

1.1 **Department of Natural Resources**

1.2 **Proposed Permanent Rules Relating to Silica Sand Mine Reclamation**

1.3 **GENERAL PROVISIONS**

1.4 **6126.0010 DEFINITIONS.**

1.5 Subpart 1. **Scope.** The terms used in this chapter have the meanings given in this part.

1.6 Subp. 2. **Approved reclamation plan.** "Approved reclamation plan" means a
1.7 reclamation plan application submitted by an operator that complies with the requirements
1.8 under part 6126.0200 and is approved by the RGU. An approved reclamation plan includes:

1.9 A. **corrective actions ordered by the RGU;**

1.10 B. **corrective action plans submitted by an operator and approved by the RGU;**

1.11 and

1.12 C. **modifications approved by the RGU.**

1.13 Subp. 3. **Auxiliary use area.** "Auxiliary use area" means land used in association
1.14 with mining operations or used for mining operations to comply with regulatory
1.15 requirements. An auxiliary use area includes silica sand facilities and private haul roads,
1.16 but does not include haul roads leading to the mine area.

1.17 Subp. 4. **Borrow site.** "Borrow site" means a temporary mine area:

1.18 A. **that provides silica sand for a publicly funded road construction or**
1.19 transportation-related project;

1.20 B. **for which the permit to mine is subject to a reclamation plan that is approved**
1.21 by the RGU; and

1.22 C. **for which the implementation of the reclamation plan occurs within 36**
1.23 months from the issuance date of the permit to mine.

2.1 Subp. 5. **Corrective action.** "Corrective action" means a measure to mitigate a
2.2 violation of an approved reclamation plan.

2.3 Subp. 6. **Corrective action plan.** "Corrective action plan" means a proposal
2.4 submitted by an operator and approved by an RGU that remedies a violation or prevents
2.5 a continuing violation of an approved reclamation plan.

2.6 Subp. 7. **Financial assurance.** "Financial assurance" means a commitment of funds
2.7 by an operator to an RGU that complies with parts 6126.0250 and 6126.0251 and is
2.8 sufficient to pay for corrective actions and reclamation required by this chapter.

2.9 Subp. 8. **Highwall.** "Highwall" means a vertical or nearly vertical face in bedrock
2.10 or a slope of consolidated or unconsolidated material that is steeper than 3:1 horizontal
2.11 to vertical.

2.12 Subp. 9. **Invasive species.** "Invasive species" has the meaning given under
2.13 Minnesota Statutes, chapter 84D.

2.14 Subp. 10. **Mine area.** "Mine area" means contiguous or adjacent lands, under control
2.15 of the same person, used or proposed for use in connection with silica sand mining. Mine
2.16 area includes land used or proposed for use in connection with silica sand mining on which:

2.17 A. earthen material is deposited;

2.18 B. a silica sand facility is located;

2.19 C. a mineland water body is located; or

2.20 D. an auxiliary use area is located.

2.21 Mine area does not include access roads leading to the mine area or lands that have
2.22 been released from financial assurance under part 6126.0253.

2.23 Subp. 11. **Mine rejects.** "Mine rejects" means excavated earthen material remaining
2.24 at the mine area after the excavation or processing of silica sand.

3.1 Subp. 12. **Mineland water body.** "Mineland water body" means a constructed body
3.2 of water or impoundment of water created as a result of mining.

3.3 Subp. 13. **Mining operations.** "Mining operations" means the process of land
3.4 disturbances undertaken by an operator to mine silica sand. Mining operations include
3.5 logging, stripping vegetation or soil, stockpiling, building, constructing, excavating,
3.6 blasting, dredging, or removing earthen material at a mine area. Mining operations
3.7 include the processes carried out at a mine area that are related to preparing, processing,
3.8 screening, blending, washing, transporting, or coating silica sand.

3.9 Subp. 14. **New mining project.** "New mining project" means:

3.10 A. a proposed mine area;

3.11 B. an existing mine area requiring:

3.12 (1) a new permit to mine to resume mining operations;

3.13 (2) an amended permit to mine to expand a mine area beyond the existing
3.14 permitted boundary; or

3.15 (3) an amended permit to mine to increase the permitted production rate by
3.16 greater than 25 percent; or

3.17 C. a nonmetallic mine that:

3.18 (1) proposes to mine silica sand; and

3.19 (2) does not have legal authority to mine silica sand within 89 days after
3.20 the effective date of this chapter.

3.21 Subp. 15. **Operator.** "Operator" means a person that is engaged in silica sand mining
3.22 under an approved reclamation plan or permit to mine or that has submitted a reclamation
3.23 plan application under part 6126.0200, whether individually, jointly, or through affiliates,
3.24 subsidiaries, agents, employees, contractors, or subcontractors.

4.1 Subp. 16. **Overburden.** "Overburden" means earthen material below the subsoil, or
4.2 B soil horizon, which is removed to access a silica sand deposit.

4.3 Subp. 17. **Permit to mine.** "Permit to mine" means the approval granted by an RGU
4.4 that authorizes the conditions of mining operations, such as a conditional use permit,
4.5 interim use permit, or nonconforming land use agreement.

4.6 Subp. 18. **Phased reclamation.** "Phased reclamation" means the sequential or
4.7 progressive reclamation of portions of a mine area in advance of final reclamation.

4.8 Subp. 19. **Practicable.** "Practicable" means capable of being done after taking
4.9 into consideration the cost, existing technology, and logistics in light of the overall
4.10 specifications and purpose of an approved reclamation plan.

4.11 Subp. 20. **Professional engineer.** "Professional engineer" means a person licensed
4.12 to practice professional engineering under Minnesota Statutes, sections 326.02 to 326.15.

4.13 Subp. 21. **Professional geoscientist.** "Professional geoscientist" means a person
4.14 licensed to practice professional geoscience under Minnesota Statutes, sections 326.02
4.15 to 326.15.

4.16 Subp. 22. **Reclamation.** "Reclamation" means the activities that successfully
4.17 accomplish the requirements under parts 6126.0100 to 6126.0240.

4.18 Subp. 23. **RGU.** "RGU" means a responsible governmental unit that has authority to
4.19 issue a permit to mine or approve reclamation plans under this chapter. RGU includes
4.20 a county, township, and statutory or home rule charter city and the authorized agents
4.21 of the governmental unit.

4.22 Subp. 24. **Silica sand.** "Silica sand" means material excavated from a formation or
4.23 deposit where the grain size distribution is at least 50 percent sand by weight and where at
4.24 least 90 percent of the formation's or deposit's grains is crystalline quartz.

4.25 Subp. 25. **Silica sand facility.** "Silica sand facility" means a facility that:

- 5.1 A. operates silica sand processing equipment;
- 5.2 B. operates equipment used for transloading silica sand;
- 5.3 C. operates a system to store silica sand; or
- 5.4 D. establishes and maintains an open storage pile of more than 200 cubic yards
- 5.5 of silica sand.

5.6 Subp. 26. **Temporary shutdown.** "Temporary shutdown" means a period of
5.7 inactivity at a mine area that is greater than nine months, when the operator has the intent
5.8 to resume mining at a future date.

5.9 **6126.0020 SCOPE.**

5.10 Subpart 1. **Applicability.** Except as otherwise provided in this part, all new mining
5.11 projects are governed by this chapter. Parts 6126.0150, subpart 2, and 6126.0430 are
5.12 the only parts of this chapter that apply to:

- 5.13 A. borrow sites; and
- 5.14 B. silica sand mines in existence before the effective date of this part or within
- 5.15 89 days after the effective date of this part.

5.16 Subp. 2. **Exemptions.**

5.17 A. If self-assurance is provided by the governmental unit, then the financial
5.18 assurance requirements under parts 6126.0250 and 6126.0251 do not apply to mine areas
5.19 located on lands owned, managed, leased, or contracted by:

- 5.20 (1) the state;
- 5.21 (2) a state agency, board, commission, or department; or
- 5.22 (3) a local governmental unit.

5.23 B. This chapter does not apply to excavations or grading of silica sand:

(1) when the mine area is less than two acres, the silica sand is solely for domestic or farm use, and the mine area is on land owned by the person excavating or grading; or

(2) where the primary purpose of excavation or grading is for construction, reconstruction, maintenance, or repair and the activity does not require a permit to mine from the RGU.

