

Draft 9/4/2014

## PRELIMINARY RULE CONCEPTS:

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*This document contains preliminary language related to silica sand environmental review rules. The purpose of this document is to generate discussion and feedback on these concepts from the Silica Sand Rulemaking Advisory Panel (SSRAP) for the September 5<sup>th</sup>, 2014 (9am-11am) meeting. The formation of the draft rules is and will continue to be an iterative process.*

### EAW:

An environmental assessment worksheet must be prepared for any silica sand project that meets or exceeds the following thresholds:

- (1) for development or construction of a facility for the extraction or mining of silica sand which will result in the excavation of 20 or more acres of land to a mean depth of ten feet (10) or more during its existence. **The LGU is the RGU; or**
- (2) for development or construction of a facility designed for or capable of transloading silica sand from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility designed for or capable of transloading silica sand. **The MPCA is the RGU; or**
- (3) for development or construction of a facility designed for or capable of processing silica sand with a combined nameplate amount of greater than 200,000 tons annually; or the expansion of an existing facility designed for or capable of processing silica sand with a combined nameplate amount of greater than 200,000 tons annually. **The MPCA is the RGU; or**
- (4) for development or construction of a silica sand project that requires a DNR trout stream setback permit. **DNR is the RGU.**
- (5) for development or construction of a silica sand project for the extraction or mining of silica sand which will result in the excavation of 10 or more acres of land in a sensitive shoreland area. **LGU is the RGU**

### EIS:

An environmental impact statement must be prepared for any silica sand project that meets or exceeds the following thresholds.

- 1) Excavates 160 or more acres of land to a mean depth of ten (10) feet or more during its existence. **The LGU is the RGU.** *(same as current non-metallic mine category)*
- 2) for the development or construction of an underground silica sand project. **The LGU is the RGU.**

*MN Rules 4410.0500 (outlines RGU selection procedures)*

*MN Rules 4410.2000; Sub. Part 3, (outlines process for discretionary EIS)*

*MN Rules 4410.1000; Sub. Part 3. (outlines process for discretionary EAW)*

### **Definitions: (116C.99)**

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

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

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

*"Sensitive shoreland area" means shoreland designated as a special protection district pursuant to part 6120.3200 or shoreland riparian to any of the following types of public waters:*

- A. lakes or bays of lakes classified as natural environment pursuant to part 6120.3000;*
- B. trout lakes and streams designated pursuant to part 6264.0050;*
- C. wildlife lakes designated pursuant to Minnesota Statutes, section 97A.101, subdivision 2;*
- D. migratory waterfowl feeding and resting lakes designated pursuant to Minnesota Statutes, section 97A.095, subdivision 2; or*
- E. outstanding resource value waters designated pursuant to part 7050.0180.*

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A. **OTHER (new) Definitions (work in progress):**

- a. **Transloading** and transferring can be used interchangeably. Specific for silica sand it means moving the silica sand from one vehicle to another. In the rail and truck industry, transloading generally is used to describe an operation that is moving from truck to rail or vice versa on a direct move, with only one handling of the product, as opposed to handling through a storage facility or warehouse which may incur multiple handling operations. DOT does not define this in rule, but observes the industry conventions in describing it.
- b. **Underground:** developing definition.

B. **Exemptions:** *Still reviewing if there should be exemptions for smaller/low intensity mines (animal bedding, septic, glass).*

9/14/2014 Draft