

Agenda/Notes—3rd Multi-Agency Silica Sand Rulemaking Advisory Panel (SSRAP) Meeting

Monday April 7, 2014, 10:00 to 3:30

People's Energy Cooperative [1775 Lake Shady Ave S, Oronoco, MN 55960]

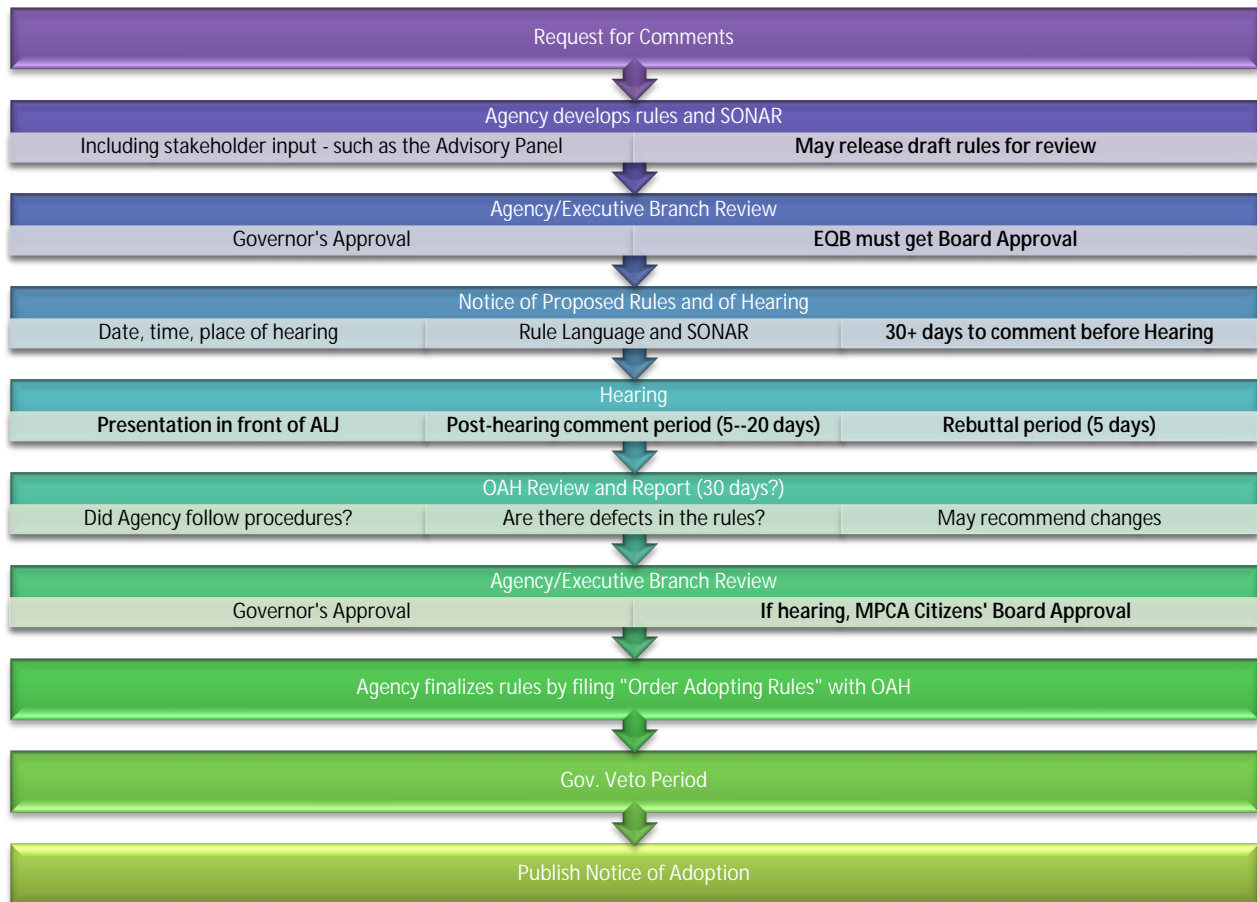
Contact: nathan.cooley@state.mn.us (651-757-2290)

10:00 WELCOME, INTRODUCTIONS AND AGENDA

Welcome members; introductions; review agenda

10:10 CATHERINE: MARCH 5TH MEETING FEEDBACK AND PROCESS UPDATE

- ✓ Panel "Deliverable" and Role of Consensus
 - ∅ The role is to inform the Agencies' silica sand project rulemaking in a timely and meaningful way by providing ongoing advice and input on Agency proposals and bringing forward other key issues.
 - § There will not be preparation of a panel report; the advice of the panel will be captured in meeting records and notes
 - § Panelists can, of course, also make official comments as part of the rulemaking process
 - See bolded parts below
 - And you can gather as groups to do that.



