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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **906**

02/25/2013 Authored by Hansen, Brynaert and Johnson, C.,
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

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 shafting.

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 naturally existing high quartz level sand with a number of
1.17 uses, including hydraulic fracturing of shale for oil and gas production. Silica sand does
1.18 not include common rock, stone, aggregate, gravel, sand with a low quartz level, or silica
1.19 compounds recovered as a by-product of metallic mining.

1.20 (e) "Silica sand project" means the excavation and mining of silica sand; the
1.21 washing, cleaning, screening, crushing, filtering, sorting, processing, stockpiling, and
1.22 storing of silica sand, either at the mining site or at any other site; the hauling and
1.23 transporting of silica sand; or a facility for transporting silica sand to destinations by rail,
1.24 barge, truck, or other means of transportation.

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

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

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

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

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

2.12 (1) mining operation and processing setbacks, including:

2.13 (i) setbacks no less than ... feet from any residence or residential zoning district
 2.14 boundary;

2.15 (ii) setbacks no less than ... feet from any property line or within ... feet of the
 2.16 right-of-way line of any existing or proposed street or highway;

2.17 (iii) setbacks no less than feet from ordinary high water levels of public waters;

2.18 (iv) setbacks no less than feet from bluffs;

2.19 (v) setbacks no less than feet from designated trout streams;

2.20 (vi) setbacks no less than feet from calcareous fens;

2.21 (vii) setbacks no less than feet from wellhead protection areas; and

2.22 (viii) setbacks no less than feet from critical natural habitat acquired by the
 2.23 commissioner of natural resources under section 84.944;

2.24 (2) standards for hours of operation;

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

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

2.28 (ii) well sealing requirements;

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

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

2.31 (4) air monitoring and data submission requirements;

2.32 (5) dust control requirements;

2.33 (6) noise testing and mitigation plan requirements;

2.34 (7) blast monitoring plan requirements;

2.35 (8) lighting requirements;

2.36 (9) inspection requirements;

3.1 (10) containment requirements for silica sand in temporary storage to protect air
3.2 and water quality;

3.3 (11) containment requirements for chemicals used in processing;

3.4 (12) financial assurance requirements; and

3.5 (13) reclamation plan requirements as required under the rules adopted by the
3.6 commissioner of the Pollution Control Agency.

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

3.18 Subd. 4. **Consideration of board recommendations.** (a) When the Environmental
3.19 Quality Board assembles findings or makes a recommendation related to a proposed silica
3.20 sand project for the protection of human health and the environment, a local government
3.21 unit must consider the findings or recommendations of the board in its approval or denial
3.22 of a silica sand project. If the local government unit does not agree with the board's
3.23 findings and recommendations, the detailed reasons for the disagreement must be part of
3.24 the local government unit's record of decision.

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

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

3.29 Sec. 2. **RULES.**

3.30 The commissioner of the Pollution Control Agency shall adopt rules to incorporate
3.31 the Wisconsin Administrative Code, chapters NR 415 and NR 135 in effect as of
3.32 January 1, 2012, pertaining to nonmetallic mining reclamation and control of particulate
3.33 emissions into Minnesota Rules. The rules adopted under this section are exempt from the
3.34 rulemaking provisions of chapter 14 and section 14.386 does not apply.

4.1 Sec. 3. APPROPRIATION; TECHNICAL ASSISTANCE TEAM AND MODEL
4.2 STANDARDS AND CRITERIA.
4.3 \$..... in fiscal year 2014 is appropriated from the general fund to the Pollution
4.4 Control Agency for the Environmental Quality Board to develop model standards and
4.5 criteria and operate a silica sand technical assistance team as required under section 1.