Subpart 1. **Purpose.** The purpose of this section is to establish requirements and procedures for the processing a complete submission and administration of silica sand reclamation plans.

Subp. 2. **Decision.** The regulatory authority shall approve, approve conditionally, or deny a reclamation plan under 61XX.0310 through 61XX.0430.

61XX.0310 PUBLIC NOTICE.

Subpart 1. **Notice.** A regulatory authority that has received and determined that the reclamation plan application meets the requirements of 61XX.0100 through XXXX.0260 shall publish a public notice of the application in a qualified newspaper under Minnesota Statutes, section [331A.02](https://www.revisor.leg.state.mn.us/statutes/?id=331A.02) that is circulated in the locality of the proposed mining operation no later than 30 days after receipt of a complete reclamation plan. The notice must contain items A through E.

1. A brief description of the mining and reclamation planned at the mine area.
2. Location or map of the mine area.
3. Mine ownership and operator contact information.
4. Mention the opportunity for public meeting under this section.
5. The locations at which the public may review the reclamation plan request and all supporting materials.
6. A notice of the deadline date and contact information for filing objections.

Subp. 2. **Local Meeting**. A regulatory authority shall provide for the opportunity for a public informational meeting on an application or request to approve a mine reclamation plan as follows:

1. if there is meeting on the local permit to mine for the mine area, the regulatory authority shall provide an opportunity at this meeting to present testimony on reclamation related matters. This opportunity must fulfill the requirement for public meeting for a silica sand reclamation plan required by this section. The regulatory authority shall consider the reclamation-related testimony in the local permit to mine meeting in deciding on the adequacy of a reclamation plan; or
2. if there is no opportunity for a local permit to mine for the mine area as described in item A, an opportunity for public meeting required by this section must be provided as follows. Any person residing within, owning property within, or whose principle place of business is within 1000 feet of the boundary of the parcel or parcels of land in which the mine area is located or proposed may request a public informational meeting within 30 days of the actual date of public notice under subp. 1. This public meeting must be conducted as an information meeting for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.

61XX.0320 COMMENTS.

Subpart 1. **Filing**. Comments related to a proposed reclamation plan application may be filed with the regulatory authority no later than 45 days following the notice of publication.

Subp. 2. **Comment statement.** A person submitting an objection statement to the regulating authority shall include the following information in items A through C.

1. A statement of the person’s interest in the proposed reclamation plan;
2. A statement of the action that the person wants the regulatory authority to take, including specific references to the plan or application; and
3. The reasons supporting the person’s position, stated with sufficient specificity to allow the regulatory authority to investigate the merits of the person’s position.

Subp. 3. **Considerations.** All comments must be considered by the approved authority.

61XX.0330 DETERMINATION.

Subpart 1. **Issuance.** Unless denied under 61XX.0340, the regulatory authority shall approve in writing the reclamation plan submitted under 61XX.0200 for a proposed silica sand mining project. The decision must be made no later than 120 days following receipt of the complete reclamation plan that meets the requirements of 61XX.0210 through 61XX.0220, unless a public meeting is held under 61XX.0310 subp 2.

Subp. 2. **Conditions.** The regulatory authority may approve a reclamation plan subject to general or site−specific conditions if needed to assure compliance with the reclamation requirements of this chapter. One required condition of the approved reclamation plan must be that the mine obtains financial assurance under 61XX.0220 prior to construction or disturbance under this plan.

Subp. 3. **Multiple jurisdictions.** If more than one regulatory authority has jurisdiction over a single mine area, the regulatory authorities shall cooperatively issue a single approval for the reclamation plan.

61XX.0340 DENIAL.

Subpart 1 . **Authority.** The denial of a reclamation plan must be made in writing no later than 120 days following the receipt of the complete reclamation plan. The denial must contain documentation and a findings of fact with reasons for denial.

