

**Environmental Quality Board, Pollution Control
Agency, Department of Natural Resources, and
Department of Transportation**

**Mandatory Environmental Review Categories
Legislative Assessment Report**

December 1, 2018

Prepared in compliance with
Minnesota Statute
Chapter 116D subd. 5b

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Background

The Minnesota Environmental Policy Act (MEPA) created a formal process for investigating public or private projects that have the potential to significantly impact the environment. Minnesota Rules chapter 4410 (MR 4410) implement the objectives of MEPA by requiring categories of these types of projects to undergo a systematic environmental review (ER) process that works in conjunction with permits and other approvals.

These categories of project types are referred to as mandatory Environmental Assessment Worksheet (EAW) categories and mandatory Environmental Impact Statement (EIS) categories. Each mandatory EAW and EIS category has an applicable threshold for determining when ER is required and assigns a responsible governmental unit (RGU) to prepare and approve the review documents. Information provided through the Minnesota environmental review process is intended to ensure that the potential environmental effects of a proposed project will be assessed and disclosed, prior to the approval of any Minnesota governmental action.

The first Mandatory Categories Legislative Assessment Report (2013 MC Report) was required by a 2012 legislative directive (Laws of Minnesota for 2012, Chapter 150, Article 2, Section 3). The 2013 MC Report evaluated each of the mandatory EAW and EIS categories, and developed recommendations for whether the mandatory category should be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances. Recommendations in the 2013 MC Report were evaluated, along with recommendations identified by the public during rulemaking comment periods in 2015 and 2016, and where appropriate, are included in the 2018 proposed rulemaking under Revisor's ID Number R-04157: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>.

Executive Summary

In 2017, the legislative directive was amended and included in Minnesota Statute Chapter 116D.04 Subd. 5b:

"By December 1, 2018, and every three years thereafter, the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation, after consultation with political subdivisions, shall submit to the governor and the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resources a list of mandatory environmental assessment worksheet and mandatory environmental impact statement categories for which the agency or a political subdivision is designated as the responsible government unit, and for each worksheet or statement category, a document including:

(1) intended historical purposes of the category;

(2) whether projects that fall within the category are also subject to local, state, or federal permits; and

(3) an analysis of and recommendations for whether the mandatory category should be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances."

This report was prepared in compliance with requirements in Minnesota Statute Chapter 116D.04 Subd. 5b, and contains analyses for each of the mandatory EAW categories (MR 4410.4300) and the mandatory EIS categories (MR 4410.4400). The analyses include the intended historical purposes of the category; whether projects that fall within the category are also subject to local, state, or federal permits; and recommendations for whether the mandatory category should be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances. An updated summary of recommendations for each mandatory category can be found on pages 8-14 of this report. The following appendices provide a more detailed analysis of each mandatory EAW and EIS category.

(Please note: because some categories designate multiple RGUs, their analyses may be included in multiple appendices.)

APPENDIX A: Prepared by the Department of Transportation

4410.4300, subpart 21. Airport projects.
4410.4400, subpart 15. Airport runway projects.
4410.4300, subpart 22. Highway projects.
4410.4400, subpart 16. Highway projects.
4410.4300, subpart 23. Barges fleetings.
4410.4400, subpart 17. Barge fleetings facilities.

APPENDIX B: Prepared by the Department of Natural Resources

4410.4300, subpart 9. Underground storage
4410.4400, subpart 7. Underground storage
4410.4300, subpart 11. Metallic mineral mining and processing
4410.4400, subpart 8. Metallic mineral mining and processing.
4410.4300, subpart 12A. Nonmetallic mineral mining.
4410.4400, subpart 9. Nonmetallic mineral mining
4410.4300, subpart 24. Water appropriations and impoundments
4410.4300, subpart 28. Forestry.
4410.4300, subpart 30. Natural areas.
4410.4300, subpart 31. Historical places
4410.4300, subpart 37. Recreational trails

APPENDIX C: Prepared by the Pollution Control Agency

4410.4300, subpart 4. Petroleum refineries.
4410.4400, subpart 4. Petroleum refineries.
4410.4300, subpart 5. Fuel conversion facilities.
4410.4400, subpart 5. Fuel conversion facilities.
4410.4300, subpart 8. Transfer facilities
4410.4300, subpart 10. Storage facilities.
4410.4300, subpart 15. Air pollution.
4410.4300, subpart 16. Hazardous waste.
4410.4400, subpart 12. Hazardous waste.
4410.4300, subpart 17. Solid waste.
4410.44100, subpart 13. Solid waste.
4410.4300, subpart 18. Wastewater systems.
4410.4300, subpart 29. Animal feedlots

APPENDIX D: Prepared by the Environmental Quality Board

4410.4300, subpart 2. Nuclear fuels and nuclear waste.
4410.4400, subpart 2. Nuclear fuels and nuclear waste.
4410.4300, subpart 3. Electric-generating facilities.
4410.4400, subpart 3. Electric-generating facilities.
4410.4300, subpart 6. Transmission lines.
4410.4400, subpart 6. Transmission lines.
4410.4300, subpart 7. Pipelines.
4410.4300, subpart 35. Release of genetically engineered organisms.
4410.4400, subpart 28. Genetically engineered wild rice.

APPENDIX E: Prepared by the Environmental Quality Board after consultation with political subdivisions

- 4410.4300, subpart 12. Nonmetallic mineral mining.
- 4410.4400, subpart 9. Nonmetallic mineral mining.
- 4410.4300, subpart 14. Industrial, commercial, and institutional.
- 4410.4400, subpart 11. Industrial, commercial, and institutional facilities.
- 4410.4300, subpart 19. Residential development.
- 4410.4400, subpart 14. Residential development.
- 4410.4300 subpart 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.
- 4410.4400, subpart 14a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.
- 4410.4300, subpart 20. Campgrounds and RV parks.
- 4410.4300, subpart 20a. Resorts, campgrounds, and RV parks in shorelands.
- 4410.4400, subpart 26. Resorts, campgrounds, and RV parks in shorelands.
- 4410.4300, subpart 21. Airport projects.
- 4410.4300, subpart 22. Highway projects.
- 4410.4400, subpart 16. Highway projects.
- 4410.4300, subpart 23 Barge fleeting.
- 4300.4400, subpart 17. Barge fleeting facilities.
- 4410.4300, subpart 25. Marinas.
- 4410.4400 subpart 19. Marinas.
- 4410.4300, subpart 26. Stream diversion.
- 4410.4300, subpart 27. Wetlands and public waters.
- 4410.4400, subpart 20. Wetlands and public waters.
- 4410.4300, subpart 29. Animal feedlots
- 4410.4300, subpart 30. Natural areas.
- 4410.4300, subpart 31. Historical places.
- 4410.4300, subpart 32. Mixed residential and industrial-commercial projects
- 4410.4400, subpart 21. Mixed residential and commercial-industrial projects
- 4410.4300, subpart 33. Communications towers.
- 4410.4300, subpart 22. Sports or entertainment facilities.
- 4410.4300, subpart 36. Land use conversion, including golf courses.
- 4410.4300, subpart 36a. Land conversions in shoreland.
- 4410.4400, subpart 27. Land conversion in shorelands
- 4410.4300, subpart 37. Recreational trails.

Environmental Review in Minnesota

Minnesota Statute 116C.03 created the Environmental Quality Board (EQB) and Minnesota Statute 116D.04 gave the EQB the authority to implement the requirements of MEPA. To fulfill their duties, the EQB promulgated MR 4410. MR 4410.0300 describes the authority, scope, purpose and objectives of these environmental review rules: AUTHORITY, SCOPE, PURPOSE, AND OBJECTIVES.

Subpart 1. Authority. Parts 4410.0200 to 4410.6500 are issued under authority granted in Minnesota Statutes, chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act.

Subp. 2. Scope. Parts 4410.0200 to 4410.6500 apply to all governmental actions. They shall apply to projects for which environmental review has not been initiated prior to September 28, 1982. For any project for which environmental review has been initiated by submission of a citizens petition, environmental assessment worksheet, environmental impact statement preparation notice, or environmental impact statement to the EQB prior to September 28, 1982, all governmental decisions that may be required for that project shall be acted upon in accord with prior rules.

Subp. 3. Purpose. The Minnesota Environmental Policy Act recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment.

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

Subp. 4. Objectives. The process created by parts 4410.0200 to 4410.6500 is designed to:

- A. provide usable information to the project proposer, governmental decision makers and the public concerning the primary environmental effects of a proposed project;*
- B. provide the public with systematic access to decision makers, which will help to maintain public awareness of environmental concerns and encourage accountability in public and private decision making;*
- C. delegate authority and responsibility for environmental review to the governmental unit most closely involved in the project;*
- D. reduce delay and uncertainty in the environmental review process; and*
- E. eliminate duplication.*

The most common types of environmental review processes are the: petition, EAW, EIS or Alternative Urban Areawide Review (AUAR) reviews:

- The Citizen Petition process provides the opportunity for a community to request the preparation of an EAW on a project by filing a petition that contains the signatures and mailing addresses of at least 100 individuals who reside or own property in the state.

- An EAW provides a brief analysis and overview of the potential environmental impacts of a specific project, and to help the RGU determine if an EIS is necessary. EAWs are 15-50 pages, consisting of a list of 20 questions, and is meant to set out the basic facts of the project's environmental impacts.
- An EIS is a more detailed analysis of the key environmental, social, and economic issues that are likely to result from the project. The first step in the EIS process is to identify only those potentially significant issues relevant to the proposed project in order to reduce the bulk and time table for preparation of an EIS.
- An AUAR is a planning tool that local governments can use to understand how different development scenarios will affect the environment of their community. It is a way of performing an environmental analysis in advance, before major development occurs in an area. It also is a way to use the information from the analysis to guide local planning and zoning decisions.

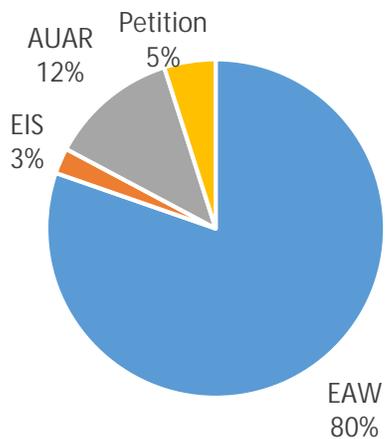
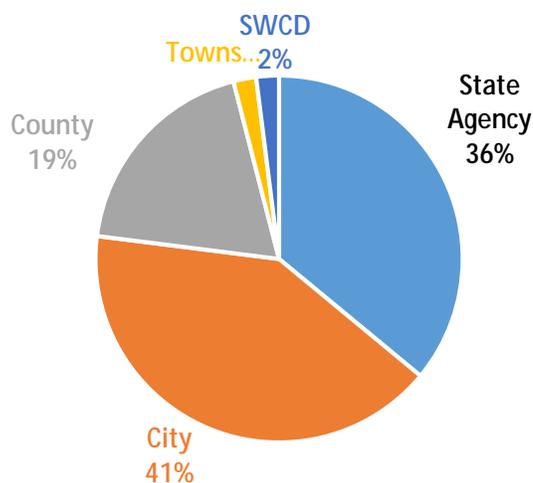
As stated above, ER documents do not approve or deny approval of a project. Environmental review provides a basis of information for preparing permits and approvals. Permits and ER are different tools and serve different functions. An important distinction between ER and permits and other types of approvals, is that ER provides an holistic, ecological view of potential environmental effects in a single document for consideration by the public and decision-makers. A proposed project may have multiple permits and approvals and an individual permit focuses on regulatory compliance with one type of impact such as air emissions, or water.