RECLAMATION STANDARDS

6126.0100 PERFORMANCE STANDARDS.

Subpart 1. Public health, safety, welfare, and environmental regulations.

Reclamation must be conducted and completed in a manner that:

A. does not endanger public health, safety, or welfare; and

B. complies with all other applicable laws, statutes, rules, and ordinances, including the trout stream setback permit requirements under Minnesota Statutes, section 103G.217.

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

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

A. minimize the area disturbed by silica sand mining; and

B. phase new disturbances with the reclamation of mined, unused, or disturbed portions of the mine area.

Subp. 4. **Final topography.** Unless otherwise specified by the approved reclamation plan, the final topography of reclaimed land must blend with adjacent topography to the

7.1 extent practicable. Reclaimed hillsides must be composed of sinuous contours, rolling
7.2 mounds, and hills to the extent practicable.

7.3 Subp. 5. **Storm water runoff.** The design, grading, and reclamation of the mine area
7.4 must not produce storm water runoff that adversely affects neighboring properties.

7.5 Subp. 6. **Revegetation and site stabilization.** Except for permanent roads,
7.6 structures, improvements, or similar surfaces identified for continued postmining use
7.7 in the approved reclamation plan, land surfaces affected by mining must be reclaimed
7.8 and stabilized with vegetation or other means compatible with local land use plans,
7.9 noxious weed laws, and invasive species laws. Revegetation and site stabilization must
7.10 comply with the approved reclamation plan and must be performed as soon as seasonally
7.11 practicable after mining has permanently ceased in the areas of the affected land surface.

7.12 Subp. 7. **Natural landscape.** When the postmining land use specified in the
7.13 approved reclamation plan requires rehabilitation of the mine area to a natural landscape,
7.14 the mine area must be reclaimed, to the extent practicable, to a self-sustaining condition
7.15 that is protective of natural resources, as specified in the approved reclamation plan.
7.16 Diverse, native plant species from an appropriate ecological subsection, as delineated by
7.17 the Department of Natural Resources Ecological Classification System, must be used
7.18 whenever practicable.

7.19 Subp. 8. **Noxious weeds; invasive species.** State-listed noxious weeds and invasive
7.20 species must be controlled within the mine area as specified in the approved reclamation
7.21 plan. Transportation of cut wood out of the mine area must follow state and federal
7.22 quarantine laws.

7.23 Subp. 9. **Mine rejects.** Mine rejects must be used in accordance with the approved
7.24 reclamation plan.

7.25 Subp. 10. **Blasting.** Blasting in a mine area must be conducted in a manner that
7.26 prevents injury to persons and damage to public or private property outside of the mine area.

8.1 Subp. 11. **Temporary shutdown.** The requirements and standards of this chapter
8.2 must still be met during a temporary shutdown.

8.3 Subp. 12. **Underground mines.** All portals, entryways, drifts, shafts, or other
8.4 openings between the surface and an underground mine must be sealed when no longer
8.5 needed to conduct underground mining operations. Mining techniques must be used, to the
8.6 extent practicable, to prevent subsidence and maximize mine stability. Areas affected by
8.7 subsidence must be contoured or filled to protect public health, safety, and natural resources.

8.8 **6126.0110 SOIL AND OVERBURDEN MANAGEMENT.**

8.9 Subpart 1. **Volume.** An operator must obtain the volume of soil required to perform
8.10 reclamation by removing on-site soil or soil substitute material or by obtaining soil
8.11 or substitute material as needed to make up the volume of topsoil as specified in the
8.12 approved reclamation plan.

8.13 Subp. 2. **Soil removal.**

8.14 A. Topsoil must be carefully removed where mining activities disturb existing
8.15 vegetation or have the potential to cause erosion within the mine area.

8.16 B. Soil must remain on site unless soil removal is allowed in the approved
8.17 reclamation plan.

8.18 Subp. 3. **Storage requirements.**

8.19 A. When practicable, topsoil must not be intermixed with overburden and
8.20 must be stored in a manner that minimizes the detrimental effects of long-term storage
8.21 of topsoil in stockpiles.

8.22 B. Stockpiled earthen material must be placed on a stable site within the mine
8.23 area and must be stored in a manner that protects the material from compaction, erosion,
8.24 runoff, or further disturbance.

9.1 C. If stored for at least one year, or when there is an expectation of storage for
9.2 more than one year, stockpiled earthen material must be protected from erosion through
9.3 the establishment and maintenance of an effective quick-growing vegetative cover or
9.4 through other measures approved by the RGU.

9.5 D. Stockpiled earthen material must be clearly signed by material type.

9.6 Subp. 4. **Substitution.** If the topsoil retained from the mine area is insufficient in
9.7 terms of quantity or quality to sustain the vegetative cover specified in the approved
9.8 reclamation plan, topsoil must be substituted, amended, or replaced from off-site sources.
9.9 Topsoil amendments, substitution, or replacement must be free of chemical contamination,
9.10 free of state-listed noxious weeds and invasive species, and in a usable condition for
9.11 sustaining vegetation during reclamation.

9.12 **6126.0120 GRADING AND SLOPES.**

9.13 Subpart 1. **Safe conditions.** Final slopes within a mine area must be specified in the
9.14 approved reclamation plan and provide for a stable and safe condition consistent with any
9.15 ongoing mining operations and with postmining land use.

9.16 Subp. 2. **Bedrock highwalls.** An approved reclamation plan may designate
9.17 undisturbed, natural, solid bedrock highwalls as stable and safe and not in need of
9.18 reclamation.

9.19 Subp. 3. **Final slopes.** Final constructed slopes within the mine area must be stable
9.20 and permeable to water. Except as provided in this subpart, final slopes must not be
9.21 steeper than a 3:1 horizontal to vertical incline. A final slope steeper than a 3:1 horizontal
9.22 to vertical incline is allowed if the slope existed naturally within the mine area before
9.23 mining began or is required to blend with surrounding natural and stable topography. Final
9.24 slopes steeper than a 3:1 horizontal to vertical must be:

10.1 A. shown to be stable through a field plot demonstration in an approved
10.2 reclamation plan; or

10.3 B. determined to be stable through a site-specific engineering analysis
10.4 performed by a professional engineer.

10.5 Subp. 4. **Grading.** Before topsoil or topsoil substitute material is redistributed
10.6 under an approved reclamation plan, the surface must be graded or otherwise prepared
10.7 to provide optimal adherence between the topsoil or topsoil substitute material and the
10.8 underlying material. Final slopes may contain small depressions but must not be rutted or
10.9 lead to erosion. Mounds may be left to provide microtopographic variability, trap soil,
10.10 or promote diverse natural revegetation.

10.11 **6126.0130 MINELAND WATER BODIES.**

10.12 Subpart 1. **Standards.**

10.13 A. Mineland water bodies must be designed, built, and maintained to:

10.14 (1) be structurally sound;

10.15 (2) minimize hydrologic impacts;

10.16 (3) maintain two feet of freeboard if overtopping of embankments is not
10.17 in the design; and

10.18 (4) provide for controlled outflow of water if overtopping of embankments
10.19 is in the design.

10.20 B. An operator must take measures to prevent seepage from a mineland water
10.21 body that could:

10.22 (1) cause water not to meet applicable water quality standards;

10.23 (2) create flooding outside the mine area;

10.24 (3) create or expand sinkholes; or

11.1 (4) adversely affect the stability of the embankments or adjacent slopes.

11.2 C. A professional engineer with experience in the design, construction, and
11.3 operation of constructed water impoundments must approve the design of a constructed
11.4 water impoundment.

11.5 D. Constructed water impoundments must be deconstructed during final
11.6 reclamation.

11.7 E. For reclamation of a mineland water body, a slope no steeper than 3:1
11.8 horizontal to vertical must extend at one or more designated locations to allow for a safe
11.9 exit to a depth of six feet below the lowest seasonal water level, except as provided in
11.10 items F and G.

11.11 F. For reclamation of a mineland water body that creates wetlands, a slope
11.12 between 5:1 to 10:1 horizontal to vertical must extend to a depth of six feet below the
11.13 lowest seasonal water level.

