

1 December 4, 2014 SSRAP Notes

- 2 · November Notes
- 3 ○ Line 45 - "will all these facilities need a permit" - does this go with transload facilities?
- 4 § Yes, it does - look back at line 38
- 5 § Please clarify and provide more explanation
- 6 § Need discussion of this
- 7 · Reclamation Administrative Procedures
- 8 ○ 10 minutes to read through
- 9 ○ Context and desired feedback
- 10 § Administrative procedures are processes to evaluate, approve, or deny a reclamation plan
- 11 and release financial assurance
- 12 § Q: Does this need to be in state rule, or is all of this being handled appropriately at
- 13 the local level? Or should state rules set some kind of middle ground?
- 14 § The rule language is a starting point for conversation.
- 15 § Review the three questions in the document
- 16 ○ What is a state agency's authority to tell a local government what to do?
- 17 § This is a legal question that is being wrestled with
- 18 ○ Need to check for consistency
- 19 ○ Concern about "automatic permit"
- 20 ○ Concern about costs
- 21 ○ Desire for state oversight/review/auditing so that there is consistency between units of Government
- 22 ○ Still concern about need for state to do this without a state permit
- 23 § Local land use authority is important
- 24 § Maybe require LGU to notify DNR when they are considering a reclamation plan?
- 25 § Need a method for establishing financial assurance
- 26 ○ Language says reclamation permit, but should say reclamation plan
- 27 ○ WI separates land use and reclamation
- 28 § That does not happen with this rule, so concern about lack of consistency
- 29 ○ Residents often say they haven't been heard, so likes that this gives a minimum level of consistency
- 30 for a public process
- 31 ○ Top of page 3, a mile might be more reasonable?
- 32 ○ "Readily available"
- 33 § Sometimes difficult or costly to get information through a MGDPA request, so it really needs
- 34 to be available
- 35 ○ Don't mind an expedited process for smaller transportation mines, but would like to know how big
- 36 and how much of a drop off
- 37 ○ This does provide protections by giving standard processes for things like ownership changes, etc.
- 38 § Improves communications structure
- 39 ○ Like subp. 9
- 40 ○ Concern about counties vs abilities of townships
- 41 § And meeting deadlines with infrequent meetings
- 42 § Townships may notify within a quarter mile; allow Townships to be stricter?
- 43 ○ Regulatory certainty is important
- 44 ○ Likes the grounds for revoking a plan
- 45 ○ Matches experience people have already gone through
- 46 ○ LGU can pass cost to facilities, also permit fees
- 47 ○ What happens if a reclamation plan is revoked?
- 48 § In some counties, can't apply for a permit to mine
- 49 ○ Subp 17- concern about costs of a contested case hearing
- 50 § What happens now? Appeal process for a CUP is appeals court, and Board of Adjustment
- 51 § Subp 17 could point to existing processes

- 1           ○ Land use ordinances include reclamation requirements, not separate reclamation ordinance
- 2           §    Work out the language so it reflects what is done
- 3           ○ Local land use authority official newspaper could be used
- 4           §    Can be selected annually by the land use authority
- 5           ○ Focused on returning the land to some form, may want to include ongoing monitoring after closure
- 6           and financial assurance for any mitigation
- 7           ○ Subp 8 and 9 limits - allow a Board to extend for good cause
- 8           ○ Subp 6b - public hearing when there is no hearing as part of permit to mine
- 9           §    600 feet seems too close
- 10          §    "Affected person" seems limiting - any one should be able to speak
- 11          ○ Really would like state help or oversight on when to release a reclamation plan
- 12          §    Because experts and knowledge gained can come and go
- 13          ○ Not a lot of process currently
- 14          §    Idea that you should have to have an approved reclamation plan before a permit app on a
- 15          CUP is complete
- 16          ○ Q: Why couldn't we change the statute to give DNR more authority?
- 17          §    There seems to be a group consensus?
- 18          §    Could this be an Agency proposal?
- 19          §    NR135 still retains local control
- 20          §    Would a state agency rather be involved in the whole process?
- 21          ○ Could annual report be a basis for an audit?
- 22          ○ States in their permits could require that the Agency sign off on releasing the reclamation plan and
- 23          financial assurance - require any agency with permitting authority to sign off?
- 24          ○ Contested case, anyone can use, but you have to meet certain procedural requirements. Broad
- 25          applicability and APA procedures.
- 26          ○ Automatic or expedited permit
- 27          §    Need a simple process to get DOT led projects through quickly
- 28          §    Need a definition for "local transportation related mines"
- 29          §    Job specific material
- 30          ○ Heather will provide this digitally for folks to redline and respond to
- 31          ·    EQB
- 32          ○ Erik can send out the document for comments
- 33          ○ Some changes to definitions that we'll talk about after lunch
- 34          ○ Concern that the definitions aren't super clear
- 35          ○ Any agency that has permit authority should be included in preparation of the environmental review
- 36          ○ Concern about lack of response to EAW
- 37          ○ Part B
- 38          §    Usurps authority and gives it to the MPCA
- 39          §    LGUs want help, but do not want the process in St Paul and taken over by MPCA
- 40          §    What if there is a mine and a throughput trigger hit?
- 41          §    There is a process in EQB rules to work that out
- 42          §    Concern that all current mines would hit that trigger
- 43          §    Would it be better if this still included the "standalone" concept?
- 44          ○ Part C
- 45          §    Beside water quality, what specific issues are there within the trout stream setback that
- 46          makes 5 acres needed and reasonable?
- 47          §    Water temperature is the issue for trout streams
- 48          §    Silica Sand travels and can easily move a mile
- 49          §    Air pollution can blow onto baby trout
- 50          §    Some agree that DNR is the appropriate RGU
- 51          §    Others do not, because LGUs know what else is in the area
- 52          §    Potential differences include greater visual impact, which impacts the economics of the area
- 53          §    Also more likely to have seeps, edges, which are unique habitat