- ∅ We will not be asking panelists to vote on any particular proposals
 - § We will be listening to hear if there is consensus emerging around any of the proposals
 - Bear in mind that there are different levels of consensus:
 - Agree completely
 - Agree with reservations
 - I can live with it

- I am not entirely in agreement, but will trust the wisdom of the group
- We hope the rules that ultimately result from this process are ones that everyone can live with and not actively oppose

✓ Process Moving Forward

- Ø April Meeting – EQB overview and discussion of interests
- Ø May Meeting – DNR Reclamation overview and discussion of interests
- Ø Topics to be Scheduled
 - § MPCA water permitting basic overview and potential rules related to silica sand water permitting
 - § Discussion of definitions of silica sand and silica sand projects that are in the legislation and their use in rulemaking
- Ø Summer – Agencies will present conceptual overviews of rule contents
 - § Example
- Ø End of Summer
 - § Review of conceptual overviews and public input at an EQB meeting
- Ø Fall
 - § Presentations of more defined rule proposals
 - § Level of definition may vary based on agency capacity

10:30 POSTING MEETING SUMMARY FROM MARCH 5TH, 2014

March 5th meeting summary/WebEx record were approved for posting to the web

10:40 KATE, ENVIRONMENTAL QUALITY BOARD (EQB): ENVIRONMENTAL REVIEW

Goal: Understand basics of environmental review – what is its purpose, what are different kinds of environmental review

11:45 LUNCH

12:30 KATE, ERIK (EQB): ENVIRONMENTAL REVIEW 101 (CONTINUED)

Goal: Understand basics of environmental review – what is its purpose, what are different kinds of environmental review; also, describe scope of legislative rulemaking direction

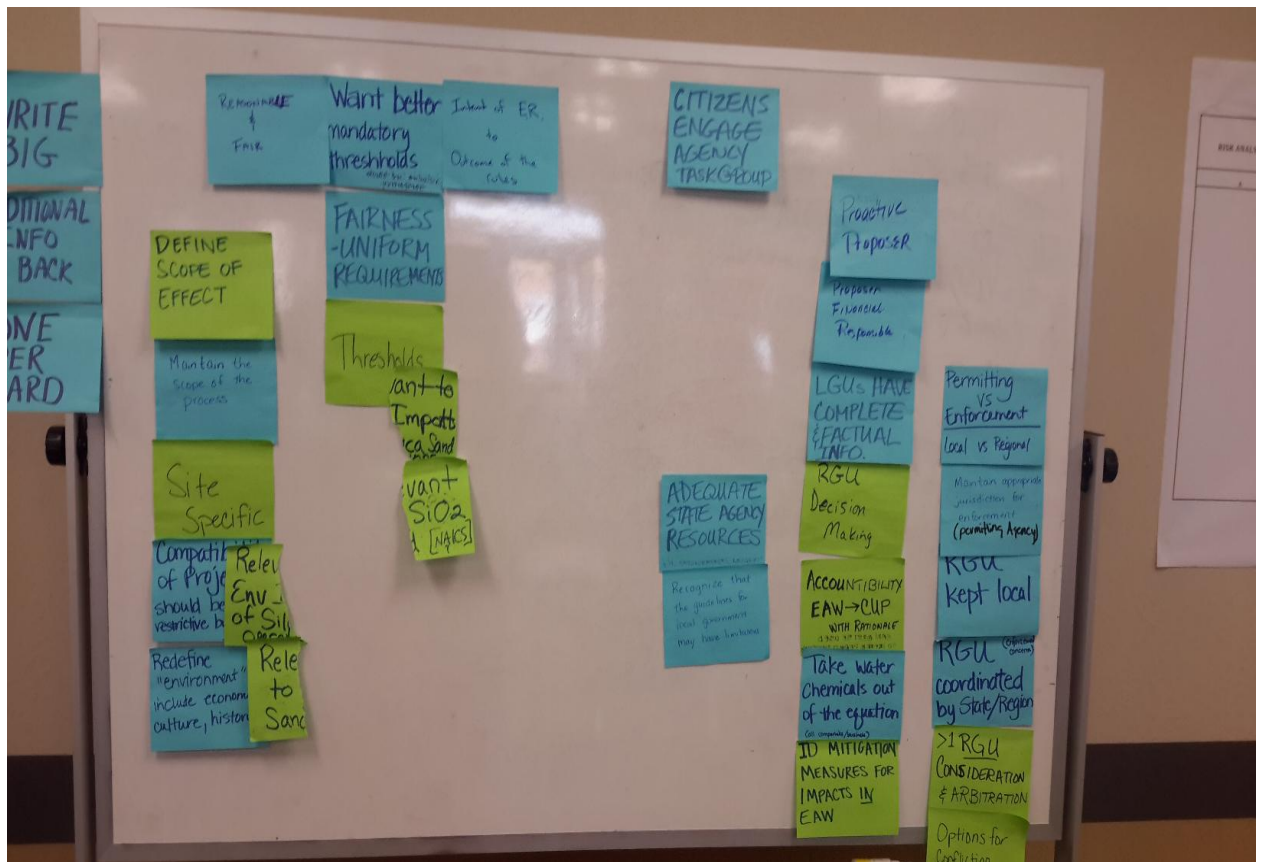
1:30 SEEK PANEL INTERESTS AROUND ENVIRONMENTAL REVIEW

Interest identification exercise: Panelists to consider their answers to “What, for you, are the key interests to consider as we address environmental review for silica sand facilities in Minnesota?”