11.14 G. For reclamation of a mineland water body that creates a public recreational
11.15 area, a slope no steeper than 15:1 horizontal to vertical must extend to a depth of ten
11.16 feet below the lowest seasonal water level.

11.17 H. For reclamation of a mineland water body, an operator must specify
11.18 measures in the reclamation plan application to establish a postmining beneficial water
11.19 body by incorporating features to support natural landscape and wildlife habitat such as:

11.20 (1) irregular shoreline configurations;

11.21 (2) vegetative buffers;

11.22 (3) gentle side slopes;

11.23 (4) sinuous bathymetry and shorelines;

11.24 (5) varied water depths;

12.1 (6) peninsulas;

12.2 (7) islands; or

12.3 (8) shallow subaqueous areas.

12.4 Subp. 2. **Mineland water body plan.** If a mineland water body is to be constructed
12.5 within the mine area, an operator must submit with the reclamation plan application:

12.6 A. the rationale for site selection and anticipated timeline of construction for all
12.7 mineland water bodies within the mine area, with regard to characteristics of the site that
12.8 could affect or could be affected by the mineland water body;

12.9 B. for constructed water impoundments, a description of materials, construction,
12.10 and operating performance specifications and limitations that must be maintained to
12.11 ensure protection of public health, safety, and natural resources;

12.12 C. for constructed water impoundments, the design plan of the water body
12.13 signed by a professional engineer and a statement of acknowledgment by the operator that
12.14 an as-built survey will be submitted to the RGU within three months of the completion
12.15 of construction; and

12.16 D. in karst areas where 50 feet or less of unconsolidated material directly
12.17 overlies a formally recognized carbonate-dominated bedrock unit or formation, as
12.18 described in Paleozoic Stratigraphic Nomenclature for Minnesota, incorporated by
12.19 reference under subpart 3, a geotechnical report that includes a geophysical evaluation
12.20 characterizing the underlying bedrock for karst features and voids, signed by a professional
12.21 geoscientist or professional engineer. The professional geoscientist or professional
12.22 engineer must have experience in evaluating karst.

12.23 Subp. 3. **Incorporation by reference.** Mossler, John H., Report of Investigation
12.24 65: Paleozoic Stratigraphic Nomenclature for Minnesota, Minnesota Geologic Survey

13.1 (2008) is incorporated by reference, is not subject to frequent change, and is available at
13.2 <http://purl.umn.edu/58940>.

13.3 **6126.0140 POSTCLOSURE MAINTENANCE.**

13.4 After an operator requests an assessment of completion under part 6126.0410, but
13.5 before release of financial assurance under part 6126.0253, an operator must perform
13.6 any mine area maintenance necessary to:

13.7 A. prevent erosion, sedimentation, or environmental pollution;

13.8 B. comply with parts 6126.0100 to 6126.0130; and

13.9 C. comply with the requirements specified in the approved reclamation plan.

13.10 **6126.0150 BLASTING STANDARDS.**

13.11 Subpart 1. **Applicability.** This part does not apply to:

13.12 A. buildings or dwellings owned or occupied by the operator;

13.13 B. buildings or dwellings owned or occupied by the mine area landowner; or

13.14 C. buildings or dwellings owned or occupied by the operator or mine area
13.15 landowner and leased to another person, if a written and signed consent to blasting by the
13.16 lessee is submitted to the RGU before blasting commences.

13.17 Subp. 2. **Standards.** An operator must follow the requirements for ground vibration,
13.18 air overpressure, flyrock, and gasses specified in NFPA 495, Explosive Materials Code,
13.19 chapter 11, National Fire Protection Association (2013 and as subsequently amended).
13.20 NFPA 495 is incorporated by reference, is not subject to frequent change, and is available
13.21 through the Minitex interlibrary loan system.

13.22 Subp. 3. **Preblast surveys.**

13.23 A. An operator must offer and provide preblast surveys according to this
13.24 subpart to occupants or owners of all dwellings, buildings, or domestic wells located

14.1 within one-quarter mile of the mine area boundary or at a distance of potential impact as
14.2 determined by a scale distance formula from any part of the mine area.

14.3 B. At least 90 days before the initial blast within the mine area, the operator
14.4 must notify an occupant or owner of a dwelling, building, or domestic well specified
14.5 under item A of the right to request a preblast survey. The RGU must approve the means
14.6 of notification to the occupant or owner.

14.7 C. An occupant or owner of a dwelling, building, or domestic well specified
14.8 under item A may request a preblast survey at any time. The request must be made in
14.9 writing directly to the operator.

14.10 D. If the operator receives a written request for a preblast survey under item C
14.11 at least 60 days before the initial blast, the operator must arrange for the preblast survey to
14.12 be completed before the initial blast.

14.13 E. For all written requests under item C, the operator must provide for a
14.14 preblast survey of all dwellings, buildings, and domestic wells located on the property
14.15 that is the subject of the request and prepare a written report of the survey. Dwellings and
14.16 buildings must be identified as occupied or unoccupied and must be inventoried with a
14.17 unique identification number. The preblast survey must include written and photographic
14.18 documentation of all observed defects.

14.19 F. A third-party, independent consultant must complete the preblast survey. The
14.20 operator must submit a copy of the written report of the survey to the person requesting
14.21 the survey within 45 days of completing the preblast survey.

14.22 G. If requested by an occupant or owner according to item C, the operator must
14.23 update a preblast survey to reflect any additions, modifications, or renovations.

14.24 Subp. 4. **Monitoring.**

15.1 A. An operator must monitor all blasts according to this part, unless alternative
15.2 monitoring methods are approved by the RGU. The operator must secure written
15.3 permission from landowners before locating blast monitoring stations under this subpart.

15.4 Blast monitoring stations may be portable and must be located:

15.5 (1) adjacent to the nearest dwellings, buildings, or domestic wells located
15.6 on lands not owned or controlled by the operator; and

15.7 (2) where the RGU deems necessary to investigate complaints.

15.8 B. Within seven days of a blast, the operator must notify the RGU if the blast
15.9 exceeded the standards established under subpart 2.

15.10 Subp. 5. **Records.** An operator must keep a log of each blast within a mine area.
15.11 The log must be retained for three years after the date of each blast. The log must contain
15.12 the following information:

15.13 A. date and time of blast;

15.14 B. type of explosives used;

15.15 C. ignition layout with locations of blast holes and time intervals of delay;

15.16 D. pounds of explosives per each delay of eight milliseconds or more;

15.17 E. total pounds of explosives used;

15.18 F. type of material blasted;

15.19 G. monitoring locations and results of monitoring;

15.20 H. meteorological conditions at the time of blasting, including cloud cover, wind
15.21 speed and direction determined from the National Weather Service, and ground-based
15.22 observations; and

15.23 I. directional orientation of the free faces of the bench being blasted.

15.24 **RECLAMATION PLANS**

16.1 **6126.0200 RECLAMATION PLAN APPLICATION REQUIREMENTS.**

16.2 Subpart 1. **Application contents.** An operator of a new mining project must submit
16.3 to the RGU a reclamation plan application containing:

16.4 A. the name, mailing address, and telephone number of all persons that are
16.5 owners or lessors of the property on which the mine area is located;

16.6 B. the name, mailing address, and telephone number of all persons that are
16.7 operators of the mine area;

16.8 C. the organizational structure of the operator, including parent companies,
16.9 owners, partners, joint venturers, or affiliated entities;

16.10 D. the organizational relationships between or among any joint operators;

16.11 E. a certificate issued by an insurance company authorized to do business in the
16.12 United States demonstrating that the operator has a public liability insurance policy in
16.13 force for mining operations for which the reclamation plan approval is sought or evidence
16.14 that the operator has satisfied state or federal self-insurance requirements, to provide
16.15 personal injury and property damage protection in an amount adequate to compensate
16.16 any persons who are damaged by mining operations or by any reclamation activities or
16.17 corrective action activities connected with mining operations;

16.18 F. a certification by the operator of the operator's intent to comply with
16.19 reclamation standards under parts 6126.0100 to 6126.0150;

16.20 G. a certification by the operator of the operator's intent to submit financial
16.21 assurance as required under part 6126.0250 upon approval of the reclamation plan
16.22 application and before mining operations begin or upon transfer of an approved
16.23 reclamation plan under part 6126.0360;

17.1 H. a list of civil or criminal fines assessed upon, or remedial actions required
17.2 of, the operator or the operator's affiliates for environmental violations in the United
17.3 States within the previous ten years;

17.4 I. a map of the location and a brief description of the mine area;

17.5 J. a reclamation plan containing information required under parts 6126.0210 to
17.6 6126.0230, approved and signed by a professional engineer or professional geoscientist
17.7 with experience in reclamation or similar projects; and

17.8 K. a cost estimate for reclamation, containing the information required under
17.9 part 6126.0250, subpart 2.

17.10 Subp. 2. **Geospatial information; incorporation of other material.** Upon request
17.11 by the RGU, an operator must submit digital and geospatial data generated to fulfill the
17.12 requirements of this part. To avoid duplication, the reclamation plan application and any
17.13 submittals required under subpart 1 may incorporate:

17.14 A. existing plans or materials that contain information required under this
17.15 chapter; or

17.16 B. information sufficient to satisfy multiple requirements within the same map,
17.17 plan, drawing, figure, or other submitted material.