- 1 § Mines will be large, so 5 or 20 may not matter
- 2 § There are many small animal bedding facilities that could be impacted at 5 acres
- 3 § Part D
- 4 § Not possible to get a map of sensitive shoreland areas, so this part may not be
- 5 enforceable
- 6 ○ Why is it split between MPCA and DNR?
- 7 § Develop expertise, so why different?
- 8 § LGU would like to be in charge, but would like the state agencies to sign off as a requirement
- 9 § Ensure partnership
- 10 ○ Wondering about the concern over RGU because of previous concern over inconsistency between
- 11 LGUs and needed expertise
- 12 § From experience have seen collaboration
- 13 § LGU lack of familiarity stalled the process, need a smooth process for the project
- 14 § But there have also been times when State agencies have done a bad job
- 15 § And, agencies only use ER staff and don't always pull in permitting staff
- 16 ○ EIS
- 17 § Should there be a throughout size for an EIS?
- 18 § Yes
- 19 § There should be an EIS if a project is crossing jurisdictions (County or Township)
- 20 § Cumulative effects need to be addressed
- 21 § And look outside of the jurisdiction - widen lens
- 22 § If we go back to the session, one idea was getting more stringent review within EAW, so then
- 23 that limited the need for a mandatory EIS category
- 24 § And now the EIS threshold has been cut without justification
- 25 . Definitions
- 26 ○ Aggregate
- 27 § Concern about including aggregate mines because many of the aggregate mines go after
- 28 silica rich sandstone
- 29 § Not defined by legislature. Not a specific trigger.
- 30 ○ Mine Area
- 31 § Remove last sentence - don't include contiguous land that has no intent of being mined,
- 32 unnecessarily encumbering
- 33 § Some things might be close by but not contiguous or adjacent
- 34 § Consider within a distance - like one mile - which MPCA has done for other types of
- 35 facilities (wastewater)
- 36 § Need to cover ancillary facilities
- 37 § Do people want facilities (like hauling and mining and transload) that have some common
- 38 ownership but different partners in each to be counted as one or several?
- 39 § One LGU rep says separate
- 40 § EQB rules connected action definition might be helpful
- 41 § DNR does want to ensure all areas near/associated with a mine are reclaimed but
- 42 not those that are stand alone
- 43 § Don't want things to be exempted because of multiple parcels
- 44 § Connected action experience - trucking sand from a mine to a separate processing plant that
- 45 are under common ownership
- 46 § EQB said these weren't connected because they could sell from the mine to another
- 47 processing plant
- 48 ○ Open Storage Pile
- 49 § No comments
- 50 ○ Silica Sand
- 51 § Doesn't define silica outside of sand. Silica by its nature is rounded
- 52 § DNR and MPCA only
- 53 § Legislative definition is in the EQB statutes

- 1 § Why wouldn't we use the legislative definition?
- 2 § Some don't like it
- 3 § Is it what will be used in the EAW and EIS triggers? Yes.
- 4 § Does it make it possible that a facility would not have to do an environmental
- 5 review but would have to do a reclamation plan (solely because of the definition)
- 6 § Would like to see all the definitions for context.
- 7 § Should it include first part of the silica rich sandstone so it stands alone - "quartzose
- 8 sedimentary rock"
- 9 § Could also define silica separately, then use silica sand definition
- 10 ○ Silica Rich Sandstones
- 11 § See silica sand
- 12 ○ Silica sand facility
- 13 ○ Silica sand processing equipment
- 14 ○ Silica sand rejects
- 15 § Include the word "fines"
- 16 § If there is another market for the material, it is not a reject
- 17 § Baghouse dust is not fines
- 18 § If the mine plan has the intent for the leftover material to be used as reclamation, would
- 19 that be a reject?
- 20 § The material is valuable for reclamation material, so rejects might not be the right
- 21 word
- 22 § Rejects is kind of awkward - is there anything in the definition that means it couldn't be used
- 23 for reclamation?
- 24 § Needs a definition of sediments - wash facility, coagulants, cake
- 25 § Heather would include cake in reclamation
- 26 § Reclamation would include unused chemicals, flocculants, etc.
- 27 ○ Silica sand storage system
- 28 § What about RR cars parked outside? Temporary storage.
- 29 § Ownership of the cars or the storage might matter
- 30 ○ Transloading
- 31 § Remove last sentence, it relates more to performance standards than being definitional.
- 32 ○ Vehicle
- 33 § What about a 1 mile conveyor system under a highway to a transload facility, and not all
- 34 enclosed?
- 35 § Do we need to get more specific on truck size?
- 36 § Truck or trailer?
- 37 § Can we be broader on the overall definition
- 38 § Add trailer
- 39 § Look at DOT language
- 40 § Don't define it so succinctly that something gets left out
- 41 § Is there a possibility that an integrated facility could be deemed a transloading or processing
- 42 facility?
- 43 § Haul trucks on site
- 44 § Do sometimes go from truck to truck on site
- 45 § Off site

46 [\[NOTE: at the 20150108 SSRAP meeting, staff sought approval of the above 20141204 notes. One panelist said her](#)  
 47 [views were not properly represented \(see Jan. notes\). She submitted comments on 20150113. Staff is attaching](#)  
 48 [these to the Jan. 8<sup>th</sup> notes, along with WebEx comments received from an absent panel member, and MPCA rules](#)  
 49 [w/embedded comments from both the December and January meetings. Please direct comments to Nathan](#)  
 50 [Cooley at phone: 651-757-2290 or email: nathan.cooley@state.mn.us\]](#)