Subp. 2. **Grounds for denial.** A reclamation plan must be denied if the regulatory authority finds any of the following:

1. The proposed mine area cannot be reclaimed in compliance with the reclamation standards of 61XX.0100 through 61XX.0170 or the applicable local land use ordinance.
2. The applicant, or its agent, principal or predecessor has, during the course of silica sand mining in Minnesota, within 10 years of the plan application or modification request being considered, shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to silica sand reclamation. The regulatory authority may consider the following:
	1. results of judicial or administrative proceedings involving the operator or its agent, principal, or predecessor.
	2. suspensions or revocations of silica sand mining permits or reclamation plans.
	3. forfeiture of financial assurance.

61XX.0350 MODIFICATION.

Subpart 1. M**odification by regulatory authority.** A regulatory authority may order the modification of a reclamation plan when the regulatory authority determines that:

1. it is necessary to correct conditions that jeopardize public health or safety or that could result in injury to persons or property;
2. because of changing conditions, the silica sand mining area is no longer in compliance with the reclamation plan or parts 61XX.0100 through 61XX.0260.
3. new information related to reclamation becomes available that needs to be addressed and incorporated into the reclamation plan.

Subp. 2. **Modification by the operator.** If an operator desires to modify a silica sand reclamation plan, the operator shall submit an application to modify the plan to the regulatory authority. The application must be subject to the requirements of this chapter. The regulatory authority shall make a determination if the modification constitutes a substantial change from the reclamation plan.

Subp. 3. **Determination.** If the regulatory authority determines a substantial change would occur, the regulatory authority can require the submittal of all or a portion of the requirements in 61XX.0100 through 61XX.0260 and follow proceedings specified in 61XX.0310 through 61XX.0330.

61XX.0360 SUSPENSION OR REVOCATION.

Subpart 1. **Grounds.** A regulatory authority may suspend or revoke a reclamation plan issued under this chapter if it finds that the operator has done any of the following:

1. failed to submit a satisfactory annual report within the time frames specified in this subchapter;
2. failed to submit or maintain financial assurance as required by this chapter;
3. failed to comply with corrective actions; or
4. failed on a repetitive and significant basis to follow the approved reclamation plan.

Subp. 2. **Suspension.** If the regulatory authority makes any of the findings in subpart 1, the regulatory may suspend a reclamation plan. During the time of suspension, the operator may not conduct mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority. Operator must maintain financial assurance under 61XX.0220.

Subp. 3. **Revocation.** If a regulatory authority makes any of the findings in subpart 1, the regulatory authority may revoke its silica sand reclamation plan approval. Upon revocation, the operator shall forfeit the financial assurance it has provided under 61XX.0220 to the regulatory authority. The regulatory authority may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter.

61XX.0370 ALTERNATIVE REQUIREMENT APPROVALS.

Subpart 1. **Criteria.** A regulatory authority may approve an alternate requirement to the reclamation standards established in this chapter if the operator demonstrates and the regulatory authority finds the criteria A through C are met.

1. The silica sand mining site, the surrounding property, the mining plan, or reclamation plan has a unique characteristic which requires an alternate requirement.
2. Unnecessary hardship which is peculiar to the silica sand mining site or plan will result unless the alternate requirement is approved.
3. Reclamation in accordance with the proposed alternate requirement will achieve the planned post−mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

Subp 2. **Procedures.**

1. An operator who requests an alternate requirement shall submit the request in writing as required in the applicable local land use ordinance.
2. If the regulatory authority is a county or municipality, the alternate requirement must be approved or disapproved as provided in the applicable local land use ordinance. Approval or disapproval must be in writing and must contain documentation of the reasons why the alternate requirement was or was not approved.
3. A request for an alternate requirement may be incorporated as part of an application to issue or modify a silica sand reclamation plan.
4. An applicable reclamation ordinance may provide opportunity for public informational meeting under this subchapter prior to the regulatory authority’s action on a request for an alternate requirement.