2:00 REGROUP, GATHER AND GROUP INTERESTS

Goal: Gather and group interests on white board

Notes:



Environmental Review

- Disconnect between what is reviewed and what ends up in the permit.
- Suggestion that the AG appoint someone to help RGUs with legal review
- Similar petition process as for an EAW - allow people to petition an RGU to access the technical advisory team; give citizens a way to engage
- Circulate information about how that process works
- Possible petition process for changing an RGU
- How do you deal with it when the impacts are regional/global (e.g. global warming) rather than within Minnesota?
- Potential for multiple LGUs as RGU - does this need to somehow get resolved or a procedure for reviewing it? Without a petition to EQB or way to move the review.
- Traffic impacts and competing RGUs - MnDOT? Trucks crossing county boundaries. Arbitration or agreement between the two for consistency.
- Have we used the new additional requirements for EAW (from legislation) been used yet? If not, how do we know if they are the right ones?
- Proposed mitigation should be completed and enforced - EAW should be more clearly and always linked to permit; or there is a rationale for why not.
- Jurisdiction - overlapping conditions are confusing; right people enforcing the right things
- European style burden of proof - proposer needs to show it is safe rather than others showing it is not; proposer held reasonably responsible
- Scope as charged by legislature, this is not going to be the tool for every problem with a mine
- Tools from EQB may need some review and changing - for instance, multiple monitors at the same location is not useful
- Better mandatory thresholds that consistently trigger review regardless of who is at the table; less than 40 acres
- State and region coordinate - state involvement in enforcement, even if not RGU
- Historical and cultural environment - not just natural resources
- More restrictions in more fragile or special environments
- No chemicals in the water

- Define scope of effect early in process
- EAW should include mitigation for all types of impacts
- RGU arbitration if more than one - especially when there might be conflicting opinions between a county and a township
- Better definitions for silica sand and the project - changes should be relevant to SILICA - thresholds there, compared to what has always been mined.
- Site-specific - every site is different, can the ER goals cover all of them?
- Jurisdiction v Review v Enforcement
- Only decision really is about whether the information has been provided.

3:00 NEXT STEPS

- Group check-out on the meeting process and/or content.
- Plans for May 16th meeting: DNR Reclamation and Geology overview and interests
- Propose running meetings from 10 to 3:30 (instead of 3 PM).
- Doodle Poll planning/participation

Silica Sand Advisory Panel **Environmental Review** Interests

| | Better define Scope | Reasoned Thresholds and requirements | Informed RGU | Address Impacts | Adequate State Resources to assist | Assure Appropriate Jurisdiction |
|---|--|---|--|---|---|---|
| | A | B | C | D | E | F |
| 1 | Define scope of effect | Reasonable & Fair | Citizens engage agency task group (ex. Petition) | Identify mitigation measures for impacts <u>in</u> EAW | Adequate State agency resources for environmental review | Permitting vs enforcement Local vs Regional |
| 2 | Maintain the scope of the process | Intent of environmental review to outcomes of the rules | | Take water chemicals out of the equation (all companies/business) | Recognize that the EQB guidelines for local government may have limitations | Maintain appropriate jurisdiction for enforcement (permitting agency) |
| 3 | Site specific | Want better mandatory thresholds (including land transfer transparency) | | Accountability EAW--> CUP with rationale | | RGU kept local |
| 4 | Relevant to SiO2 Sand (NAICS?) (A4) | Relevant to SiO2 Sand (NAICS?) (A5) | | RGU Decision making | | RGU coordinated by State/region (enforcement concerns) |
| 5 | Relevant to environmental impacts of silica sand operations (B5) | Relevant to environmental impacts of silica sand operations (A5) | | LGUs have complete and factual information (C2) | | >1 RGU Consideration and arbitration |
| 6 | Compatibility of project -should be more restrictive by area | Thresholds | | Proposer Financial responsible (reclamation bond/mitigation) | | Options for conflicting RGU's |
| 7 | Redefine "environment" to include economy, culture and history | Fairness -uniform requirements | | Proactive proposer (responsible for people health, environments and property) | | |

Additional information

A1: to identify affected communities to potential impacts

A3: maintain flexibility to focus on main impacts of the project

A4/B4: < 80% SiO₂, >90% SiO₂, intensity, volume, density

B6:

- Are proposed silica adequate
- Why different than non-metallic minerals
- If thresholds stay different, should this be reflected in mandatory EIS categories too?

D1: If no mitigation is possible, explain why / Explain the mitigation measures

D3: EAW must be used to inform permit decisions

D4:

- Go/no go is not a listed objective of the environmental review process (RGU)
- Go/no go is a land use decision
- We are blurring the lines between land use enforcement and environmental review

E2: Air monitoring is a good idea but is extremely excessive and redundant as written. i.e. PM_{2.5}, PM₄ & PM₁₀ all @ once