Other permits, approvals or ordinances don't typically capture the same information or broad range of possible environmental impacts as the ER process in one consolidated public document. Some other benefits of ER include:

- Considers cumulative environmental impacts
- Considers phased and connected actions
- Public-oriented by providing the public with relevant technical environmental information, to help them more fully participate in local decisions before projects can be approved.
- Helps project proposers early in their design process
- Identifies regulatory and community concerns, before project designs are final

The EQB is responsible for monitoring the effectiveness of ER, taking measures to improve its effectiveness, and providing assistance to all parties involved. To that end, EQB staff have been collecting data to better understand trends and identify areas for program improvement. The results of the data collection are an important first step in understanding ER being completed around the state.

In 2017, program data were collected from RGUs and project proposers upon completion of an ER process such as a Citizen Petition, EAW, EIS or AUAR. According to these data, approximately two-thirds of ER projects completed were conducted by local units of government.



Of the total ER projects completed in 2017, 80% were for EAWs that were required by either by a mandatory category or the result of a decision by an RGU to require a discretionary review. In 2018, surveys were also sent to members of the public that submitted comments on a project.

Analysis of the Mandatory EAW and EIS Categories

The Department of Transportation, Department of Natural Resources, and the Pollution Control Agency performed analyses for the categories for which they are the designated RGU. The analyses and recommendations for these agencies' mandatory categories are found in Appendices A, B and C.

While each agency provided similar information, the format is different for their respective analyses. For example, the Department of Transportation recommendations column has separate EAW and EIS discussions. The local government table provides the EAW and EIS categories separately, but the historical purpose, potential permits, and recommendations are combined unless specifically indicated. These differences are due to the types of projects, the agencies' roles, and the format of the information found in past Statements of Need and Reasonableness (SONARs).

The EQB conducted the analyses for mandatory EAW and EIS categories where they are the designated RGU and the mandatory EAW and EIS categories when a local unit of government is the designated RGU. These analyses and recommendations can be found in Appendices D and E.

The EQB is designated as the RGU for the categories for nuclear waste facilities, power generating facilities, electrical transmission lines, and pipelines. However, these categories were altered significantly by the statutory transfer of siting and routing authority to the Public Utilities Commission (Commission). In 1989, the EQB approved the pipeline routing rules process as an alternative environmental review process, per MR 4410.3600. The Department of Commerce (Commerce) conducts ER on behalf of the Commission for these energy projects. Accordingly, Commerce staff reviewed and analyzed these categories. Similarly, because all releases of genetically engineered organisms have been agriculturally related, the Department of Agriculture provided the analyses for those categories..

To comply with the legislative directive to "consult with political subdivisions," on the mandatory ER categories, EQB staff distributed a survey to the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Association of Townships; included the survey in the Monitor publication and sent the survey directly to 85 local governments who conducted environmental review of any type within the last two years. To assess local governments' perspectives, EQB staff considered survey responses in their analyses of the mandatory EAW and EIS categories for which local governmental units are designated as the RGU.

To examine a mandatory category's intended historical purpose, these analyses reviewed rule amendment SONARs prepared in 1982, 1986, 1988, 1997, 2003, 2004, 2005, and 2007. Also included, are the proposed SONARs that will be included in the 2018 Mandatory Categories Rulemaking (See <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking> for more information).

Minnesota Statute Chapter 116D.04 Subd. 5b. requires this report include information on "whether projects that fall within the category are also subject to local, state, or federal permits" and to make "recommendations for whether the mandatory category should be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances." State and local units of government have different permit and approval processes, and the permits and approvals required will vary based on the details of an individual project.

The tables included in the appendices of this report provide detailed recommendations, where applicable, that comply with these requirements. However, it is not possible to create a definitive list of all applicable permits, approvals, ordinances, and/or laws that could potentially apply to a project subject to a mandatory category.

Instead, the tables list relevant examples of these approval processes, with the caveat that it will depend on the specific project and location for that project type. The information provided in the appendices includes examples of the types of permits and reviews that might be applicable to a given category of projects. In practice, the permits and approvals required will vary based on the details of a project and where it is located in the state.

Mandatory Categories Rulemaking

Minnesota's ER Program was established between 1973 and 1977 through MEPA rules under the initial rulemaking process. At that time, all decision-making authority was centralized under the EQB. The EQB decided on a case-by-case basis which projects were major actions with the potential for significant environmental effects. Periodic updates to MR 4410 have been made since the 1970s. The 1982 amendments delegated the authority to prepare and approve environmental documents to state and local RGUs. Since then, there have been additional updates, with the most recent revisions occurring in 2009.

The EQB initiated rulemaking as a result of the 2013 MC Report and changes directed by the Minnesota State Legislature. The rulemaking includes proposed amendments to the mandatory categories for EAWs, EISs, as well as definitions to support those categories, RGU determinations, and categories of exemptions from environmental review. During their regular monthly meeting in September 2018, the EQB approved the draft SONAR and authorized staff to move forward with the rulemaking process. More information about the 2018 Mandatory Categories Rulemaking and related public engagement can be found here:

<https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>.

The rulemaking process will be conducted in accordance with the Minnesota Administrative Procedure Act, the statute that governs agency rulemaking and amendments. State rulemaking regulatory procedures ensure public accountability, access, and participation. Recommendations identified in this report will be considered for future rulemaking. (<https://www.revisor.mn.gov/statutes/cite/14>)

Summary of Recommendations

Recommendations for each mandatory category are included in the following summary table, along with the designated RGU as well as the type and number of projects completed each calendar year from 2015 to 2017. More detail on each recommendation and the associated analysis can be found in the appendices of this report.

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY. Subp. 2. Nuclear fuels and nuclear waste.	EQB/ MDH				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY. Subp. 2. Nuclear fuels and nuclear waste.	PCA/EQB/ PUC/ MDH				
4410.4300 EAW CATEGORY. Subp. 3. Electric generating facilities.	EQB (delegated to PUC)	1	2	1	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY. Subp. 3. Electric generating facilities.	NONE LISTED				
4410.4300 EAW CATEGORY Subp. 4. Petroleum refineries.	PCA				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 4 Petroleum refineries.	PCA				
4410.4300 EAW CATEGORY Subp 5. Fuel conversion facilities.	PCA	1			Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. The following additional changes are recommended for future consideration: Subpart A: Recommend review of definition of biomass in EQB Rules to ensure consistency with term as used in other rules or statutes.
4410.4400 EIS CATEGORY Subp. 5. Fuel conversion facilities	PCA				
4410.4300 EAW CATEGORY Subp. 6. Transmission lines.	EQB				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 6. Transmission lines.	NONE LISTED				
4410.4300 EAW CATEGORY. Subp. 7. Pipelines	EQB/ LGU				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY. Subp. 24. Pipelines.					

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY Subp. 8. Transfer facilities.	PCA				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4300 EAW CATEGORY Subp. 9. Underground storage.	DNR				No changes are recommended.
4410.4400 EIS CATEGORY Subp. 7 Underground storage.	DNR				
4410.4300 EAW CATEGORY Subp. 10. Storage facilities.	PCA	3	2	1	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4300 EAW CATEGORY Subp. 11. Metallic mineral mining and processing	DNR				No changes are recommended.
4410.4400 EIS CATEGORY Subp. 8. Metallic mineral mining and processing.	DNR		EIS: 1		
4410.4300 EAW CATEGORY Subp. 12. Nonmetallic mineral mining.	DNR/ LGU	3	7	9	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 9. Nonmetallic mineral mining.	DNR/LGU				
4410.4300 EAW CATEGORY Subp. 13. Paper and pulp processing mills.	PCA				No changes are recommended.
4410.4400 EIS CATEGORY Subp. 10. Paper and pulp processing mills.	PCA				
4410.4300 EAW CATEGORY. Subp. 14. Industrial, commercial, and institutional facilities.	LGU	1	5	3	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY. Subp. 11. Industrial, commercial, and institutional facilities.	LGU				
4410.4300 EAW CATEGORY Subp. 15. Air pollution.	PCA	1	3	1	No changes are recommended.

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY Subp. 16. Hazardous waste.	PCA	1			Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking.
4410.4400 EIS CATEGORY Subp. 12 Hazardous waste.	PCA				
4410.4300 EAW CATEGORY. Subp. 17. Solid Waste	PCA	1	1	2	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. The following additional changes recommended for future consideration: transfer facilities should be reviewed for possible elimination.
4410.4400 EIS CATEGORY Subp. 13. Solid Waste	PCA				
4410.4300 EAW CATEGORY Subp. 18. Wastewater systems.	PCA	4	3	2	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking.
4410.4300 EAW CATEGORY. Subp. 19. Residential development.	LGU	6	2	15	EQB staff support recommendations from LGUs that the criteria and threshold for these categories be modified, to provide greater clarity in determining if ER is required for a proposed project.
4410.4400 EIS CATEGORY. Subp. 14. Residential development.	LGU				
4410.4300 EAW CATEGORY Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.	LGU				EQB staff support recommendations from LGUs that the criteria and threshold for these categories be modified, to provide greater clarity in determining if ER is required for a proposed project.
4410.4400 EIS CATEGORY Subp. 14a. Residential Development in shoreland outside of the seven-county Twin Cities metropolitan area.	LGU				
4410.4300 EAW CATEGORY Subp. 20. Campgrounds and RV parks.	LGU	2			Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4300 EAW CATEGORY Subp. 20a. Resorts, campgrounds, and RV parks in shorelands.	LGU				
4410.4300 EAW CATEGORY Subp. 21. Airport projects.	DOT/ LGU/ MAC				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 15. Airport runway projects.	DOT/LGU		EIS:1		

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY Subp. 22. Highway projects.	DOT/ LGU	7	5	12	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 16. Highway projects.	DOT/ LGU				
4410.4300 EAW CATEGORY Subp. 23. Barge fleetling.	DOT				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4300 EIS CATEGORY Subp. 17. Barge fleetling facilities.	DOT				
4410.4300 EAW CATEGORY Subp 24. Water appropriation and impoundments.	DNR	2			No changes are recommended.
4410.4400 EIS CATEGORY Subp. 18. Water appropriation and impoundments.	DNR		EIS 1		
4410.4300 EAW CATEGORY Subp. 25. Marinas.	LGU	2	6		Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4400 EIS CATEGORY Subp. 19. Marinas.	LGU				
4410.4300 EAW CATEGORY Subp. 26. Stream diversion.	LGU	10	3	4	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.
4410.4300 EAW CATEGORY Subp. 27. Wetlands and public waters.	LGU	9	6	8	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended
4410.4400 EIS CATEGORY Subp. 20. Wetlands and public waters.	LGU				
4410.4300 EAW CATEGORY Subp. 28. Forestry	DNR				No changes are recommended.
4410.4400 EIS CATEGORY Subp. 28 Genetically engineered wild rice.					No changes are recommended.
4410.4300 EAW CATEGORY Subp. 29. Animal feedlots.	PCA/ LGU	7	8	14	No changes are recommended.
4410.4300 EAW CATEGORY Subp. 30. Natural areas.	DNR/ LGU			1	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended.