17.18 Subp. 3. **Determination of completeness.** An RGU must determine whether a
17.19 reclamation plan application complies with the requirements of this part. The RGU must
17.20 notify an operator of the determination in writing. If the reclamation plan application
17.21 is determined to be incomplete, the RGU must identify what additional information is
17.22 required.

18.1 **6126.0210 EXISTING CONDITIONS.**

18.2 An operator must submit to the RGU information describing existing conditions of
18.3 the mine area and surrounding land before mining operations related to a new mining
18.4 project begin. The report of existing conditions must include:

18.5 A. a brief description of any environmental review, if environmental review
18.6 was completed for any activities associated with any portion of the mine area;

18.7 B. a legal description of the proposed mine area, a map and description of any
18.8 easements within the mine area, and a map and description of the land ownership within
18.9 the mine area and within one-quarter mile of the mine area boundary;

18.10 C. a map and description of current land use within the mine area and within
18.11 one-quarter mile of the mine area boundary, including location and type of all dwellings,
18.12 buildings, and domestic wells, noting the location of pipelines, aboveground utilities, and
18.13 registered historical structures;

18.14 D. a map of the distribution, thickness, and type of topsoil within the mine area;

18.15 E. a description of the geologic setting of the mine area that includes:

18.16 (1) the bedrock geology;

18.17 (2) the areal extent, thickness, and depth of the silica sand deposit; and

18.18 (3) the thickness and characterization of overburden;

18.19 F. a map of the existing topography as shown on contour maps of the mine area
18.20 at intervals specified by the RGU;

18.21 G. maps of existing roads, railroads, and transportation infrastructure within
18.22 the mine area;

19.1 H. a plan view drawing that shows the location and extent of land within the
19.2 mine area previously affected by surface mining, including the locations of piles, mineland
19.3 water bodies, and other auxiliary use areas;

19.4 I. any existing reclamation plans associated with previous nonmetallic mining
19.5 activity at the mine area;

19.6 J. a survey of the existing plant communities within the mine area. The survey
19.7 must include a description of rare features, such as state-listed endangered, threatened,
19.8 or of-special-concern species, native plant communities, and other sensitive ecological
19.9 resources, provided by the Department of Natural Resources Natural Heritage Information
19.10 System. The operator must indicate whether any additional habitat or species survey work
19.11 has been conducted within the mine area and describe the results of any such work;

19.12 K. a verification from the State Historic Preservation Office releasing the mine
19.13 area of any additional cultural resource assessment requirements;

19.14 L. for mine areas located partially or entirely within the boundaries of the
19.15 Department of Natural Resources-designated Paleozoic plateau ecological section, a
19.16 description of any part of the mine area that is within one mile of a designated trout stream
19.17 that requires a permit under Minnesota Statutes, section 103G.217; and

19.18 M. the following hydrologic information:

19.19 (1) a map of the mine area location within the major and minor watersheds;

19.20 (2) a map of the existing drainage patterns, streams, rivers, lakes, springs,
19.21 seeps, wetlands, and calcareous fens located within or one-quarter mile adjacent to the
19.22 mine area;

19.23 (3) a wetland delineation report, conducted in accordance with the Wetland
19.24 Conservation Act of 1991, as amended, and the rules adopted thereunder, identifying
19.25 on-site wetlands;

20.1 (4) the elevation and direction of groundwater flow in the water table
20.2 aquifer above mean sea level within the mine area;

20.3 (5) the hydraulic head and direction of groundwater flow in the first confined
20.4 aquifer within the mine area, if a groundwater appropriation permit will be required; and

20.5 (6) a map of sinkholes, caves, stream sinks, or known surface karst features
20.6 within the mine area or within one-quarter mile of the mine area boundary.

20.7 **6126.0220 DESCRIPTION OF MINING OPERATIONS.**

20.8 An operator must submit to the RGU information about the expected mining
20.9 operations during the projected life span of the mine area. The information must include:

20.10 A. a description of the projected life of mining operations, including timing
20.11 of mining operations and phases;

20.12 B. a description of how silica sand will be mined and processed, the use of
20.13 flocculants, and anticipated equipment to be used;

20.14 C. a description and expected timelines of construction for all buildings, plants,
20.15 wells, roads, and other infrastructure within the mine area;

20.16 D. a description of proposed blasting activities and a blasting plan that complies
20.17 with part 6126.0150;

20.18 E. a topsoil management and preservation plan that complies with part
20.19 6126.0110;

20.20 F. a management plan for state-listed noxious weed and invasive species,
20.21 identifying current areas of infestation within the mine area, and a description of control
20.22 measures to address the spread of state-listed noxious weeds and invasive species within
20.23 the mine area, including stockpiles, berms, and road shoulders;

20.24 G. a description of any proposed mineland water bodies in the mine area along
20.25 with a mineland water body plan that complies with part 6126.0130;

- 21.1 H. a description of erosion and dust control measures;
- 21.2 I. the proposed location and maximum height of stockpiled earthen material;
- 21.3 J. an identified anticipated lowest mined elevation in feet above mean sea level;
- 21.4 K. if dewatering is proposed, a map showing where dewatering will occur
- 21.5 within the mine area, a description of the proposed volume, rate, and duration of
- 21.6 dewatering, the proposed location of the discharge point, and a description of the
- 21.7 hydrogeologic parameters of the unit being dewatered including hydraulic conductivity,
- 21.8 transmissivity, and storativity; and
- 21.9 L. labeled maps of the mine area that include:
- 21.10 (1) the boundary of the proposed mine area;
- 21.11 (2) setback boundaries that apply to the mine area;
- 21.12 (3) boundaries of the areas to be disturbed by mining operations;
- 21.13 (4) the location of areas that will not be disturbed by mining operations and
- 21.14 a description of the reason for each avoidance;
- 21.15 (5) the location of proposed and existing buffers, berms, fences, and gated
- 21.16 mine entrances;
- 21.17 (6) the location of proposed mineland water bodies;
- 21.18 (7) the location of proposed storage areas for fuel and explosives;
- 21.19 (8) the location of proposed and existing wells, operation plants, processing
- 21.20 areas, vehicle storage, load out sites, transportation-related infrastructure within the mine
- 21.21 area, and other auxiliary use areas; and
- 21.22 (9) the location of any natural highwalls that will not be excavated.

