

August 19, 2013

Planning Advisory Committee members:

As you know, there is new legislation requiring the EQB develop Standards and Criteria, and there are mandates for three state agencies, the MPCA, the DNR and the EQB to develop and amend rules regarding silica sand mining. Agencies drafting rules can form an Advisory Committee, which like your Wind and Mining subcommittee does the groundwork and writes the rules that the agency puts forward for public comment. I'm doing this right now as a member of a PUC rulemaking committee on need and siting of large energy projects, and I've seen how this opportunity for input works. It's an opportunity to have meaningful input that can work its way into the ultimate rule.

Please vote today to recommend to the Board that the County send a simple letter to the EQB, the Pollution Control Agency, and the DNR to appoint an Advisory Committee for the silica sand rulemakings. Timing is important, as this rulemaking will move along quickly. The EQB is meeting on September 18 to address the Standards and Criteria they're developing separately, and could authorize a Rulemaking Advisory Committee at that meeting.

I'd be more than happy to answer any questions I can!

Thanks for your consideration,

Marie McNamara

Email request for EQB, MPCA and DNR Rulemaking Advisory Committee to staff personnel and Commissioner/Chair:

DNR – heather.arends@state.mn.us; tom.landwehr@state.mn.us

MPCA – nathan.cooley@state.mn.us; john.stine@state.mn.us

EQB – Jeff.Smyser@state.mn.us; bob.patton@state.mn.us; kate.frantz@state.mn.us;
dave.fredrickson@state.mn.us

Mandated Rulemaking under Session Laws, Ch. 114, Sec. 195 is completely separate from the mandate of Standards and Criteria under Session Laws, Ch. 114, Sec.91 (Minn. Stat. 116C.99).

Session Laws, Ch. 114, Sec. 105:

Sec. 105. **RULES; SILICA SAND.**

(a) The commissioner of the **Pollution Control Agency** shall adopt rules pertaining to the control of particulate emissions from silica sand projects. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(b) The **commissioner of natural resources** shall adopt rules pertaining to the reclamation of silica sand mines. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(c) By January 1, 2014, the Department of Health shall adopt an air quality health-based value for silica sand.

(d) The **Environmental Quality Board** shall amend its rules for environmental review, adopted under Minnesota Statutes, chapter 116D, for silica sand mining and processing to take into account the increased activity in the state and concerns over the size of specific operations. The Environmental Quality Board shall consider whether the requirements of Minnesota Statutes, section 116C.991, should remain part of the environmental review requirements for silica sand and whether the requirements should be different for different geographic areas of the state. The rulemaking is exempt from Minnesota Statutes, section 14.125.

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

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Exemption from Minn. Stat. §14.125:

14.125 TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL RULES.

An agency shall publish a notice of intent to adopt rules or a notice of hearing within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not published within the time limit imposed by this section, the authority for the rules expires. The agency shall not use other law in existence at the time of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules.

An agency that publishes a notice of intent to adopt rules or a notice of hearing within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.