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY Subp. 31. Historical places.	LGU	1	3	8	EQB staff recommend the minor clarifying edits in proposed rule language and also recommend this category be further modified to provide greater clarity for when ER is required. This mandatory category should be evaluated to assess if an alternative form of review would be warranted. DNR staff recommend modifying this category to exclude EAW requirements for projects that are subject to consultation between state agencies and the State Historic Preservation Office (SHPO) under MS 138, where no other governmental actions are identified.
4410.4300 EAW CATEGORY .Subp. 32. Mixed residential and industrial-commercial projects. 4410.4400 EIS CATEGORY. Subp. 21. Mixed residential and commercial-industrial projects.	LGU NONE LISTED	2	2	2	EQB staff support recommendations from LGUs that the criteria and threshold for these categories be modified, to provide greater clarity in determining if ER is required for a proposed project.
4410.4300 EAW CATEGORY Subp. 33. Communications towers.	LGU				No changes are recommended.
4410.4300 EAW CATEGORY Subp. 34. Sports or entertainment facilities.	LGU				No changes are recommended.
4410.4300 EAW CATEGORY Subp. 35. Release of genetically engineered organisms.	EQB				No changes are recommended.
4410.4300 EAW CATEGORY. Subp. 36. Land use conversion, including golf courses.	LGU/ Met Council	1	1	6	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended
4410.4300 EAW CATEGORY. Subp. 36a. Land conversions in shoreland. 4410.4400 EIS CATEGORY Subp. 27. Land conversions in shorelands.	LGU LGU				Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. No additional changes are recommended

Mandatory Category Number, Title	RGU	2015	2016	2017	Recommendation
4410.4300 EAW CATEGORY Subp. 37. Recreational trails.	DNR/LGU		1	3	Proposed changes to this mandatory category are included in the 2018 Mandatory Categories Rulemaking. DNR staff recommend modifications for how miles of new types of motorized trail use are calculated in subpart B.

APPENDIX A: Prepared by the Department of Transportation

TABLE A: MINNESOTA DEPARTMENT OF TRANSPORTATION CATEGORIES as RGU			
Mandatory Category	Intended Historical Purpose	Potential Local, State, or Federal Permits	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 21. Airport projects. Items A and B designate the RGU for the type of project listed:</p> <p>A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU.</p> <p>B. For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.</p>	<p><u>page 145 of 1982 SONAR</u>: This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, and energy. New facilities and expansion of existing facilities to accommodate noisier aircraft are more likely to be controversial. The EAW threshold for a new airport runway in the “key system” existed in the previous rule.</p> <p>The basic qualitative measure applied to these categories is that airports able to accommodate jet aircraft have greatest potential to create significant environmental impacts. Facilities to accommodate jet aircraft must include a runway of 5,000 length or greater. The construction of a new facility to accommodate jet air traffic is proposed as a mandatory EIS threshold. The more likely case is that an existing facility would be expanded from a strictly small aircraft facility to a jet aircraft facility. Similar concerns could arise with runway modifications to allow use by larger jet facilities. Such potential expansion is addressed as a mandatory EAW with the need for an EIS discretionary. The 12,500 pound aircraft weight corresponds to a minimal weight for jet aircraft. The three decibel increase corresponds to a noise increase 1000 times the prior noise level. Construction of new facilities for multi-engine, twin engine and single engine aircraft and expansion of these facilities to less than jet aircraft capacity is subject to environmental review on a discretionary basis. The proposed EIS category corresponds to the current EAW threshold. Minnesota has 18 key system airports. Key system airports are airports capable of handling jet aircraft. Minnesota has 73 intermediate system airports (light to medium sized multi-engine aircraft) and 50 landing strip system airports (single and twin engine aircraft).</p>	<p>Local:</p> <ul style="list-style-type: none"> - Possible subdivision/platting review - grading permit - building permit for structures - conditional use permits <p>State: NPDES Construction General Permit (stormwater pollution prevention during construction)</p> <p>Federal: FAA 7460 Notification (height, safety and operational hazards related to airspace)</p>	<p>Zoning issues are enacted and enforced at the local level. Stormwater concerns are addressed at the state level with the NPDES Construction permit. At the federal level, the RGU must work with FAA to meet all applicable federal regulations, per the 7460 Notification process (e.g. height restrictions, safety and operational issues). The environmental review process allows for public input, and will identify potential issues of contamination, historical and cultural significance, community issues (e.g. noise and socio-economics) or cumulative impacts and land use considerations. In the metropolitan area, the Metropolitan Airport Commission (MAC) conducts air quality or noise analyses, if the environmental review identifies an area of concern. In greater Minnesota, the airport conducts these analyses.</p> <p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p>See Appendix A for EQB’s analysis of these categories.</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4300, subpart 21. Airport projects. Airport projects. Items A and B designate the RGU for the type of project listed: A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be <u>is</u> the RGU. B. For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local governmental <u>al</u> unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be <u>is</u> selected according to part 4410.0500, subpart 5.</p>

TABLE A: MINNESOTA DEPARTMENT OF TRANSPORTATION CATEGORIES as RGU

Mandatory Category	Intended Historical Purpose	Potential Local, State, or Federal Permits	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 15. Airport runway projects. For construction of a paved and lighted airport runway of 5,000 feet of length or greater, the DOT or local government unit shall be the RGU.</p>	<p>Page 19 of 1997 SONAR: In 1997, the rule was amended to require an EAW for all new airport runways.</p>		<p>Zoning issues are all handled at the local level. Stormwater concerns are addressed at the state level with the NPDES Construction permit. At the federal level, the RGU must work with FAA to meet all applicable federal regulations, per the 7460 Notification process (e.g. height restrictions, safety and operational issues). The environmental review process allows for public input, and will identify potential issues of contamination, historical and cultural significance, community issues (e.g. noise and socio-economics) or cumulative impacts and land use considerations. In the metropolitan area, the Metropolitan Airport Commission (MAC) conducts air quality or noise analyses, if the environmental review identifies an area of concern. In greater Minnesota, the airport conducts these analyses.</p> <p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4400, subpart 15. Airport runway projects.</p> <p>For construction of a paved and lighted airport runway of 5,000 feet of length or greater, the DOT or local government governmental unit shall be <u>is</u> the RGU.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 22. Highway projects. Items A to C designate the RGU for the type of project listed: A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local government unit shall be the RGU. B. For construction of additional travel lanes on an existing road for a length of one or more miles, the DOT or local government unit shall be the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local government unit shall be the RGU.</p>	<p>page 146 of 1982 SONAR: This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, energy, water quality, erosion, drainage, water resources, habitat destruction, and construction impacts. New facilities and the expansion of existing facilities to accommodate increased traffic are more likely to generate controversy. Primary concern is generated by the construction of arterial and collector roadways because they tend to induce secondary development in the area and they accommodate approximately 85% of the total mileage driven by motorists. Arterial roadways are commonly four or more lanes in width. The EIS category at uses this as a qualitative threshold</p>	<p>Local:</p> <ul style="list-style-type: none"> - Possible subdivision/platting review - grading permit - building permit for structures-- - conditional use permits - -Watershed District permit (wetland mitigation, stormwater pollutant restrictions, infiltration requirements, or volume control reductions) <p>State: NPDES Construction (stormwater pollution prevention during construction) 401 Certification (MPCA authority to review 404 permit applications (per CWA))</p> <p>Federal: USACE Section 10 (work on structures other than bridges or causeways that affect the course, condition, or capacity of navigable waters of the United States) or USACE 404 (regulates the discharge of dredged and fill material into waters of the United States, including wetlands)</p>	<p>See Appendix A for EQB's analysis of these categories.</p> <p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4300, subpart 22. Highway projects. Highway projects. Items A to C designate the RGU for the type of project listed: A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local governmental unit shall be <u>is</u> the RGU. B. For construction of additional travel-through lanes <u>or passing lanes</u> on an existing road for a length of one two or more miles, <u>exclusive of auxiliary lanes</u>, the DOT or local governmental unit shall be <u>is</u> the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local governmental unit shall be <u>is</u> the RGU.</p>

TABLE A: MINNESOTA DEPARTMENT OF TRANSPORTATION CATEGORIES as RGU

Mandatory Category	Intended Historical Purpose	Potential Local, State, or Federal Permits	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 16. Highway projects. For construction of a road on a new location which is four or more lanes in width and two or more miles in length, the DOT or local government unit shall be the RGU.</p>			<p>Different levels of local coordination or permits are necessary, depending on the project proposer. Water quality, wetland preservation/mitigation, and construction stormwater issues are addressed through state and federal permits. The environmental review process allows for public input, and will identify potential issues of contamination, historical and cultural significance, community issues (e.g. noise and socio-economics), cumulative impacts and land use considerations. At this time, MnDOT in coordination with LGUs do not recommend changes to this categorical threshold.</p> <p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4400, subpart 16 Highway projects.</p> <p>For construction of a road on a new location which is four or more lanes in width and two or more miles in length, the DOT or local government <u>governmental unit shall be</u> the RGU</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4400, subpart 16 Highway projects.</p> <p>For construction of a road on a new location which is four or more lanes in width and two or more miles in length, the DOT or <u>local government</u> governmental unit shall be <u>is</u> the RGU</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 23. Barges.</p>	<p><u>page 151 of 1982 SONAR:</u> This category area is proposed because of the potential for significant impacts related to water quality, air quality, noise, wildlife habitat, aesthetics, and the use of public resources. The qualitative measure of the thresholds applied to the EAW category is the area of water surface occupied by the facility. This measure most appropriately reflects the total potential¹ for impacts from the facility. The quantitative threshold proposed corresponds to approximately one half acre. Such a facility would accommodate approximately 80 boats. The proposed category is the same as the current rules. This threshold has proven to, be reasonable for defining major facilities. Marinas may be constructed in wild and scenic river areas, however; because of the unique character of these areas, the areas are generally inappropriate for marinas. Under the current rules, requests for EISs on¹ marinas have mostly been confined to wild and scenic river systems.</p>	<p>Local: Site Plan Approval. Possible subdivision/platting review, grading permit, building permit for structures, or conditional use permits (operator facilities)</p> <p>State: DNR, MPCA and MnDOT (review or permitting of sheet pile at edge of slip)</p> <p>Federal: USACE Section 404 permit, FAA Temporary Airspace Permit (for construction cranes) FAA Permanent Airspace Permit (with mapping revisions for cranes and building locations in area)</p> <p>International: Boundary Waters Treaty of 1909 (guarantees international navigable waters be free and open)</p>	<p>Local entities review siting, and permits related to buildings and operational facilities. State and Federal agencies take an interested in work that is done in the water. The international treaty guarantees that international waters remain open for navigational purposes. The environmental review process allows for public input, and will identify potential issues of contamination, historical and cultural significance, community issues (e.g. noise and socio-economics) or cumulative impacts and land use considerations. MnDOT and the Minnesota Port Authorities agree that the state categorical thresholds are set at a reasonable level, which protects environmental resources, without negatively impacting state commerce.</p> <p><u>Recommendation:</u> No change to this category.</p> <p>See Appendix A for EQB's analysis of these categories</p>
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 17. Barge Fleeting Facilities.</p>			<p>Local entities review siting, and permits related to buildings and operational facilities. State and Federal agencies take an interested in work that is done in the water. The international treaty guarantees that international waters remain open for navigational purposes.</p> <p><u>Recommendation:</u> No change to this category.</p> <p>See Appendix A for EQB's analysis of these categories</p>