22.1 **6126.0225 TEMPORARY SHUTDOWN PLAN.**

22.2 An operator must submit to the RGU a temporary shutdown plan to be implemented
22.3 in the event of a temporary shutdown of a mine area. The temporary shutdown plan
22.4 must describe measures to:

22.5 A. address public safety;

22.6 B. stabilize slopes;

22.7 C. prevent vandalism, illegal dumping, and trespassing;

22.8 D. monitor and maintain in functional repair the mine area and all infrastructure,
22.9 constructed water impoundments, gates, fences, buildings, and structures;

22.10 E. control erosion and off-site sedimentation;

22.11 F. control dust from stockpiles and nonvegetated areas; and

22.12 G. monitor and control the spread of state-listed noxious weeds and invasive
22.13 species.

22.14 **6126.0230 POSTMINING LAND USE.**

22.15 Subpart 1. **Requirements.** An operator must submit to the RGU a postmining land
22.16 use proposal. Any proposed postmining land use must be consistent with local land use
22.17 plans and local zoning at the time the proposal is submitted to the RGU, unless a change to
22.18 the land use plan or zoning is proposed. The postmining land use proposal must include:

22.19 A. a detailed description of the proposed final land use for the entire mine area;

22.20 B. a description of what reclamation will occur in phases or for the entire mine
22.21 area;

22.22 C. a site preparation plan under subpart 2; and

22.23 D. a vegetation plan under subpart 3.

22.24 Subp. 2. **Site preparation plan.** A site preparation plan must:

- 23.1 A. describe the anticipated earthwork required to achieve the proposed
23.2 postmining land use, including:
- 23.3 (1) slope angles;
23.4 (2) highwall reduction;
23.5 (3) benching; and
23.6 (4) terracing and other structural slope stabilization measures;
- 23.7 B. provide for long-term safety of the final slopes and describe measures that
23.8 address public safety with regard to adjacent land use;
- 23.9 C. provide for deconstruction of constructed water impoundments;
- 23.10 D. describe the material and methods to be used to redistribute and stabilize
23.11 topsoil, subsoil, overburden, topsoil substitute material, and mine rejects;
- 23.12 E. include a map depicting the anticipated topography of the reclaimed mine
23.13 area and the location and anticipated bathymetry of reclaimed mineland water bodies;
- 23.14 F. if applicable, describe the estimated variation in the volume of mine rejects
23.15 and how the variation may impact the final topography or bathymetry of reclaimed
23.16 mineland water bodies; and
- 23.17 G. include a map depicting the anticipated location and use of roads, structures,
23.18 improvements, and similar surfaces that have the potential for future beneficial use that
23.19 are proposed to remain after final reclamation of the mine area.
- 23.20 Subp. 3. **Vegetation plan.** A vegetation plan must include:
- 23.21 A. a map showing and labeling proposed zones of plant communities;
- 23.22 B. a description of the methods and anticipated schedule of soil preparation,
23.23 rates and kinds of soil amendments, seed bed preparation, seed application or planting
23.24 timing, seeding and planting methods, and use of cover or companion crops;

24.1 C. a description of anticipated vegetation maintenance activities, aftercare
24.2 of seeding and planting, and monitoring and control of state-listed noxious weeds and
24.3 invasive species;

24.4 D. an anticipated timeline and description of intermediate performance
24.5 measures for each zone of plant communities sufficient to demonstrate progress toward
24.6 final vegetation goals;

24.7 E. if field test plots will be used, a description of the proposed locations,
24.8 methods, and objectives of the field test plots;

24.9 F. a description of quantifiable standards and methods of measuring vegetation,
24.10 such as the percentage of vegetative cover, productivity, plant density, or plant diversity;

24.11 G. a description of final vegetation objectives and final performance measures
24.12 for each zone of plant communities. Final vegetation objectives must specify criteria
24.13 that will demonstrate sustainable growth of vegetation, stability of slopes, and other
24.14 reclamation objectives to be used in determining completion under part 6126.0420; and

24.15 H. for areas proposed to be rehabilitated into a natural landscape, a description
24.16 of the native plantings, the native seed mixes, and the compatibility of the vegetation plan
24.17 with the surrounding habitat types and ecological communities.

24.18 **6126.0240 ANNUAL REPORT.**

24.19 Subpart 1. **Requirements.** To maintain the approval status of an approved
24.20 reclamation plan, an operator must submit to the RGU an annual report of the mine area.
24.21 The operator must submit annual reports under this part until financial assurance for the
24.22 entire mine area has been released under part 6126.0253. The annual report must:

24.23 A. be submitted by March 31 each year after reclamation plan approval;

24.24 B. contain the information required in subparts 2 to 4; and

25.1 C. contain a certificate issued by an insurance company authorized to do
25.2 business in the United States demonstrating that the operator has a public liability
25.3 insurance policy in force for mining operations that is the subject of the approved
25.4 reclamation plan or evidence that the operator has satisfied state or federal self-insurance
25.5 requirements, to provide personal injury and property damage protection in an amount
25.6 adequate to compensate any persons who are damaged by mining operations or by any
25.7 reclamation or corrective actions connected with mining operations.

25.8 Subp. 2. **Operational review.** The annual report must detail the activities of mining
25.9 operations for the previous year. The annual report must include:

25.10 A. the name and mailing address of the operator;

25.11 B. the location of the mine area, including a legal description, with the number
25.12 of the permit to mine and parcel identification numbers;

25.13 C. a map that accurately shows and labels:

25.14 (1) the total acreage of the mine area;

25.15 (2) the acreage of the mine area currently disturbed by mining operations
25.16 and not yet reclaimed;

25.17 (3) the acreage of any portion of the mine area presently undergoing the
25.18 process of reclamation; and

25.19 (4) the total acreage of reclaimed land released from financial assurance
25.20 under part 6126.0253;

25.21 D. an explanation of the progress of mining operations since the RGU approved
25.22 the reclamation plan application or the transfer of reclamation plan, or since the last
25.23 annual report, whichever is later; and

25.24 E. any vegetation monitoring results that document the progress and obtainment
25.25 of intermediate performance standards specified in the vegetation plan within the approved

26.1 reclamation plan under part 6126.0230, subpart 3. Documentation must follow the
26.2 methods specified in the approved reclamation plan.

26.3 Subp. 3. **Operational projections.** The annual report must detail mining operations
26.4 and reclamation activities expected to occur in the next 24 months. The annual report
26.5 must include:

26.6 A. a description of any new phases of mining operations within the mine area;

26.7 B. a brief description of any change of operational status;

26.8 C. if applicable, requests to modify an approved reclamation plan under part
26.9 6126.0340;

26.10 D. updated financial assurance calculations documenting the cost estimates of
26.11 reclamation and corrective action under part 6126.0250, subpart 2; and

26.12 E. a map that shows and labels:

26.13 (1) the anticipated acreage of new disturbance to be created by mining
26.14 operations;

26.15 (2) the anticipated acreage of new reclamation activities; and

26.16 (3) any anticipated changes to the location of stockpiles, berms, gates,
26.17 fences, or haul roads.

26.18 Subp. 4. **Certifications.** The annual report must include the following certification,
26.19 signed by the operator: "I certify that this information is true and accurate and that the
26.20 mine area described herein complies with all conditions of the approved reclamation
26.21 plan and Minnesota Rules, chapter 6126."

26.22 Subp. 5. **Report retention.** An RGU must retain annual reports submitted under
26.23 this part until financial assurance for the entire mine area has been released under part
26.24 6126.0253.

27.1 **FINANCIAL ASSURANCE**

27.2 **6126.0250 FINANCIAL ASSURANCE REQUIREMENTS.**

27.3 **Subpart 1. Requirements.**

27.4 A. An operator must submit financial assurance to the RGU:

27.5 (1) following the approval of a reclamation plan application or approval of
27.6 a transfer of an approved reclamation plan under part 6126.0360; and

27.7 (2) before mining operations begin in the mine area.

27.8 B. The amount of financial assurance must equal the cost estimates determined
27.9 under subpart 2.

27.10 C. Financial assurance must be:

27.11 (1) available at all times to the RGU;

27.12 (2) in a form not dischargeable through bankruptcy; and

27.13 (3) fully valid, binding, and enforceable under state and federal law.

27.14 D. An operator must continuously maintain financial assurance until the RGU
27.15 makes a determination of completion under part 6126.0420, subpart 2, item C or D, for all
27.16 lands subject to the approved reclamation plan.

27.17 **Subp. 2. Cost estimates.**

27.18 A. As part of the reclamation plan application under part 6126.0200 and as
27.19 part of the annual report required under part 6126.0240, an operator must submit to the
27.20 RGU a documented estimate of the cost to implement reclamation for the upcoming
27.21 24 months of mining operations.

27.22 B. If the RGU determines that a corrective action plan is required, then an
27.23 operator must submit a documented estimate of the cost to implement the entire corrective
27.24 action plan.

