

Research Department

Patrick J. McCormack, Director

600 State Office Building
St. Paul, Minnesota 55155-1298
651-296-6753 [FAX 651-296-9887]
www.house.mn/hrd/hrd.htm

Minnesota House of Representatives

May 28, 2013

TO: Representative Rick Hansen

FROM: Janelle Taylor, Legislative Analyst

RE: Silica Sand Provisions

This memo is in response to your request for a memo on the silica sand related provisions that passed this session.

Appropriations

The omnibus environment and natural resources finance bill appropriated \$500,000 in fiscal year 2014 and \$500,000 in fiscal year 2015 from the general fund to the Environmental Quality Board (EQB) to develop model standards and criteria and to lead a technical assistance team to assist with mining, processing, and transporting silica sand related issues (Laws 2013, ch. 114, art. 3, § 3, subd. 5)

The law also set aside \$600,000 in fiscal year 2014 from the Department of Natural Resource's (DNR) appropriation for various water related activities for silica sand rulemaking (Laws 2013, ch. 114, art. 3, § 4, subd. 3).

Permit Requirements

A new requirement was established that would require a permit from the DNR to excavate or mine silica sand within one mile of a designated trout stream within the boundaries of the DNR's Paleozoic Plateau Ecological Section (or "driftless area") (Laws 2013, ch. 114, art. 4, § 66).

Model Standards and Criteria

The EQB is required to develop model standards and criteria that may be used by local governments when developing silica sand related ordinances. The criteria must differ for different geographic areas of the state and must contain certain elements, including: setback recommendations from various features and natural resources; groundwater and surface water quality and quantity monitoring; storm water runoff rate limits; and air monitoring, noise testing,

inspection, blast monitoring, financial assurance, and reclamation requirements (Laws 2013, ch. 114, art. 4, § 91).

Technical Assistance Team

The EQB is required to assemble a silica sand technical assistance team to assist local governments with ordinance development, zoning, environmental review and permitting, monitoring, and other issues related to silica sand. The assistance is available at the request of a local government. If a local government requests assistance regarding a proposed project and the EQB makes recommendations for the protection of human health or the environment, the local government is required to consider the findings/recommendations. Silica sand project proposers are required to cooperate with local governments and the technical assistance team by providing information regarding the proposed project. A local government is allowed to assess a project proposer for the reasonable costs of the technical assistance team's assistance for the environmental review and permitting assistance that is requested (Laws 2013, ch. 114, art. 4, § 66).

Environmental Review

For a two year period beginning July 1, 2013, the preparation of an environmental assessment worksheet (EAW) will be required for any silica sand project that: (1) excavates 20 or more acres of land to a mean depth of ten feet; or (2) is designed to store or capable of storing more than 7,500 tons of silica sand or has an annual throughput of more than 200,000 tons and that is not required to get a permit from the Pollution Control Agency (PCA). The requirement applies unless the project would otherwise require an environmental impact statement (EIS). Criteria, in addition to existing EAW requirements, are established for EAWs required under this provision including hydrogeologic investigation, water resource and air quality impact assessment requirements (Laws 2013, ch. 114, art. 4, § 92). The EAW requirement is temporary until the EQB adopts new rules under another provision passed this session (discussed later on in this memo).

Technical Assistance, Ordinance and Permit Library

By October 1, 2013, the EQB is required to create a library for ordinances and local permits that have been approved for silica sand projects to be used by local governments as reference (Laws 2013, ch. 114, art. 4, § 93).

Rules

Four different rulemaking authorizations were made related to silica sand.

- The PCA is required to adopt rules pertaining to the control of particulate emissions from silica sand projects.
- The DNR is required to adopt rules pertaining to the reclamation of silica sand mines.
- The Department of Health is required to adopt an air quality health-based value for silica sand.

- The EQB is required to amend its rules for environmental review for silica sand mining and processing, and must take into account increased activity in the state, concerns over size of operations, and the new temporary EAW requirements for silica sand projects when amending the rules.

(Laws 2013, ch. 114, art. 4, § 105)

Interim Ordinance Extension or Renewal

Effective retroactively from March 1, 2013, a local unit of government is allowed to extend an interim ordinance or renew an expired ordinance that prohibits a new or expanded silica sand project for one year. It also allows the extension of an ordinance an additional year by resolution (Laws 2013, ch. 114, art. 4, § 106).

JT/jf