APPENDIX B: Prepared by the Department of Natural Resources

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU				
Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Underground Storage</p> <p>4410.4300 subp. 9 A</p>	<p>Subp. 9. Underground storage. Items A and B designate the RGU for the type of project listed:</p> <p>A. For expansion of an underground storage facility for gases or liquids that requires a permit, pursuant to Minnesota Statutes, section 1031.681, subdivision 1, paragraph (a), the DNR shall be the RGU.</p>	<p>(1982) This category is proposed because this type of project is new and largely untested, is very large in scope, has the potential for groundwater contamination and serious human health impacts and is very controversial.</p> <p>Minn. Stat. § 84.57 mandates a permit for the displacement of groundwater by the underground storage of gases or liquids under pressure. The Department of Natural Resources (DNR) is the responsible permitting agency. No specific rules have been promulgated regarding this authority. One facility of this type has been constructed in Minnesota. No EIS was prepared for that facility. The DNR is currently processing a second application. An EIS has been ordered on the proposed facility. The primary environmental effects of concern on this type of project are groundwater quantity and quality impacts. The lack of a formal process for citizen comment further documents the need for environmental review of this type of activity.</p>	<p>State: Minn. Statutes, section 1031.681 Minn. Rules, part 6115.0130 Minn. Statutes, chapter 216B Minn. Rules, Chapter 7851</p>	<p>Two state projects currently involve underground storage. Both were developed prior to MEPA. Both also require a great deal of ongoing regulatory oversight indicating that potential long-term management and possible environmental and human health consequences of such projects are high.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>
<p>Underground Storage</p> <p>4410.4300 subp. 9 B</p>	<p>B. For expansion of an underground storage facility for gases or liquids, using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, section 1031.681, subdivision 1, paragraph (b), the DNR shall be the RGU.</p>	<p>(1982) Minn. Stat. § 84.621 mandates a permit for the storage Of gases or liquids, other than water, in natural rock formations underground. These formations could be naturally occurring or the result of the mining of rock material to create a storage site in a rock formation. No facilities of this type currently are found in Minnesota and no formal proposals have been presented. It is known, however, that the concept of mining rock to create an underground Cavity in the bedrock is being discussed. The purpose of the cavity would be to potentially store petroleum products. The primary environmental concerns associated with such an activity would be related to groundwater quality and safety concerns. The DNR is the responsible permitting agency for this type of activity. No specific rules have been promulgated regarding this authority. The lack of a formal process for citizen comment further documents the need for environmental review of this type of activity.</p>	<p>State: Minn. Statutes, section 1031.681 Minn. Rules, part 6115.0130 Minn. Statutes, chapter 216B Minn. Rules, Chapter 7851</p>	<p>Two state projects currently involve underground storage. Both were developed prior to MEPA. Both also require a great deal of ongoing regulatory oversight indicating that potential long-term management and possible environmental and human health consequences of such projects are high.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>
<p>Metallic mineral mining and processing</p> <p>4410.4300 subp. 11 A</p>	<p>Subp. 11. Metallic mineral mining and processing. Items A to C designate the RGU for the type of project listed:</p> <p>A. For mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite, the DNR shall be the RGU.</p>	<p>(1982) Mineral deposit evaluation activities have the potential for causing environmental impacts similar to those of mining - but on a smaller scale. This type of mining activity was not specifically addressed in the current rules. Minnesota has had lengthy experience in evaluating the impacts of mineral deposit evaluation and mining of natural iron ore and taconite. These activities are regulated pursuant to the Mineland Reclamation Rules, 6 MCAR § 1.401. This regulation provides adequate review for most natural iron ore and taconite mineral deposit evaluation activities, therefore, this type of activity is excluded from 6 MCAR § 3.038 J.I. and is subject to environmental review on a discretionary basis. Minnesota has had relatively little experience in evaluating the impacts of mining and mineral deposit evaluation of other types of mineral deposits. Such mining is considered most likely in Minnesota for ores of copper, nickel, and uranium. Because of the lack of experience and lack of other regulations related to these mining activities, they are subject to mandatory environmental review.</p>	<p>State: Underground injection control permit, Dam safety permit, Public Waters Work permit, Water appropriation permit, Permit to mine, Approval of reclamation plan, Approval of exploration plans on state lands, Listed species takings permit, Option D registration air permit, Construction stormwater general permit, Title V construction/operating air permit, SDS/NPDES permit State, grant award</p>	<p>A review of prepared EAWs indicated that several potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, native plant community impacts, indirect impacts to surface waters and cumulative effects. No single permit regulates the project as a whole, so environmental review was the only opportunity to analyze effects of the whole project. Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process. Several public comment letters were received on these EAWs, and public comments identified substantive environmental concerns and offered monitoring and mitigation recommendations for implementation by the proposer or via ongoing regulatory authority.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
4410.4300 subp. 11 B	B. For expansion of a stockpile, tailings basin, or mine by 320 or more acres, the DNR shall be the RGU.	(1982) At 6 MCAR § 3.038 J.2. an acreage threshold is used for the EAW for expansion of an existing facility. The lesser EAW requirement is provided for expansions because the impacts related to land use, siting, and demographics are reduced and the primary concerns relate to the mitigation of direct physical impacts. This could be done without an EIS.	Local: Conditional use permit Building permit (variance) Burn permit Septic system permit State: Water appropriation permit Public waters work permit Dam safety permit Permit to mine amendment Approval of reclamation plan Listed species takings permit Construction stormwater general permit SDS permit 401 Certification Well installation permit Federal: Section 404 permit	Review of EAWs required by this category indicates that several potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, native plant community impacts, and cumulative effects to headwater streams. No single permit regulates the project as a whole, so environmental review was the only opportunity to analyze effects of the whole project. Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process. Recommendation: No changes are recommended. Maintain this EAW category.
<u>Metallic mineral mining and processing</u> 4410.4300 subp. 11 C	C. For expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of 1,000,000 tons per year in the case of facilities for processing natural iron ore or taconite, the DNR shall be the RGU.	(1982) At 6 MCAR § 3.038 J.3. a percentage expansion figure is used as a threshold for an EAW. The lesser EAW requirement is provided for expansions because the impacts related to siting and demographics are reduced and the primary concerns relate to the mitigation of direct physical impacts. This could be done without an EIS.	Local: Building permit Zoning variances Permit for construction in shoreland area State: Permit to mine amendment Public waters work permit Listed species takings permit Part 70 operating permit – major modification NPDES/SDS permit Industrial stormwater permit Construction stormwater general permit Storage tank permit Solid waste permit Hazardous waste generator license Radioactive material registration	Experience with environmental review documents required by this category have identified similar issues to those described for 441.4300, subparts 11A and 11B. Recommendation: No changes are recommended. Maintain this EAW category.