28.1 C. Cost estimates under this subpart must be made using current dollar values at
28.2 the time of the estimate and be based on:

28.3 (1) the itemized cost for the RGU to hire third parties to perform the
28.4 reclamation specified in the approved reclamation plan or corrective action plan;

28.5 (2) the cost for the RGU to hire third parties to perform postclosure
28.6 monitoring for the time period until the release of financial assurance under part
28.7 6126.0253; and

28.8 (3) the administrative cost to the RGU to administer the required
28.9 reclamation or corrective action.

28.10 D. Salvage value attributed to the sale of wastes, silica sand, stockpiles of
28.11 earthen material, silica sand facilities, structures, equipment, land, or other assets must not
28.12 be used for reclamation or corrective action cost estimates.

28.13 Subp. 3. **Failure to comply.** If an operator fails to comply with this part, the RGU
28.14 must suspend an approved reclamation plan under part 6126.0390.

28.15 **6126.0251 FINANCIAL ASSURANCE MANAGEMENT.**

28.16 Subpart 1. **Management requirements.**

28.17 A. An operator must submit a financial assurance proposal that complies with
28.18 part 6126.0250, subparts 1 and 2.

28.19 B. An RGU must approve or deny a financial assurance proposal under part
28.20 6126.0300. The RGU's determination must consider the proposed financial assurance:

28.21 (1) instrument or instruments;

28.22 (2) terms and conditions; and

28.23 (3) amount.

28.24 C. An operator must notify the RGU by certified mail:

29.1 (1) at least 120 days before the operator's financial assurance instrument is
29.2 canceled;

29.3 (2) no more than 30 days from the commencement of bankruptcy
29.4 proceedings under United States Code, title 11, naming the operator as debtor; and

29.5 (3) no more than 30 days before the operator engages in activities that
29.6 would require increasing the financial assurance amount from the estimated cost of
29.7 reclamation submitted under part 6126.0250, subpart 2.

29.8 D. An RGU must:

29.9 (1) use an individual experienced in assurance instruments and analysis
29.10 when evaluating a financial assurance proposal;

29.11 (2) annually review the amount of financial assurance to ensure the
29.12 financial assurance submitted by the operator is not less than the present estimate of the
29.13 outstanding reclamation costs; and

29.14 (3) notify the operator in writing about the results of the financial assurance
29.15 review. If the new reclamation or corrective action cost estimate reviewed and approved
29.16 by the RGU is:

29.17 (a) greater than the amount of existing financial assurance, then the
29.18 operator must submit to the RGU additional financial assurance in an amount equal to
29.19 the increase within 30 days; or

29.20 (b) less than the amount of existing financial assurance, then the RGU
29.21 must release the operator from maintaining financial assurance in an amount equal to the
29.22 decrease within 30 days.

29.23 Subp. 2. **Changes to financial assurance.** Unless notified by the RGU under
29.24 subpart 1, item D, subitem (3), an operator must apply to the RGU for approval before any

30.1 changes to financial assurance can occur. Requests to change financial assurance must not
30.2 occur more than once every 12 months unless modification is required by the RGU.

30.3 Subp. 3. **Multiple projects.** An operator may submit a combined financial assurance
30.4 instrument in lieu of separate financial assurance instruments for two or more mine areas
30.5 within the RGU's jurisdiction. When an operator seeks to submit a combined financial
30.6 assurance instrument in lieu of separate financial assurance instruments for separate mine
30.7 areas, financial assurance instruments previously submitted on individual mine areas are
30.8 not released until the combined financial assurance instrument has been approved by the
30.9 RGU and is in effect. The amount of funds available through the combined financial
30.10 assurance instrument must be no less than the sum of funds required to be available if
30.11 separate financial assurance instruments had been established and maintained for each
30.12 mine area. In directing funds from a combined financial assurance instrument to a single
30.13 mine area for reclamation or corrective action, the RGU must not exceed the amount of
30.14 funds designated for that mine area.

30.15 Subp. 4. **Transfer of RGU.** If there is a transfer between RGUs of regulatory
30.16 authority over a mine area, then the reclamation plan approved by the previous RGU
30.17 remains in effect and is enforceable until financial assurance under part 6126.0250 is
30.18 approved by the new RGU.

30.19 **6126.0252 FORFEITURE OF FINANCIAL ASSURANCE.**

30.20 Subpart 1. **Forfeiture for suspension.** By serving an order of suspension on
30.21 the operator under part 6126.0390, subpart 3, item A, an RGU automatically initiates
30.22 a forfeiture proceeding to access financial assurance funds. If the RGU cancels the
30.23 suspension under part 6126.0390, subpart 3, item D, then the RGU must cancel the
30.24 forfeiture proceeding. If the conditions that provided grounds for the suspension are not
30.25 corrected by the operator within the time frame specified by the RGU, then the RGU must

31.1 proceed with accessing and using the financial assurance funds to reclaim the mine area to
31.2 the standards under parts 6126.0100 to 6126.0140.

31.3 Subp. 2. **Forfeiture for revocation.** Upon revocation of an approved reclamation
31.4 plan under part 6126.0400, subpart 3, the operator automatically forfeits financial assurance
31.5 to the RGU. The RGU must proceed with accessing and using the financial assurance
31.6 funds to reclaim the mine area to the standards under parts 6126.0100 to 6126.0140.

31.7 **6126.0253 RELEASE OF FINANCIAL ASSURANCE.**

31.8 A request for full or partial release of financial assurance is initiated by an operator
31.9 requesting an assessment of reclamation under part 6126.0410. A determination of
31.10 completion under part 6126.0420, subpart 2, item C or D, releases the operator from the
31.11 responsibility of maintaining financial assurance for each portion of the mine area that the
31.12 RGU determines to have been reclaimed.

31.13 **ADMINISTRATIVE PROCEDURES**

31.14 **6126.0300 DECISIONS.**

31.15 Subpart 1. **Qualifying determinations.** This part applies when an RGU is deciding:

31.16 A. whether a reclamation plan application under part 6126.0200 complies with
31.17 the requirements under parts 6126.0100 to 6126.0230;

31.18 B. modification requests under part 6126.0340, subpart 3;

31.19 C. variance requests under part 6126.0350;

31.20 D. requests to transfer an approved reclamation plan under part 6126.0360;

31.21 E. financial assurance proposals that comply with part 6126.0250; and

31.22 F. requests to cancel the suspension of an approved reclamation plan under
31.23 part 6126.0390, subpart 3, item D.

32.1 Subp. 2. **Approval.** An RGU must issue approvals to an operator in writing. The
32.2 RGU's approval can be made subject to general or site-specific conditions if the RGU
32.3 determines conditions are necessary to ensure compliance with this chapter. Unless
32.4 the RGU issues a denial under subpart 3, the RGU must approve a reclamation plan
32.5 application or a request to modify an approved reclamation plan if the submittal complies
32.6 with parts 6126.0100 to 6126.0230.

32.7 Subp. 3. **Denial.** An RGU must issue denials to an operator in writing. The RGU's
32.8 denial must include findings of fact explaining the reasons for the denial. The RGU's
32.9 denial of a reclamation plan application or request to modify an approved reclamation
32.10 plan must be based on a determination that:

32.11 A. the mine area cannot be operated or reclaimed in compliance under parts
32.12 6126.0100 to 6126.0150;

32.13 B. the operator has, after being given an opportunity to make corrections,
32.14 failed to submit a reclamation plan application that complies with parts 6126.0200 to
32.15 6126.0230; or

32.16 C. the operator or its affiliates have, within ten years of the submission of the
32.17 application or request being considered, shown a pattern of environmental violations in the
32.18 United States that have resulted in civil or criminal fines being assessed upon, or remedial
32.19 actions being required of, the operator or the operator's affiliates. The RGU must consider:

32.20 (1) the results of judicial or administrative proceedings involving the
32.21 operator or the operator's affiliates;

32.22 (2) any suspensions or revocations of a permit to mine held by the operator
32.23 or the operator's affiliates;

32.24 (3) any suspensions or revocations of approval of an approved reclamation
32.25 plan governing the operator or the operator's affiliates; or

33.1 (4) any forfeiture of financial assurance submitted by the operator or the
33.2 operator's affiliates.

