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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 906

- 02/25/2013 Authored by Hansen; Brynaert; Johnson, C.; Kelly; Kahn and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
- 03/14/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations
- 03/18/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Environment, Natural Resources and Agriculture Finance
- 04/02/2013 Adoption of Report: Pass and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to natural resources; requiring the development of silica sand mining
1.3 model standards and criteria; establishing a silica sand technical assistance team;
1.4 requiring administrative rules; appropriating money; proposing coding for new
1.5 law in Minnesota Statutes, chapter 116C.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [116C.99] SILICA SAND MINING MODEL STANDARDS AND
1.8 CRITERIA.

1.9 Subdivision 1. Definitions. The definitions in this subdivision apply to this section.

1.10 (a) "Local unit of government" means a county, statutory or home rule charter city,
1.11 or town.

1.12 (b) "Mining" means excavating and mining silica sand by any process, including
1.13 digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or by shaft.

1.14 (c) "Processing" means washing, cleaning, screening, crushing, filtering, sorting,
1.15 processing, stockpiling, and storing silica sand, either at the mining site or at any other site.

1.16 (d) "Silica sand" means well-rounded, sand-sized grains of quartz (silicon dioxide),
1.17 with very little impurities in terms of other minerals. Specifically, the silica sand for the
1.18 purposes of this section is commercially valuable for use in the hydraulic fracturing of
1.19 shale to obtain oil and natural gas. Silica sand does not include common rock, stone,
1.20 aggregate, gravel, sand with a low quartz level, or silica compounds recovered as a
1.21 by-product of metallic mining.

1.22 (e) "Silica sand project" means the excavation and mining and processing of silica
1.23 sand; the washing, cleaning, screening, crushing, filtering, drying, sorting, stockpiling,
1.24 and storing of silica sand, either at the mining site or at any other site; the hauling and

2.1 transporting of silica sand; or a facility for transporting silica sand to destinations by rail,
2.2 barge, truck, or other means of transportation.

2.3 (f) "Temporary storage" means the storage of stock piles of silica sand that have
2.4 been transported and await further transport.

2.5 (g) "Transporting" means hauling and transporting silica sand, by any carrier:

2.6 (1) from the mining site to a processing or transfer site; or

2.7 (2) from a processing or storage site to a rail, barge, or transfer site for transporting
2.8 to destinations.

2.9 Subd. 2. **Standards and criteria.** (a) By October 1, 2013, the Environmental
2.10 Quality Board, in consultation with local units of government, shall develop model
2.11 standards and criteria for mining, processing, and transporting silica sand. These standards
2.12 and criteria may be used by local units of government in developing local ordinances.

2.13 The standards and criteria must include:

2.14 (1) recommendations for setbacks or buffers for mining operation and processing,
2.15 including:

2.16 (i) any residence or residential zoning district boundary;

2.17 (ii) any property line or right-of-way line of any existing or proposed street or
2.18 highway;

2.19 (iii) ordinary high water levels of public waters;

2.20 (iv) bluffs;

2.21 (v) designated trout streams, Class 2A water as designated in the rules of the
2.22 Pollution Control Agency, or any perennially flowing tributary of a designated trout
2.23 stream or Class 2A water;

2.24 (vi) calcareous fens;

2.25 (vii) wellhead protection areas as defined in section 103I.005;

2.26 (viii) critical natural habitat acquired by the commissioner of natural resources
2.27 under section 84.944; and

2.28 (ix) a natural resource easement paid wholly or in part by public funds;

2.29 (2) standards for hours of operation;

2.30 (3) groundwater and surface water quality and quantity monitoring and mitigation
2.31 plan requirements, including:

2.32 (i) applicable groundwater and surface water appropriation permit requirements;

2.33 (ii) well sealing requirements;

2.34 (iii) annual submission of monitoring well data; and

2.35 (iv) storm water runoff rate limits not to exceed two-, ten-, and 100-year storm events;

2.36 (4) air monitoring and data submission requirements;

- 3.1 (5) dust control requirements;
3.2 (6) noise testing and mitigation plan requirements;
3.3 (7) blast monitoring plan requirements;
3.4 (8) lighting requirements;
3.5 (9) inspection requirements;
3.6 (10) containment requirements for silica sand in temporary storage to protect air
3.7 and water quality;
3.8 (11) containment requirements for chemicals used in processing;
3.9 (12) financial assurance requirements;
3.10 (13) road and bridge impacts and requirements; and
3.11 (14) reclamation plan requirements as required under the rules adopted by the
3.12 commissioner of natural resources.