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Nonmetallic mineral mining</p> <p>4410.4300 Subp. 12A</p>	<p>Subp. 12. Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence, the DNR shall be the RGU.</p>	<p>(1982) The extraction of peat resources has the potential for causing environmental impacts relating to land use, air quality, water quality, mining and drainage. Current peat mining activities tend to be of small scale and for the purpose of marketing the peat as a horticultural product or as a briquet fuel. Peat mining is expected to be extremely controversial if proposals develop to utilize the resource for other energy uses. Data based on actual development of these resources on a broad scale is limited. The threshold levels of 160 acres for a mandatory EAW (6 MCAR § 3.038 K.1.) and 320 acres for a mandatory EIS (6 MCAR § 3.039 H.1.) coincide with Department of Natural Resources policy as set forth in the Minnesota Permit Program Policy Recommendations. In the current rules the 320 acre threshold for an EAW for nonmetallic resources would have applied to peat extraction</p>	<p>Local: Conditional use permit Land exchange</p> <p>State: Water appropriation permit Permit to mine (Reclamation permit) Land lease Listed species takings permit NPDES/SDS permit 401 certification Driveway permit (Mn/DOT)</p> <p>Federal: 404 permit Loan application</p>	<p>DNR staff reviewed several peat mining operations in the past ten years and is aware of additional proposed projects that may require review by this category. Each of these projects may have had the potential for significant environmental effects and thus environmental review was appropriate. The relationship of these proposals to federal requirements under Section 404 of the Clean Water Act has been difficult. There has been no information or data to indicate that the 160 acre threshold needs revision.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Maintain this EAW category</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 12. Nonmetallic mineral mining. Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will extract 40 or more acres of land to a mean depth of ten feet or more during its existence, the local government governmental unit shall be is the RGU.</p> <p>C. <u>For development of a silica sand project that excavates 20 or more acres of land to a mean depth of ten feet or more during the project's existence, the local governmental unit is the RGU.</u></p>
<p>Water appropriation and impoundments</p> <p>4410.4300 Subp. 24 A</p>	<p>Subp. 24. Water appropriation and impoundments. Items A to C designate the RGU for the type of project listed:</p> <p>A. For a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30,000,000 gallons per month; or a new appropriation of either ground water or surface water for irrigation of 540 acres or more in one continuous parcel from one source of water, the DNR shall be the RGU.</p>	<p>(1982) Water appropriation may have significant impact upon existing users of the water and the rights of potential users as well as potential water table impacts that may alter entire ecosystems. Water appropriation is regulated by the Department of Natural Resources (DNR) pursuant to 6 MCAR § 1.5050, however, for large projects more comprehensive environmental review is necessary. The proposed categories and thresholds are the same as the current rules with one exception. The threshold for agricultural appropriation is reduced from 640 to 540 acres. This was done to clarify the threshold. The original intent was to cover center pivot irrigation systems capable of irrigating one section (640 acres) of land. However, such a system actually wets approximately 540 acres. The 540 figure was used in response to requests to clarify the intent of the category. An acreage measure is used for agricultural appropriations because this measurement is more compatible with the DNR's regulatory system.</p> <p><i>(1988) (Earlier versions also required preparation of an EAW if appropriations exceeded 2 mgd; this was eliminated in 1988).</i> This revision will provide that industrial-commercial projects will be reviewed according to the essential nature of the project, rather than because a water appropriation may be involved as a secondary component of the project.</p> <p>Confusion has arisen in the past between the mandatory category for water appropriations and other mandatory categories for projects which involve large appropriations of water; the most common example has been peat mining projects. Peat mines of less than 160 acres do not require an EAW according to the non-metallic mineral mining categories; however, such projects sometimes must appropriate more than 2 million gallons of water per day over a short period of time, such as periods of heavy rainfall. Deleting the 2 million gallon per day component of the threshold would eliminate confusion of this nature. Projects which appropriate large quantities of water on a continuous basis will still be covered by the 30 million gallon per month threshold.</p>	<p>Local: Grade and fill permit Building permit Conditional use permit Land use permit</p> <p>State: Water appropriation permit Public water work permit Utility crossing license Permit to appropriate from infested waters Listed species takings permit Construction stormwater general permit Tank registration Air emissions permit</p> <p>Federal: 404 permit</p>	<p>Potential impacts of concern identified during EAWs required by this category have included resources affected by both the appropriation and, in some cases, the discharge of this water. DNR found that ongoing regulatory authority over some of those impacts was limited and would not have addressed some likely impacts of the project. In addition, most of the required permits associated with projects do not have a public input process, so provision of public comments occurred only via the EAW.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU				
Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Water appropriation and impoundments</p> <p>4410.4300 subp. 24 B</p>	<p>B. For a new permanent impoundment of water creating additional water surface of 160 or more acres or for an additional permanent impoundment of water creating additional water surface of 160 or more acres, the DNR shall be the RGU.</p>	<p>(1982) The impoundment category at 6 MCAR § 3.038 W.2. utilized a surface area-qualitative measure because this measure is most closely tied to changes in land use. The volume threshold of acre-feet of water was considered but rejected as having a less direct correlation with impacts and as being more difficult to use administratively. This category was restricted to permanent impoundments because temporary impoundments frequently do not last long enough to modify the current land use. The quantitative threshold was reduced from 200 acres as in the current rules to the proposed 160 acres. This measurement is more consistent with conventional land measurement and with other categories proposed relating to permanent conversion of natural and agricultural lands.</p> <p>(1997) In item B language is inserted for clarification to avoid the misinterpretation that small additions to impoundments might be interpreted to require a mandatory EAW once the 160-acre threshold had been passed. It is the size of the addition and not the total size of the impoundment that is the crucial factor.</p>	<p>N/A</p>	<p>The DNR is aware of a number of projects developed in recent years that have met or exceeded this threshold. The DNR still believes the issues identified in the 1982 and 1997 SONARs that created this category remain valid.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category</p>
<p>Water appropriation and impoundments</p> <p>4410.4300 subp. 24 C</p>	<p>C. For construction of a dam with an upstream drainage area of 50 square miles or more, the DNR shall be the RGU.</p>	<p>(1997) In item C, "class II dam" has been deleted since it is a hazard classification and does not relate directly to environmental impacts. In place of "class II" dams has been substituted "dams with an upstream drainage area of at least 50 square miles." This will include many of the class II dams, but will also include some dams of lower hazard classification. It is believed that the watershed size is a better indicator of potential environmental impacts than is hazard classification.</p>	<p>Local: Conditional use permit WCA mitigation plan Lake level manipulation application</p> <p>State: Public water work permit Dam safety permit</p> <p>WCA mitigation plan (state project) NPDES/SDS permit</p> <p>Federal: 404 permit 401 certification (EPA – reservation)</p>	<p>In recent EAWs required by this category, there was strong public policy interest in how lake levels would be managed, as well as concerns not manageable through ongoing regulatory authority, such as the tradeoffs between negative impacts to fisheries resources and benefits to wildlife. Other potential impacts identified were to downstream water quality, shoreline property, and lake access. In these projects, the EAW was able to assess the project as a whole and collect information regarding environmental effects and project concerns generally, while regulatory permits utilized this information to successfully regulate parts of the project and partial impacts. The EAW process also allows for public comments, which some key permits do not.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>
<p>Forestry</p> <p>4410.4300 subp. 28 A</p>	<p>Subp. 28. Forestry. Items A and B designate the RGU for the type of project listed:</p> <p>A. For harvesting of timber for commercial purposes on public lands within a state park, historical area, wilderness area, scientific and natural area, wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or critical area that does not have an approved plan under Minnesota Statutes, section 86A.09 or 116G.07, the DNR shall be the RGU.</p>	<p>(1982) Harvesting of timber on publicly owned lands is likely to be controversial. Most activities of this nature are subjected to public review pursuant to the development of a management plan for the area.</p> <p>Environmental review for timber harvesting on public lands not included in such plans is proposed pursuant to 6 MCAR § 3.038 AA.I. It is reasonable to require public review over activities that may significantly alter publicly owned resources.</p> <p>(1997) The caption is proposed to be changed because after the other revisions proposed, this subpart will apply only to forestry activities.</p> <p>Item C is proposed to be moved from this subpart to proposed new subpart 35 that deals with land use conversions.</p> <p>Item D is proposed to be moved from this subpart and reinserted in a modified form at the new subpart 35 dealing with land use conversions.</p>	<p>State: Master plan prepared under M.S. 86A.09 Critical Area plan prepared under M.S. 116G.07</p>	<p>Although a project has not recently been proposed that would require preparation of an EAW under this threshold, the DNR still believes the issues identified in the 1982 and 1997 SONARs that created this category remain valid.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. . Maintain this EAW category.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 28. Forestry. Items A and B designate the RGU for the type of project listed:</p> <p>A. For harvesting of timber for commercial purposes on public lands within a state park, a historical area, a wilderness area, a scientific and natural area, a wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or a critical area that does not have an approved plan under Minnesota Statutes, section 86A.09 or 116G.07, the DNR shall be the RGU.</p>

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Forestry</p> <p>4410.4300 subp. 28 B</p>	<p>B. For a clearcutting of 80 or more contiguous acres of forest, any part of which is located within a shoreland area and within 100 feet of the ordinary high water mark of the lake or river, the DNR shall be the RGU.</p>	<p>(1982) Clearcutting of timber may be controversial depending on the location of the clearcut. A mandatory EAW is required at 6 MCAR § 3.038 AA. 2. for large clearcutting activities adjacent to water resources. Significant erosion and runoff may result from such activities. The 80 acre quantitative threshold and the 100 foot proximity threshold were established pursuant to the public meeting process as being reasonable. In practice, clearcuts usually do not exceed 20 to 40 acres. It should be noted that private timber management practices are not subject to this category if they do not require government approval.</p>	<p>Federal, State, Local: Timber sale</p>	<p>Updating of shoreland rules in 1989, passage of the Sustainable Forest Incentive Act in 2001 and implementation of SFI and FSC certification have put additional protections in place that make projects in this category rare. However, comments received during the EQB Mandatory Categories rulemaking (Revisor ID Number R-04157) indicated public concern regarding the potential removal of this category, citing the reasoning that the category acts as a deterrent for proposals occurring in shoreland areas.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p>
<p>Natural areas</p> <p>4410.4300 subp. 30</p>	<p>Natural areas. For projects resulting in the permanent physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.</p>	<p>(1982) Enabling legislation conferring authority for the designation of these public facilities mandates the preparation of a master management plan for the unit. These plans may vary according to the characteristics of the area and purposes for designation. As a result, the standard of "inconsistent with the management plan" is proposed: This is the most reasonable method of addressing the diversity among these units.</p>	<p>Local: Private developments within a recreation unit would be subject to local permits</p> <p>State: Master plan prepared under M.S.86A.09</p> <p>Federal: National Park management plans SNF Management Plan</p>	<p>This category requires review for projects that conflict with approved master plans for outdoor recreation units. The category should be retained in the event an inconsistent project is proposed. The most likely situation would be a private development proposal on an inholding within a state park. The DNR believes it is unlikely an inconsistent project would encroach on a state trail corridor and therefore recommends deleting state trail corridors from the category. Clarification could be considered regarding how this category applies when master plan revisions (that are subject to a public review process) are proposed.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Maintain this EAW category.</p> <p>See Appendix A for EQB's analysis of these categories</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 30. Natural areas. Natural areas. For projects resulting in the permanent physical encroachment of lands within a national park, a state park, a wilderness area, state lands and water within the boundaries of the Boundary Waters Canoe Area, or a scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local governmental unit shall be the RGU.</p>
<p>Historical places</p> <p>4410.4300 subp. 31</p>	<p>Historical places. For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.</p>	<p>(1982) Approximately 907 sites in Minnesota are currently listed on the National Register. Sites so listed are regarded to be nationally significant resources. These sites are frequently privately owned and there may be little financial incentive for the owner to maintain the site if it is located in a high development potential area. Public review may produce feasible alternatives to the destruction of the facility. The opportunity to review these alternatives via environmental review is reasonable because of the lack of other forms of regulation.</p> <p>(1997) Three changes are being proposed to this category.</p> <p>First, "destruction" of a historic property is being clarified to explicitly include being moved to a new location and partial destruction of the physical structure of the place. In practice, the existing category has been interpreted in this way in the past by the Historical Society and the EQB, and it would be beneficial to make this explicit. The logic behind the interpretation is that in some or many cases the historic value of a designated property derives from its association with its locale (e.g., a remaining example of the type of dwelling built by the earliest settlers in a particular place) or from certain features of a building design rather than from the structure as a whole (e.g., certain details of a building facade might be exemplary of a certain architectural style). In these cases, moving the structure or demolishing part of the structure might destroy the historical value of the place without the literal destruction of the property.</p>	<p>State: Funding for state project Building and electrical permit</p>	<p>In acting as RGU for its own projects in this category, the agency has found that consultation required under the Minnesota Historic Sites Act (MS 138.661-138.669) may sometimes be the only external governmental action applicable to projects exceeding this threshold. Timelines for project DNR defers to the State Historic Preservation Office regarding any specific language changes to the category because of its special expertise with respect to historic sites.</p> <p>Recommendation: Modify to exclude EAW requirements for projects that are subject to consultation between state agencies and the SHPO under MS 138 where no other governmental actions are identified.</p> <p>See Appendix A for EQB's analysis of these categories</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 31. Historical places. For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local governmental unit of government shall be is the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16 54, section 470 306108, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49,</p>