33.3 Subp. 4. **Duration of reclamation plan approval.** Unless the RGU suspends the
33.4 approved reclamation plan under part 6126.0390 or revokes the approved reclamation
33.5 plan under part 6126.0400, an RGU's approval of a reclamation plan application under
33.6 this chapter remains effective throughout mining operations and final reclamation of a
33.7 mine area. To maintain a reclamation plan's approval, an operator must comply with
33.8 annual reporting requirements under part 6126.0240 and financial assurance requirements
33.9 under parts 6126.0250 and 6126.0251. In the event of a substantial change affecting
33.10 the nature of planned reclamation or other aspects of mining operations specified in the
33.11 approved reclamation plan, the operator must request a modification of the reclamation
33.12 plan under part 6126.0340.

33.13 **6126.0310 PUBLIC NOTICE.**

33.14 Subpart 1. **Notice.** An RGU must publish public notice upon determining:

- 33.15 A. a reclamation plan application complies with part 6126.0200; or
33.16 B. a modification request constitutes a substantial change under part 6126.0340,
33.17 subpart 3.

33.18 Subp. 2. **Notice requirements.** Public notice must be published within 30 days of
33.19 the date of the application or modification request. The public notice must be published
33.20 in a qualified newspaper under Minnesota Statutes, section 331A.02, and circulated in
33.21 the locality of the new mining project or mine area. If the RGU has an official Web site,
33.22 then the RGU must also publish the notice on its Web site. All public notices under this
33.23 part must contain:

- 33.24 A. a brief description of mining operations and reclamation planned at the
33.25 mine area;

- 34.1 B. the location or a map of the mine area;
- 34.2 C. mine ownership information;
- 34.3 D. the operator's contact information;
- 34.4 E. a statement advising of the opportunity to submit public comment;
- 34.5 F. the locations where the public may review the reclamation plan application or
- 34.6 modification request and all supporting materials submitted by the operator;
- 34.7 G. a statement that the reclamation plan application or modification request
- 34.8 shall be posted and available on the RGU's official Web site, if the RGU has an official
- 34.9 Web site; and
- 34.10 H. the deadline and contact information for submitting public comments.

34.11 **6126.0320 COMMENTS.**

34.12 Subpart 1. **Filing.** Written comments related to a reclamation plan application or to a

34.13 request to modify an approved reclamation plan must be received by the RGU no later

34.14 than 30 days following publication of the notice under part 6126.0310.

34.15 Subp. 2. **Comment statement.** A person submitting comments to the RGU must

34.16 include:

34.17 A. a statement of the person's interest in the proposed or approved reclamation

34.18 plan;

34.19 B. a statement of the action that the person wants the RGU to take with respect

34.20 to the reclamation plan application or to the requested modification of the approved

34.21 reclamation plan, including specific references to the application or plan; and

34.22 C. the reasons supporting the person's position, stated with sufficient specificity

34.23 to allow the RGU to investigate the merits of the person's position.

35.1 Subp. 3. **Considerations.** All comments submitted in conformance with this part
35.2 must be considered by the RGU.

35.3 **6126.0330 JOINT APPLICATIONS.**

35.4 When two or more operators are, or will be, engaged in silica sand mining at the
35.5 same mine area, all operators must submit a single reclamation plan application, and any
35.6 approval of the reclamation plan must be issued jointly to the operators.

35.7 **6126.0340 MODIFICATION.**

35.8 Subpart 1. **Modification by RGU.** An RGU must order modification of an approved
35.9 reclamation plan when the RGU determines that:

35.10 A. because of changing conditions, the mine area is no longer in compliance
35.11 with the approved reclamation plan or parts 6126.0100 to 6126.0150; or

35.12 B. new information related to reclamation becomes available that, in the opinion
35.13 of the RGU, needs to be addressed and incorporated into the approved reclamation plan.

35.14 Subp. 2. **Modification by operator.** An operator must request any modification or
35.15 transfer of an approved reclamation plan by applying to the RGU in writing. The operator
35.16 may submit a modification request in the annual report under part 6126.0240. The RGU
35.17 must determine whether the modification request constitutes a substantial change under
35.18 subpart 3.

35.19 Subp. 3. **Substantial change.**

35.20 A. An RGU must determine if the modification request constitutes a substantial
35.21 change from the approved reclamation plan. A modification request constitutes a
35.22 substantial change if the request:

35.23 (1) triggers mandatory environmental review;

35.24 (2) constitutes a new mining project under part 6126.0010, subpart 14,
35.25 item B; or

36.1 (3) proposes potential impacts that are fundamentally different in scope
36.2 or effect than impacts considered and addressed in the approved reclamation plan or
36.3 permit to mine.

36.4 B. If the RGU determines that an operator's modification request does not
36.5 constitute a substantial change to the approved reclamation plan and satisfies parts
36.6 6126.0100 to 6126.0230, then the RGU must approve the modification request.

36.7 C. If the RGU determines that the modification request constitutes a substantial
36.8 change to the approved reclamation plan, then the RGU must publish notice of the
36.9 modification request under part 6126.0310, consider comments under part 6126.0320,
36.10 subpart 3, and make a determination under part 6123.0300.

36.11 **6126.0350 VARIANCE.**

36.12 Subpart 1. **Criteria.** An RGU must approve a variance to the reclamation standards
36.13 established under parts 6126.0100 to 6126.0150 if an operator demonstrates that:

36.14 A. unique characteristics of the mine area, the adjacent property, or the
36.15 reclamation plan require a variance;

36.16 B. unnecessary hardship, peculiar to the mine area or reclamation plan, will
36.17 result unless the variance is approved; and

36.18 C. reclamation according to the alternate requirement proposed by the operator
36.19 will achieve the planned postmining land use and long-term site stability in a manner that
36.20 will not result in environmental pollution or threaten public health, safety, or welfare.

36.21 **Subp. 2. Procedures.**

36.22 A. An operator must request any variance in writing and in accordance with
36.23 the RGU's variance procedures.

36.24 B. An operator may incorporate a request for a variance as part of a reclamation
36.25 plan application or a request to modify an approved reclamation plan.

37.1 C. An RGU's decision on a variance request must follow the procedures under
37.2 part 6126.0300.

37.3 **6126.0360 TRANSFERS OF APPROVED RECLAMATION PLAN.**

37.4 An operator with an approved reclamation plan may request to transfer the approved
37.5 reclamation plan to another operator. The proposed operator must submit to the RGU
37.6 information required under part 6126.0200, subpart 1, items A to H, and financial
37.7 assurance under part 6126.0250. The operator requesting the transfer must continue to
37.8 maintain financial assurance until:

37.9 A. the RGU makes a determination under part 6126.0300 that the new operator
37.10 will comply with all conditions of the approved reclamation plan;

37.11 B. the RGU approves the financial assurance proposed by the new operator
37.12 under part 6126.0251, subpart 1; and

37.13 C. the new operator submits financial assurance under part 6126.0250.

37.14 **6126.0370 SHUTDOWNS.**

37.15 Subpart 1. **Notification.** An operator must give written notice to the RGU within 30
37.16 days of any change of operational status. To initiate a temporary shutdown, the operator
37.17 must include in the notification:

37.18 A. a map showing the location and storage of equipment and vehicles remaining
37.19 in the mine area;

37.20 B. a map showing the location and description of all stockpiles in the mine area;

37.21 C. a map showing the location and description of all mineland water bodies in
37.22 the mine area; and

37.23 D. a proposed schedule of inspections to be approved by the RGU.

38.1 Subp. 2. **Implementation of temporary shutdown plan.** An operator must
38.2 implement the temporary shutdown plan in the approved reclamation plan in the event
38.3 of a temporary shutdown.

38.4 **6126.0380 CORRECTIVE ACTIONS.**

38.5 Subpart 1. **Violations.** Upon learning of a violation of an approved reclamation plan,
38.6 an operator and the RGU must take actions according to subpart 2 to correct the violation.

38.7 Subp. 2. **Requirements.**

38.8 A. Upon learning of a violation of an approved reclamation plan, an operator
38.9 must immediately notify the RGU of the violation and of the cause of the failure to comply.

