

Minnesota Department of Health

Environmental Health Division

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendments to Rules Governing Explorers and Exploratory Borings, *Minnesota Rules*, Chapter 4727; Revisor's ID, R4755; OAH Docket No. 22-9000-38393

Introduction. The Department of Health (Department) intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until June 7, 2023.

Comments. You must submit any written comments via the Office of Administrative Hearings Rulemaking eComments website (<https://minnesotaoah.granicusideas.com/discussions>). You may review the rule, Statement of Need and Reasonableness (SONAR), and posted comments, at this site.

A copy of the proposed rule is published in the State Register and attached to this notice as mailed. A free copy of the rules is also available upon request from the agency contact person listed below.

You have until 4:30 PM, June 7, 2023, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and be posted on the Office of Administrative Hearings Rulemaking eComments website (<https://minnesotaoah.granicusideas.com/discussions>) by the due date. The Department encourages comments. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Department hold a hearing on the rules. Your request must be in writing and the agency contact person must receive it by 4:30 PM on June 7, 2023. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules. **Please do not post your request on the Office of Administrative Hearings website as it will not be considered a valid request. You must submit requests for hearing to the agency contact person directly.**

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Department will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If

a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Agency Contact Person. You must submit written requests for a public hearing to the agency contact person. The agency contact person is Linda Prail, Environmental Health Division, Minnesota Department of Health, 625 Robert Street North, P.O. Box 64975, St. Paul, MN 55164-0975, 651-201-5792, linda.prail@state.mn.us.

Questions. You may submit questions to the Agency Contact Person listed above.

Subject of Rules and Statutory Authority. The proposed rule revisions are to address changes in the cement industry resulting in the replacement of Type I Portland Cement (Type I PC) with a “low carbon” Type IL Portland-limestone cement (Type IL PC) that conforms to ASTM Standard C595, but not C150 as required under the current rules. As a result, Type I PC is generally scarce and, in certain parts of the state, unavailable, and Type IL PC, while available, is not authorized under our rules governing exploratory borings. Type IL PC apparently performs as well as Type I PC in all ways relevant to our regulatory interests and is widely available throughout the state.

Minnesota Statutes, section 103I.101, subdivisions 5, authorizes the Department to adopt rules for regulating explorers and exploratory borings.

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

Modifications. The Department may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the agency follows the procedure under part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.

Statement of Need and Reasonableness. The statement of need and reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is posted at <https://www.health.state.mn.us/communities/environment/water/wells/rules/portlandrulemaking4727.html> and is now available for the cost of reproduction by contacting the agency contact person.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The agency will then submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be

notified of the date the Department submits the rules to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

April 17, 2023

Date

A handwritten signature in black ink that reads "Brooke A. G." with a long horizontal flourish extending to the right.

Brooke Cunningham MD, PhD

Commissioner

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