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Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
		<p>Second, the scope of this category is being proposed to be expanded to cover places listed on the State Register of Historic Places as well as the National Register.</p> <p>Third, it is being proposed that the EAW requirement not be applied to historic places that undergo historic review under two federal programs. The, first is review under the National. Historic Preservation Act of 1966 (16 U.S.C. 470), section 106; this review is commonly referred to as "section 106" review. The second is review pursuant to 49 U.S.C. 303, federal policy of lands, wildlife and waterfowl refuges, and historic sites; this review is commonly referred to as "section 4f" review. These reviews apply to projects sponsored or assisted by federal agencies, including many highway construction projects. The review of historical resources under these programs is typically more rigorous than would be the case with an EAW, and therefore, requiring projects to undergo both would be redundant.</p> <p>(2006) (Additional wording added) The revisions to this category were suggested in discussions about the present category thresholds with the staff of the Minnesota Historical Society's State Historic Preservation Office (SHPO). The revisions would add two additional reasons or situations where no EAW would be required prior to the destruction of a property on the National or State registers of Historic Places.</p> <p>The present rules recognize two situations as not requiring preparation of the EAW. These both involve review of historic values through other established federal processes. It is now proposed to add another such situation, namely where the destruction will be reviewed by a certified local heritage preservation commission. The State Historic Preservation Office believes that review by such a commission gives adequate oversight over historic places without preparation of an EAW. To be certified, a local heritage preservation commission applies to SHPO, which reviews the application and local ordinance for consistency with nationwide standards established in the Code of Federal Regulations at the cited locations.</p> <p>The second situation proposed to be added is not a substitute form of review but rather has to do with the nature of the property proposed for destruction. In some cases, the historic place included on the National or State Register is an entire district rather than a single structure. In such districts, not all the properties actually have or contribute to the historic value of the district. A "non-contributing property" is a property located within the boundaries of a designated historic district but which itself is not historic and does not contribute to the historical attributes of the district as a whole. Often, non- contributing properties are buildings constructed many years after the period during which the historic buildings of the district were built. Sometimes these non-contributing properties are identified as being non-contributing in the historic place designation documents, but not always. It is proposed that the destruction of non-contributing properties not require preparation of an EAW if either they are identified as being non-contributing in the designation documents or if the State Historic Preservation Office reviews the matter and issues a determination that the property is non-contributing.</p>		<p>section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.</p>

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<p>Recreational trails</p> <p>4410.4300 subp. 37</p>	<p>Recreational trails. If a project listed in items A to F will be built on state-owned land or funded, in whole or part, by grant-in-aid funds administered by the DNR, the DNR is the RGU. For other projects, if a governmental unit is sponsoring the project, in whole or in part, that governmental unit is the RGU. If the project is not sponsored by a unit of government, the RGU is the local governmental unit. For purposes of this subpart, "existing trail" means an established corridor in current legal use.</p>	<p>(2004) This paragraph prescribes which governmental unit will be the RGU, which stands for "Responsible Governmental Unit," for preparing EAWs for the recreational trails for which review will be required under this subpart. Each mandatory category has an RGU designation listed for it in the appropriate subpart of part 4410.4300. The Department of Natural Resources (DNR) is named as RGU for all trail projects for which it is either the project constructor or the provider of grant-in-aid funds. This assignment is consistent with the general principles for RGU assignment at part 4410.0500 that (1) if a state agency will carry out a project it is the RGU (4410.0500, subp. 1) and (2) the RGU is the unit with the greatest responsibility for supervising or approving the project as a whole or has expertise that is relevant for the review (4410.0500, subp. 5, item B). Where grant-in-aid funds are being supplied to assist with a project the DNR must review and approve the plans for the project prior to entering into the grant agreement.</p> <p>This gives the DNR a strong degree of authority over the project. In addition, the DNR staff has expertise with the review of recreational trails that is likely to be greater than that available to a local unit of government that would be a sponsor for a grant-in-aid trail. Furthermore, assigning all grant-in-aid projects to the DNR will promote more uniform review of all grant-in-aid projects regardless of where they take place. For those projects not constructed by the DNR or involving state grant-in-aid funds, but which will be sponsored by another unit of government, the sponsoring unit will be the RGU; this is consistent with the general principle of RGU assignment cited as #2 above. For all other projects, the RGU will be the local governmental unit, in keeping with the RGU assignment in other mandatory categories where the permitting responsibility is at the local level. It should be noted that there may be some private trail projects which require no governmental permits, and therefore would not be "governmental actions" under these rules and not be subject to Environmental Review at all.</p>	<p>N/A</p>	<p>Several EAWs have been prepared for projects under this category since the rule came into effect in 2004, including six since 2016. Trail projects have included hiking trails, mountain bike trails, hunter walking trails, and OHV trails. Several potential environmental issues, including some that are not directly regulated, were evaluated during these EAW processes. Unregulated potential impacts included wildlife habitat effects, wildlife disturbance, and native plant community impacts. No single permit regulates these projects as a whole, so environmental review was the only formal opportunity to analyze effects of the whole project. Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Maintain this EAW category.</p> <p>See Appendix A for EQB's analysis of these categories</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Part 4410.4300, subpart 37. Recreational trails.</p> <p>Recreational trails. If a project listed in items A to F will be built on state-owned land or funded, in whole or part, by grant-in-aid funds administered by the DNR, the DNR or the LGU is the RGU. For other projects, if a governmental unit is sponsoring the project, in whole or in part, that governmental unit is the RGU. If the project is not sponsored by a unit of government, the RGU is the local governmental unit. For purposes of this subpart, "existing trail" means an established corridor in current legal use.</p> <ul style="list-style-type: none"> A. Constructing a trail at least ten 25 miles long on forested or other naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing, unless exempted by part 4410.4600, subpart 14, item D, or constructing a trail at least 20 miles long on forested or other naturally vegetated land exclusively for snowmobiling or cross-country skiing. B. Designating at least 25 miles of an existing trail for a new motorized recreational use other than snowmobiling. When designating an existing motorized trail or existing corridor in current legal use by motor vehicles, the designation does not contribute to the 25-mile threshold under this item. When adding a new recreational use or seasonal recreational use to an existing motorized recreational trail, the addition does not contribute to the 25-mile threshold if the treadway width is not expanded as a result of the added use. <p>In applying items A and B, if a proposed trail will contain segments of newly constructed trail and segments that will follow an existing trail but be designated for a new motorized use, an EAW must be prepared if the sum total length of the quotients obtained by dividing the length of the newly constructed and newly designated trail by 25 miles, equals or exceeds one segments is at least 25 miles.</p> <ul style="list-style-type: none"> C. Paving ten or more miles of an existing unpaved trail, unless exempted by part 4410.4600, subpart 27, item B or F. Paving an unpaved trail means to create a hard surface on the trail with a material impervious to water. D. Constructing an off-highway vehicle recreation area of 80 or more acres, or expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural land or forested or other naturally vegetated land.

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<p>Recreational trails</p> <p>4410.4300 subp. 37 A</p>	<p>A. Constructing a trail at least ten miles long on forested or other naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing, unless exempted by part 4410.4600, subpart 14, item D, or constructing a trail at least 20 miles long on forested or other naturally vegetated land exclusively for snowmobiling or cross-country skiing</p>	<p>(2004) Item A would require mandatory preparation of an EAW for the kinds of trails named with the thresholds based on trail length. Item A covers construction of new trails (or extensions of existing trails) which do not follow the alignment of an existing trail. Except for winter uses, the threshold proposed for this category is 10 miles. For the named winter uses, the threshold is proposed to be twice as long, 20 miles, as these uses are generally considered to have lesser potential for environmental impacts due to the fact that frozen soil conditions and snow or ice cover greatly reduce the potential for physical environmental damage. Item A would only apply to trails crossing land that was now forested or otherwise covered with natural vegetation for a distance of at least 10 continuous miles. If a trail was to be partially on naturally vegetated land only the length on such land would be counted.</p> <p>Length was chosen as the primary threshold parameter in order to make the recreational trail categories analogous to the existing categories for linear-type projects, including electrical transmission lines (subp. 6), pipelines (subp. 7), and highways (subp. 22). As stated in the 1982 SONAR, linear projects “usually entail greater impact as a function of increased length.” (pg. 119) Although different types of linear projects differ in the extent of their potential for various environmental impacts, generally speaking they all vary in accordance with project length. Specifically for recreational trails, while different types of trails or trail uses vary in their potential for impacts such as ecological damage, runoff and erosion, damage to water resources, and noise, the potential for these impacts will tend to increase with the length of the project simply because, all else being equal, a longer trail has more likelihood of encountering sensitive resources of whatever kind. Another benefit of using length as a surrogate for impact potential is that it is “use neutral.” A number of commenters, particularly motorized use organizations, were very concerned about some trail users being “singled out” in the proposed rules, i.e., treated differently than other types of users. Using trail length as the threshold parameter avoids this concern. Finally, length is a basic parameter of trail design that is easy to determine in the early stages of design, promoting an early determination of the need for EAW preparation with accompanying planning efficiency.</p> <p>The thresholds of 10 and 20 miles were chosen for a number of reasons. Most fundamentally, for almost all types of projects covered by the existing mandatory and exemption categories there is a “gap” between the magnitudes of project that are exempt and the smallest projects for which review is mandatory. Following this principle (in the absence of any compelling reasons not to), the EQB chose to set the mandatory EAW thresholds at some reasonable number of miles, rather than including trails of all lengths (as many commenters had advocated, at least for motorized trails). Further, the most common ratio of the sizes of exemption thresholds to mandatory EAW thresholds among the existing categories is 1:10. Following that reasoning, the proposed threshold of 10 miles for mandatory EAWs for most trails and the numerical exemption thresholds of (less than) 1 mile at items A and C of the proposed exemption categories are reasonable choices. Since snowmobiles and cross-country skiing have a lesser potential for impacts, doubling the threshold to 20 miles is a reasonable choice for those types of trails.</p>	<p>Local: Permission to cross land Land alteration permit Site permit application WCA mitigation plan</p> <p>State: Construction stormwater general permit 401 certification Section 4(f) evaluation Special use permit for highway crossings Lease agreement State grant Public water work permit WCA mitigation plan SNA permit to cross & trail maintenance agreement</p> <p>Federal: 404 Permitt Federal grant</p>	<p>E. Constructing an off-highway vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle recreation area by 640 or more acres, if the land on which the construction or expansion is carried out is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities such as mineral mining.</p> <p>F. Some recreation areas for off-highway vehicles may be constructed partially on agricultural naturally vegetated land and partially on land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities. In that case, an EAW must be prepared if the sum of the quotients obtained by dividing the number of acres of agricultural or naturally vegetated land by 80 and the number of acres of land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities by 640, equals or exceeds one.</p>