3.13 Subd. 3. **Silica sand technical assistance team.** By October 1, 2013, the
3.14 Environmental Quality Board shall assemble a silica sand technical assistance team
3.15 to provide local units of government, at their request, with assistance with ordinance
3.16 development, zoning, environmental review and permitting, monitoring, or other issues
3.17 arising from silica sand mining and processing operations. The technical assistance team
3.18 shall be comprised of up to seven members, and shall be chosen from the following
3.19 entities: the Department of Natural Resources, the Pollution Control Agency, the Board of
3.20 Water and Soil Resources, the Department of Health, the Department of Transportation,
3.21 the University of Minnesota, and the Minnesota State Colleges and Universities. A
3.22 majority of the members must be from a state agency and have expertise in one or more of
3.23 the following areas: silica sand mining, hydrology, air quality, water quality, land use, or
3.24 other areas related to silica sand mining.

3.25 Subd. 4. **Consideration of technical assistance team recommendations.** (a) When
3.26 the technical assistance team, at the request of the local unit of government, assembles
3.27 findings or makes a recommendation related to a proposed silica sand project for the
3.28 protection of human health and the environment, a local government unit must consider
3.29 the findings or recommendations of the technical assistance team in its approval or denial
3.30 of a silica sand project. If the local government unit does not agree with the technical
3.31 assistance team's findings and recommendations, the detailed reasons for the disagreement
3.32 must be part of the local government unit's record of decision.

3.33 (b) Silica sand project proposers must cooperate in providing local government unit
3.34 staff, and members of the technical assistance team with information regarding the project.

3.35 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.1 Sec. 2. [116C.991] TECHNICAL ASSISTANCE, ORDINANCE, AND PERMIT
4.2 LIBRARY.

4.3 By October 1, 2013, the Environmental Quality Board, in consultation with local
4.4 units of government, shall create and maintain a library on local government ordinances
4.5 and local government permits that have been approved for regulation of silica sand
4.6 projects for reference by local governments.

4.7 Sec. 3. RULES.

4.8 (a) The commissioner of the Pollution Control Agency shall adopt rules pertaining
4.9 to the control of particulate emissions from silica sand mines. The commissioner shall
4.10 consider and incorporate, as appropriate to the conditions of this state, Wisconsin
4.11 Administrative Code NR 415, in effect as of January 1, 2012, pertaining to industrial
4.12 sand mines.

4.13 (b) The commissioner of natural resources shall adopt rules pertaining to the
4.14 reclamation of silica sand mines. The commissioner shall consider and incorporate, as
4.15 appropriate to the conditions of this state, Wisconsin Administrative Code NR 135, in
4.16 effect as of January 1, 2012, pertaining to reclamation of industrial sand mines.

4.17 (c) By January 1, 2014, the Department of Health shall adopt an air quality health
4.18 advisory for silica sand.

4.19 Sec. 4. APPROPRIATION; TECHNICAL ASSISTANCE TEAM AND MODEL
4.20 STANDARDS AND CRITERIA.

4.21 (a) \$..... in fiscal year 2014 is appropriated from the general fund to the Pollution
4.22 Control Agency for the Environmental Quality Board to develop model standards and
4.23 criteria and operate a silica sand technical assistance team as required under section 1.

4.24 (b) \$..... in fiscal year 2014 is appropriated from the general fund to the Pollution
4.25 Control Agency for the development of rules under section 3, paragraph (a).

4.26 (c) \$..... in fiscal year 2014 is appropriated from the general fund to the
4.27 commissioner of natural resources for the development of rules under section 3, paragraph
4.28 (b).