38.10 B. Upon notification or observation of a violation, an RGU must order an
38.11 operator to:

38.12 (1) take corrective action within a time frame specified by the RGU; or

38.13 (2) submit, within a time frame approved by the RGU, a corrective action
38.14 plan for approval by the RGU before an operator implements corrective action. The
38.15 corrective action plan must include:

38.16 (a) an explanation of the failure to comply with the approved
38.17 reclamation plan;

38.18 (b) an explanation of how similar violations will be avoided in the
38.19 future;

38.20 (c) an explanation of the methods, sequence, and schedule of
38.21 corrective action activities that will result in compliance;

38.22 (d) a corrective action cost estimate according to part 6126.0250,
38.23 subpart 2; and

38.24 (e) maps and cross sections of relevant portions of the mine area.

39.1 C. If there is an immediate threat to human safety or natural resources resulting
39.2 from a violation, an operator must take immediate corrective action and report the action
39.3 to the RGU. The operator's report must include the information required under item B,
39.4 subitem (2).

39.5 D. An RGU must take one or more of the following actions if an operator fails
39.6 to comply with this part:

39.7 (1) order a modification of the approved reclamation plan under part
39.8 6126.0340; or

39.9 (2) suspend the approved reclamation plan under part 6126.0390.

39.10 **6126.0390 SUSPENSION.**

39.11 Subpart 1. **Hearing.** An RGU must give written notice to the operator and provide
39.12 an opportunity for a hearing before any order of suspension under this part is issued.

39.13 Subp. 2. **Grounds.** An RGU must suspend an approved reclamation plan if the RGU
39.14 finds that the operator has failed to comply with:

39.15 A. a financial assurance requirement under part 6126.0250; or

39.16 B. a corrective action requirement under part 6126.0380.

39.17 Subp. 3. **Suspension.**

39.18 A. To suspend an operator's approved reclamation plan under subpart 2, an
39.19 RGU must serve on the operator a written order of suspension. The order of suspension
39.20 must specify:

39.21 (1) the grounds for suspension;

39.22 (2) the conditions required to correct the violations and the time available
39.23 for the operator to implement corrective actions; and

40.1 (3) the intent to access and use financial assurance funds under part
40.2 6126.0252, subpart 1, if the operator fails to perform corrective actions within the
40.3 specified time frame.

40.4 B. Upon receiving an order of suspension, an operator must not conduct mining
40.5 operations at the mine area, other than to engage in reclamation or other activities as ordered
40.6 by the RGU to correct violations, protect human health, or protect natural resources.

40.7 C. If an operator corrects the conditions in the time frame specified in the order
40.8 of suspension, then the operator must submit a request in writing to the RGU to cancel the
40.9 suspension of the approved reclamation plan.

40.10 D. Within 30 days of receipt of a request to cancel the suspension of an
40.11 approved reclamation plan, the RGU must inspect the mine area and make a determination
40.12 under part 6126.0300. To approve the request to cancel the suspension of the approved
40.13 reclamation plan, the RGU must determine that:

40.14 (1) the conditions that provided the grounds for suspension have been
40.15 corrected; and

40.16 (2) the operator has taken measures to perform all required corrective
40.17 actions and to ensure that the noncompliant conditions do not recur.

40.18 **6126.0400 REVOCATION.**

40.19 Subpart 1. **Hearing.** An RGU must give written notice to the operator and provide
40.20 an opportunity for a hearing before any order of revocation under this part is issued.

40.21 Subp. 2. **Grounds.** An RGU must revoke an approved reclamation plan if the RGU
40.22 finds that an operator has failed to:

40.23 A. correct violations that provided the grounds for a suspension of an approved
40.24 reclamation plan under part 6126.0390; or

40.25 B. follow the approved reclamation plan on a repetitive or significant basis.

41.1 Subp. 3. **Revocation.** To revoke an operator's approved reclamation plan under
41.2 subpart 2, an RGU must serve on the operator a written order of revocation. The order of
41.3 revocation must include:

41.4 A. findings of fact explaining the grounds for revocation; and

41.5 B. a statement that financial assurance is forfeited under part 6126.0252,
41.6 subpart 2.

41.7 **6126.0410 COMPLETION; REQUEST FOR ASSESSMENT.**

41.8 Subpart 1. **Request.** An operator must submit to the RGU a written request to assess
41.9 the completion of reclamation when the operator determines that reclamation of all or any
41.10 portion of the mine area complies with parts 6126.0100 to 6126.0240.

41.11 Subp. 2. **Requirements.** An operator's request to assess the completion of
41.12 reclamation must include:

41.13 A. identification of the ownership of the mine area;

41.14 B. an explanation of how the reclaimed portion of the mine area complies with
41.15 the requirements and objectives of the approved reclamation plan;

41.16 C. an explanation and documentation showing sustainable growth for each zone
41.17 of vegetation in the reclaimed area using performance measures and criteria established in
41.18 the vegetation plan under part 6126.0230, subpart 3;

41.19 D. an explanation and associated data related to the impact of reclamation on
41.20 the static groundwater level, describing the existing and ultimate anticipated level of
41.21 groundwater and surface water, and including any monitor-well data;

41.22 E. if the postmining land use requires site preparation for construction,
41.23 certification by a professional engineer for all areas that have been backfilled and the
41.24 associated geotechnical information;

42.1 F. a copy of a record filed in the county recorder's office advising future owners
42.2 of lands within the mine area that the land has been mined; and

42.3 G. maps approved by a professional engineer or professional geoscientist
42.4 showing for the reclaimed area for which the assessment is being requested:

42.5 (1) the areas within the mine area for which the assessment is being
42.6 requested;

42.7 (2) the location and status of all mining lands, mining landforms, and
42.8 auxiliary use facilities created or used during mining operations;

42.9 (3) the location of all open and sealed water wells;

42.10 (4) the final topography of all mining landforms;

42.11 (5) the location, type, extent, and percent coverage of each zone of
42.12 vegetation;

42.13 (6) the locations of safe access points of any mineland water bodies;

42.14 (7) the location of any sealed access points to underground mine workings;

42.15 (8) the location of any approved highwalls or gradients that exceed a 3:1
42.16 horizontal to vertical slope; and

42.17 (9) the location and description of any borings specified by the RGU in
42.18 the approved reclamation plan.

42.19 **6126.0420 DETERMINATION OF COMPLETION.**

42.20 Subpart 1. **Inspection.** Upon receiving a request to assess the completion of
42.21 reclamation under part 6126.0410, an RGU must review the request and inspect the
42.22 relevant portion of the mine area that is the subject of the request. The RGU's assessment
42.23 of the completion of reclamation must be performed by individuals with documented
42.24 experience in such analysis.

43.1 Subp. 2. **Determination.** After review and inspection under subpart 1, an RGU
43.2 must determine that:

43.3 A. reclamation is not yet complete;

43.4 B. it is not possible to assess whether reclamation is complete because of
43.5 weather conditions, snow cover, or other relevant factors;

43.6 C. reclamation is complete on a portion of or within the entire mine area and
43.7 conditions necessitating postclosure maintenance no longer exist and are unlikely to
43.8 recur; or

43.9 D. corrective actions have been successfully accomplished.

43.10 Subp. 3. **Notification.** An RGU must issue to an operator the results of the RGU's
43.11 determination under subpart 2 in writing within 60 days of receiving the request from
43.12 the operator. A determination that reclamation is not yet complete under subpart 2,
43.13 item A, must include findings of fact setting forth the reason for the determination. A
43.14 determination under subpart 2, item C or D, releases the operator from the responsibility to
43.15 maintain financial assurance for all portions of the mine area that are subject to the request.

43.16 **6126.0430 RIGHT OF INSPECTION.**

43.17 Subpart 1. **Conduct of inspections.** No person may refuse entry or access to a
43.18 person who presents credentials identifying the person as an official, employee, or agent of
43.19 the RGU who is duly authorized to inspect the mine area or review an operator's records
43.20 for compliance with this chapter. A person conducting inspections under this subpart has
43.21 the authority to take or obtain photographs for the purposes of inspection.

43.22 Subp. 2. **Inspector requirements.** A person who enters a mine area under the
43.23 authority granted in this part must have the training and safety equipment necessary to
43.24 comply with any federal, state, or local laws or regulations controlling persons in the
43.25 mine area.