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		<p>Another reason for choosing 10 miles as the basic threshold number is that it makes sense when compared to the thresholds for the other linear-type projects in other subparts. The highway categories have a length threshold of 1 mile, pipelines, either 0.75 or 5 miles depending upon the nature of the product transported and other factors, and transmission lines, 20 miles. Most people would undoubtedly agree that recreational trails in general pose less potential for environmental impacts than most highway or pipeline projects, and somewhat more than electrical transmission line corridors (where there is little activity after construction is completed, little potential for impacts beyond the right-of-way, and less direct physical intrusion by the structures than from a continuous trail surface).</p> <p>One way to check on the reasonableness of proposed thresholds is to compare estimates of how many EAWs would result with the numbers of EAWs prepared due to other existing mandatory categories. The EQB recently examined mandatory EAW records from the 4-year period 2000-2003 to compare one category with another. The data from that analysis showed that during that time 570 EAWs were prepared due to the 35 existing EAW categories, an average of 143 per year. Only 10 of the 35 categories resulted in at least 5 EAWs per year and the median number was 1 EAW per year per category. Using the DNR's estimate from section III.A factor #5 of 3 EAWs per year likely to result from the proposed recreational trail categories, it appears that the number of EAWs likely due to the proposed thresholds would fall roughly mid-pack when compared to all 36 categories.</p>		
<p>Recreational trails</p> <p>4410.4300 subp. 37 B</p>	<p>B. Designating at least 25 miles of an existing trail for a new motorized recreational use other than snowmobiling.</p> <p>In applying items A and B, if a proposed trail will contain segments of newly constructed trail and segments that will follow an existing trail but be designated for a new motorized use, an EAW must be prepared if the sum of the quotients obtained by dividing the length of the new construction by ten miles and the length of the existing but newly designated trail by 25 miles, equals or exceeds one.</p>	<p>(2004) Item B covers situations where a governmental unit is proposing a change in authorized uses on an existing trail to allow use by a form of motorized recreational vehicle not previously allowed to use the trail. The threshold is proposed as 25 miles, two and one-half times the main threshold of item A, on the basis that the potential for environmental damage is diminished by the fact that a trail already traverses the route. This category is proposed to exclude the designation of snowmobile use, which instead is proposed for an exemption (see the section later on Exemptions for the rationale).</p> <p>This provision is proposed to deal with the likely common occurrence where a planned trail will include segments of new alignment and also segments with new use designations on existing trails. In such cases, how can it be determined if the mandatory review thresholds are exceeded? The solution proposed is borrowed from existing subparts of 4410.4300. At subparts 19 and 32, residential developments and mixed residential and commercial projects a similar arithmetic operation is prescribed for determining if review is mandatory. Here is an example of how this method would work: suppose an ATV trail is proposed with a total length of 18 miles, 8 on new alignment and 10 as a designation of an existing snowmobile trail for ATV use. To determine if an EAW is mandatory divide 8 by 10 (quotient = 0.8), and 10 by 25 (quotient = 0.4), then add the quotients (0.8 + 0.4 = 1.2). Since the sum of 1.2 exceeds 1, review is mandatory for this project.</p>	<p>Local: Approval for bridges Lease amendment</p> <p>State: Construction stormwater general permit 401 certification State trail plan amendment State funding Public water work permit WCA mitigation plan</p> <p>Federal: 404 permit</p>	<p>Currently, many trail projects are proposed for State Forest lands that went through the legislatively mandated designation process (2004-2008). Classification of the State Forests with respect to motor vehicle use was pursuant to Minnesota Laws 2003, Chapter 128, Article 1, Section 167, Subdivision 1 (as amended) and Minnesota Rules, part 6100.1950. Although few projects have recently been proposed that would require preparation of an EAW under this threshold, the DNR still believes the issues identified in the 2004 SONAR that created this category remain valid.</p> <p>Recommendation: Maintain this EAW category; consider modifications regarding how miles of new types of motorized trail use are calculated. Additionally, DNR supports the proposed exemption for paving trails on abandoned railroad grades included in the current rulemaking process underway (R—04157).</p> <p>See Appendix A for EQB's analysis of these categories</p>

TABLE B: MANDATORY EAW CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EAW Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Recreational trails</p> <p>4410.4300 subp. 37 C</p>	<p>C. Paving ten or more miles of an existing unpaved trail, unless exempted by part 4410.4600, subpart 27, item B or F. Paving an unpaved trail means to create a hard surface on the trail with a material impervious to water.</p>	<p>(2004) Item C would require preparation of a mandatory EAW for situations where an existing unpaved trail is upgraded by paving it for a length of at least 10 miles. The rationale is that creating an impervious surface over that length of trail creates sufficient potential for runoff and erosion problems to warrant review. The clause about exemptions is included to clarify that the reconstruction of a paved trail or the construction or rehabilitation of a paved, non-motorized trail within the Twin Cities Metropolitan Regional Park System is exempt, rather than covered by this category if the length exceeds 10 miles.</p>	<p>Local: Roadway utility permit WCA mitigation plan</p> <p>State: Construction stormwater general permit 401 certification State grant Public water work permit</p> <p>Federal: 404 permit Federal grant</p>	<p>One EAW has been prepared for a project under this category since the rule came into effect in 2004. In that project, DNR found that paving on an abandoned railroad grade had minor environmental effects because environmental disturbance in the corridor had already occurred and project-specific disturbance was minimal; and since significant compaction had already occurred. Although few projects have recently been proposed that would require preparation of an EAW under this threshold, the DNR still believes the issues identified in the 2004 SONAR that created this category remain valid.</p> <p>Recommendation: Maintain this EAW category. However, DNR supports the proposed exemption for paving trails on abandoned railroad grades included in the current rulemaking process underway (R—04157).</p> <p>See Appendix A for EQB's analysis of these categories</p>
<p>Recreational trails</p> <p>4410.4300 subp. 37 D</p>	<p>D. Constructing an off-highway vehicle recreation area of 80 or more acres, or expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural land or forested or other naturally vegetated land.</p>	<p>(2004) Item D deals with recreation areas for off-highway vehicles. Such areas would include an intensive network of trails as well as special events areas designed especially for various types of off-highway vehicles. Because of the concentrated network of trails, it is appropriate to provide a separate mandatory EAW category for recreation areas, and to base the threshold on acreage rather than trail length. Two thresholds are proposed, one for "undisturbed," naturally vegetated land or agricultural land and another for land that either is not naturally-vegetated or agricultural, or has been previously disturbed to a great extent by human activities.</p> <p>The proposed 80 acre threshold for naturally-vegetated and agricultural areas corresponds with the threshold used in the land use conversion mandatory category at subpart 36, which deals with the permanent conversion of such lands to more intensive human uses.</p>		<p>No EAWs have been prepared for a project under this category since the rule came into effect in 2004. The DNR still believes the issues identified in the 2004 SONAR that created this category remain valid.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p> <p>See Appendix A for EQB's analysis of these categories</p>
<p>Recreational trails</p> <p>4410.4300 subp. 37 E</p>	<p>E. Constructing an off-highway vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle recreation area by 640 or more acres, if the land on which the construction or expansion is carried out is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities such as mineral mining.</p>	<p>(2004) The most likely disturbed areas to be used for recreation areas are former mine sites, so the rule explicitly lists metallic and non-metallic mining as past human activities making land suitable for the "disturbed" classification. The only existing recreation area for OHVs was established by the DNR on a former mine site near Gilbert and another similar area near Virginia has been authorized but not yet built.</p> <p>For non-naturally-vegetated lands, agricultural, or disturbed lands, a much higher threshold is appropriate and thus 640 acres was chosen; this provides a 1:8 ratio and sets the threshold equal to the common land measure of one section.</p>		<p>No EAWs have been prepared for a project under this category since the rule came into effect in 2004. The DNR still believes the issues identified in the 2004 SONAR that created this category remain valid.</p> <p>Recommendation: No changes are recommended. Maintain this EAW category.</p> <p>See Appendix A for EQB's analysis of these categories</p>
<p>Recreational trails</p> <p>4410.4300 subp. 37 F</p>	<p>F. Some recreation areas for off-highway vehicles may be constructed partially on agricultural naturally vegetated land and partially on land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities. In that case, an EAW must be prepared if the sum of the quotients obtained by dividing the number of acres of agricultural or naturally vegetated land by 80 and the number of acres of land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities by 640, equals or exceeds one.</p>	<p>(2004) Since it is likely that recreation areas could be proposed on lands subject to both thresholds, the same arithmetic method for determining if review is mandatory as is proposed at items A and B is proposed to be used here as well.</p>	<p>Local: Land use zoning approval</p> <p>State: Construction stormwater general permit 401 certification State funding Public water work permit WCA mitigation plan</p> <p>Federal: 404 permit</p>	<p>One EAW has been prepared for a project under this category since the rule came into effect in 2004. Potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, wildlife disturbance, native plant community impacts and disturbance of nearby residents. No single permit regulates these types of projects as a whole, so environmental review was the only opportunity to analyze effects of the whole project. Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process.</p> <p>Recommendation: Maintain this EAW category.</p> <p>See Appendix A for EQB's analysis of these categories</p>

TABLE B: MANDATORY EIS CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EIS Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Underground Storage</p> <p>4410.4400 subp. 7 A</p>	<p>Underground storage. Items A and B designate the RGU for the type of project listed:</p> <p>A. For construction of an underground storage facility for gases or liquids that requires a permit pursuant to Minnesota Statutes, section 1031.681, subdivision 1, paragraph (a), the DNR shall be the RGU.</p>	<p>(1982) This category is proposed because this type of project is new and largely untested, is very large in scope, has the potential for groundwater contamination and serious human health impacts and is very controversial.</p> <p>Minn. Stat. § 84.57 mandates a permit for the displacement of groundwater by the underground storage of gases or liquids under pressure. The Department of Natural Resources (DNR) is the responsible permitting agency. No specific rules have been promulgated regarding this authority. One facility of this type has been constructed in Minnesota. No EIS was prepared for that facility. The DNR is currently processing a second application. An EIS has been ordered on the proposed facility. The primary environmental effects of concern on this type of project are groundwater quantity and quality impacts. The lack of a formal process for citizen comment further documents the need for environmental review of this type of activity.</p>	<p>State: Minn. Statutes, section 1031.681 Minn. Rules, part 6115.0130 Minn. Statutes, chapter 216B Minn. Rules, Chapter 7851</p>	<p>Two state projects currently involve underground storage. Both were developed prior to MEPA. Both also require a great deal of ongoing regulatory oversight indicating that potential long-term management and possible environmental and human health consequences of such projects are high.</p> <p>Recommendation: Maintain this EIS category.</p>
<p>Underground Storage</p> <p>4410.4400 subp. 7 B</p>	<p>B. For construction of an underground storage facility for gases or liquids, using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, section 1031.681, subdivision 1, paragraph (b), the DNR shall be the RGU.</p>	<p>(1982) Minn. Stat. § 84.621 mandates a permit for the storage Of gases or liquids, other than water, in natural rock formations underground. These formations could be naturally occurring or the result of the mining of rock material to create a storage site in a rock formation. No facilities of this .type currently are found in Minnesota and no formal proposals have been presented. It is known, however, that the concept of mining rock to create an underground Cavity in the bedrock is being discussed. The purpose of the cavity would .be to potentially store petroleum products. The primary environmental concerns associated with such an activity would be related to groundwater quality and safety concerns. The DNR is the responsible permitting agency for this type of activity. No specific rules have been promulgated regarding this authority. The lack of a formal process for citizen comment further documents the need for environmental review of this type of activity.</p>	<p>State: Minn. Statutes, section 1031.681 Minn. Rules, part 6115.0130 Minn. Statutes, chapter 216B Minn. Rules, Chapter 7851</p>	<p>Two state projects currently involve underground storage. Both were developed prior to MEPA. Both also require a great deal of ongoing regulatory oversight indicating that potential long-term management and possible environmental and human health consequences of such projects are high.</p> <p>Recommendation: Maintain this EIS category.</p>
<p>Metallic mineral mining and processing</p> <p>4410.4400 subp. 8 A</p>	<p>Metallic mineral mining and processing. Items A to C designate the RGU for the type of project listed:</p> <p>A. For mineral deposit evaluation involving the extraction of 1,000 tons or more of material that is of interest to the proposer principally due to its radioactive characteristics, the DNR shall be the RGU.</p>	<p>(1982) Extensive evaluation of radioactive deposits has been elevated to a mandatory EIS category pursuant to 6 MCAR § 3.039 G.I. because of the increased potential for adverse environmental impacts and human health impacts. The 1,000 ton threshold was recommended by the DNR as a feasible threshold to indicate a concern for significant adverse environmental impacts. This threshold is near the limit of ore commonly analyzed for evaluation of the deposit.</p>		<p>Review of recently prepared EISs indicates that several potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, native plant community impacts, and cumulative effects to a number of natural resources and environmental concerns such as mercury in fish tissue and wild rice abundance. No single permit regulates the project as a whole, so environmental review was the only opportunity to analyze effects of the whole project. Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process. EISs are commonly joint state-federal. Numerous public comment letters are commonly received. Public comments have often identified substantive environmental concerns and offered recommendations for modification, mitigation and areas needing further evaluation.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. . Maintain this EIS category.</p> <p>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4400, subpart 8. Metallic mineral mining and processing. Metallic mineral mining and processing. Items A to C and B designate the RGU for the type of projected listed:</p>