61XX.0380 TRANSFERS.

A new operator may apply for a transfer of an approved reclamation plan upon submittal to the regulatory authority the information under 61XX.0200 items A through I. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section. The transfer is not valid until meeting all of the following criteria:

1. the new operator submits financial assurance under 61XX.0220;
2. the regulatory authority accepts the financial assurance; and
3. the regulatory authority determines compliance with all conditions of the approved reclamation plan.

61XX.0390 CHANGE OF REGULATORY AUTHORITY.

If there is a change of regulatory authority for a mine area, the approved reclamation plan must remain in effect and be enforceable until the plan is modified by the new regulatory authority.

61XX.0400 REVIEW OF DECISION.

Any persons who meet the requirements of XXXX.0000, may request a contested case meeting under XXXX.0000, on a county or municipal regulatory authority’s decision to approve, deny or modify a silica sand reclamation plan. *STILL IN DEVELOPMENT*

61XX.0410 NOTICE OF COMPLETION.

Subpart 1. **Request.** The operator shall submit to the regulatory authority a request to be released from an approved reclamation plan. The request must include items A through C.

1. A declaration by the operator of how each portion of the mine area for which a release is requested has been made to comply with the requirements of parts 61XX.0100 to 61XX.0260 and the conditions placed within the local permit to mine.
2. Identification of the ownership of the mine area.
3. A map that prepared by a qualified professional that shows the following:
4. the location and status of all mining land forms and facilities created or used during the mining operation;
5. the areas for which the release is being requested;
6. location of open and sealed water wells;
7. the areas on which postclosure maintenance is being conducted;
8. the final topography of all mining land forms;
9. the location, type, extent, percent coverage of vegetation that has been established;
10. the existing and ultimate anticipated level of groundwater;
11. the locations of safe access points of any constructed water body;
12. if applicable, the location of all sealed access points to underground mine workings;
13. the location of any approved highwalls or gradients that exceed a 3:1 horizontal to vertical slopes; and
14. other tests or borings specified by regulatory authority within the approved reclamation plan.

61XX.0420 RELEASE OF FINANCIAL ASSURANCE.

Subpart 1. **Notification.** The operator shall apply to the regulatory authority for the release of financial assurance, by filing a notice of completion under 61XX.0410, at the time the operator determines that reclamation of any portion of the mine area, corrective action, or entire mine area satisfies all terms and conditions of parts 61XX.0100 to 61XX.0260.

Subp. 2. **Determination of completeness.** The regulatory authority shall inspect the mine area or portion thereof that was the subject of the notice of completion to make a determination of completion using criteria under 61XX.0240. The regulatory authority, in evaluating reclamation completion, shall use individuals with documented experience in the analysis. The reasonable cost of the evaluation must be paid by the applicant. The regulatory authority shall make a determination under this subsection that:

1. Reclamation is not yet complete;
2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
3. Reclamation is fully complete and conditions necessitating postclosure maintenance no longer exist and are unlikely to recur;
4. Corrective actions have been successfully accomplished.

Subp 3. **Release.** The regulatory authority shall release the operator from the responsibility to maintain financial assurance within 90 days of a determination of completion under in subp 2. C or D; unless the determination for release is challenged in a legal proceeding.

61XX.0430 REGULATORY AUTHORITY RIGHT OF INSPECTION

Subpart 1. **Access.** No person may refuse entry or access onto a mine area of a duly authorized office, employee, or agent of the regulatory authority who presents appropriate credentials to inspect the site for compliance with silica sand reclamation plan required by 61XX.0100 through 61XX.0260.

Subp. 2. **Inspector requirements.** Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state, or local laws or regulations controlling persons in the silica sand mining area.

Subp. 3. **Records.** If requested, the regulatory authority shall furnish to the operator a written report of its inspection under this section, setting forth all relevant observations, information, and data which relate to the mine area’s compliance status under this chapter.