TABLE B: MANDATORY EIS CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EIS Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
				<p>A. For mineral deposit evaluation involving the extraction of 1,000 tons or more of material that is of interest to the proposer principally due to its radioactive characteristics, the DNR shall be the RGU.</p> <p>A. For construction of a new facility for mining metallic minerals or for the disposal of tailings from a metallic mineral mine, the DNR shall be is the RGU.</p> <p>B. For construction of a new metallic mineral processing facility, the DNR shall be is the RGU.</p>
<p><u>Metallic mineral mining and processing</u></p> <p>4410.4400 subp. 8 B</p>	<p>B. For construction of a new facility for mining metallic minerals or for the disposal of tailings from a metallic mineral mine, the DNR shall be the RGU.</p>	<p>(1982) Metallic mineral mining activities may have the potential for significant impacts on ground and surface water quality and quantity, air quality, land use impacts and demographic impacts that may disrupt the local economy. 6 MCAR § 3.039 G.2. requires a mandatory EIS for all new metallic mineral mining proposals. An all or none threshold is used because these activities must be of an economically feasible scale and that scale would, of necessity, be sufficient to potentially pose the threat of significant impacts.</p>	<p>Local: Commercial septic tank permit Building permit Grading permit</p> <p>State: Permit to mine Water appropriation permit Public water work permit Dam safety permit Burning permit Listed species takings permit Part 70 operating permit Title V air permit modification Construction stormwater general permit Industrial stormwater permit NPDES/SDS permit 401 certification Waste tire storage permit Storage tank permit Solid waste permit Hazardous waste generator and storage Demolition debris disposal facility permit Radioactive material registration Noncommunity nontransient public water system</p> <p>Federal: 404 permit</p>	<p>Review of recently prepared EISs indicates that several potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, native plant community impacts, and cumulative effects to a number of natural resources and environmental concerns such as mercury in fish tissue and wild rice abundance. No single permit regulates the project as a whole, so environmental review was the only opportunity to analyze effects of the whole project.</p> <p>Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process. EISs are commonly joint state-federal. Numerous public comment letters are commonly received. Public comments have often identified substantive environmental concerns and offered recommendations for modification, mitigation and areas needing further evaluation.</p> <p>Recommendation: No changes are recommended. Maintain this EIS category.</p>

TABLE B: MANDATORY EIS CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EIS Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p><u>Metallic mineral mining and processing</u></p> <p>4410.4400 subp. 8 C</p>	<p>C. For construction of a new metallic mineral processing facility, the DNR shall be the RGU.</p>	<p>(1982) Metallic mineral processing facilities have the potential for significant impacts on ground and surface water quantity and quality, air quality, and demographic impacts that may disrupt the local economy. 6 MCAR § 3.039 G.3. requires a mandatory EIS for all new processing facilities. An all or none threshold is used because these facilities must be of an economically feasible scale and that scale would of necessity, be sufficient to pose the threat of significant impacts.</p>	<p>Local: Commercial septic tank permit Building permit Permit for construction in shoreland area Zoning variances</p> <p>State: Permit to mine Water appropriation permit Public water work permit Dam safety permit Burning permit Listed species takings permit Part 70 operating permit Title V air permit modification Construction stormwater general permit Industrial stormwater permit NPDES/SDS permit 401 certification Waste tire storage permit Storage tank permit Solid waste permit Hazardous waste generator and storage Demolition debris disposal facility permit Radioactive material registration Noncommunity nontransient public water system Government loan/grant High Voltage Transmission Line routing permit</p> <p>Federal: 404 permit Permit for tower construction next to existing radar</p>	<p>Review of recently prepared EISs indicates that several potential environmental issues, including some that are not directly regulated, were evaluated. Unregulated potential impacts included wildlife habitat effects, native plant community impacts, and cumulative effects to a number of natural resources and environmental concerns such as mercury in fish tissue and wild rice abundance. No single permit regulates the project as a whole, so environmental review was the only opportunity to analyze effects of the whole project.</p> <p>Permits associated with this category have gaps and overlaps in authority, and many do not include a public review process. EISs are commonly joint state-federal. Numerous public comment letters are commonly received. Public comments have often identified substantive environmental concerns and offered recommendations for modification, mitigation and areas needing further evaluation.</p> <p>Recommendation: No changes are recommended. Maintain this EIS category.</p>

TABLE B: MANDATORY EIS CATEGORIES: MINNESOTA DEPARTMENT OF NATURAL RESOURCES as RGU

Mandatory EIS Category	Category Text	Intended Historical Purpose (SONAR)	Potential Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>Nonmetallic mineral mining</p> <p>4410.4400 subp. 9 A</p>	<p>Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of land or more during its existence, the DNR shall be the RGU.</p>	<p>(1982) The extraction of peat resources has the potential for causing environmental impacts relating to land use, air quality, water quality, mining and drainage. Current peat mining activities tend to be of small scale and for the purpose of marketing the peat as a horticultural product or as a briquet fuel. Peat mining is expected to be extremely controversial if proposals develop to utilize the resource for other energy uses. Data based on actual development of these resources on a broad scale is limited. The threshold levels of 160 acres for a mandatory EAW (6 MCAR § 3.038 K.1.) and 320 acres for a mandatory EIS (6 MCAR § 3.039 H.1.) coincide with Department of Natural Resources policy as set forth in the Minnesota Permit Program Policy Recommendations. In the current rules the 320 acre threshold for an EAW for nonmetallic resources would have applied to peat extraction.</p>	<p>Local: Land exchange/purchase lease Permit to divert water (Watershed District) Reassessment of drainage tax Ditch improvements</p> <p>State: Permit to mine peat Water appropriation permit Construction stormwater general permit Industrial stormwater permit NPDES/SDS permit 401 certification Above ground storage tank permit Air quality permit Land exchange/purchase/lease</p> <p>Federal: 404 permit</p>	<p>DNR reviewed several peat mining operations in the past ten years that exceeded the EAW category and is also aware of proposed peat mining projects that could require review by this category. Each of these projects may have had the potential for significant environmental effects and thus environmental review was appropriate. The relationship of these proposals to federal requirements under Section 404 of the Clean Water Act has been difficult. There has been no information or data to indicate that the 320 acre threshold needs revision.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Maintain this EIS category</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4400, subpart 9. Nonmetallic mineral mining. Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of land or more during its existence, the DNR shall be <u>is</u> the RGU.</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean depth of ten feet or more during its existence, the local government <u>governmental</u> unit shall be <u>is</u> the RGU.</p>
<p>Water appropriation and impoundments.</p> <p>4410.4400 subp. 18.</p>	<p>Water appropriation and impoundments. For construction of a Class I dam, the DNR shall be the RGU.</p>	<p>(1982) Dam construction and safety is regulated by the ONR pursuant to 6 MCAR § 1.5030. Environmental review is necessary because of the potential for significant property damage and danger to human safety. The ONR</p>	<p>State: Dam safety permit Public water work permit</p>	<p>DNR is currently preparing a Supplemental EIS under this category. In addition to property damage/loss and human safety, potential significant impacts to fish habitat, river ecology, hydrology, water quality have been identified. Some of these impacts, for example water quality and fisheries, are not addressed thoroughly in dam safety permitting, which is a dominant regulatory approval for this type of project. State environmental review is also the only available public review process for this type of project.</p> <p>Recommendation: No changes are recommended. Maintain this EIS category.</p>

APPENDIX C: Prepared by the Pollution Control Agency

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU			
Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p><u>Petroleum Refineries</u></p> <p>4410.4300 subp. 4_EAW Threshold: Expansion of an existing petroleum refinery facility that increases its capacity by 10,000 or more barrels per day,</p> <p>4410.4400 subp 4: EIS Threshold: Construction of a new petroleum refinery facility,</p>	<p><u>1982 SONAR</u></p> <p>General: This category area is proposed because of the potential for environmental impacts relating to air pollution, transportation, energy use, toxic discharge, spills, water pollution, and odors resulting from these facilities.</p> <p>EIS: The EIS threshold proposed was a part of the EAW threshold of the current rules. It is likely that an EIS would have been prepared on new facilities pursuant to the current procedures because of the expected impacts and the need for environmental review.</p>	<p>State: <u>MPCA</u> Air Emissions Permit NPDES Wastewater Discharge NPDES General Stormwater construction Permit NPDES Stormwater Permit for Industrial Activity Above Ground Storage Tank</p> <p><u>MnDOT</u> Highway Crossing Permit Utility Permit to work in the State Right-of-way</p> <p>Fire Marshall Plan Review for Above Ground Storage Tanks</p> <p>County: Conditional Use Permit Building Permit</p> <p>City: Conditional Use Permit Permit for Discharge of Industrial Wastewater Plan Review and Approval Building Permit</p>	<p>The issues, concerns and potential impacts outlined in the SONAR are still valid today. Project information and the opportunity to comment are provided to decision makers in multiple jurisdictions. High level of public interest.</p> <p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 4. Petroleum refineries. For expansion of an existing petroleum refinery facility that increases its capacity by 10,000 or more barrels per day or more, the PCA shall be the RGU.</p> <p>Part 4410.4400, subpart 4. Petroleum refineries. Petroleum refineries. For construction of a new petroleum refinery facility, the PCA shall be the RGU.</p>
<p><u>Fuel Conversion Facilities</u></p> <p>4410.4300 subp 5: EAW Thresholds:</p> <p>A. Construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity to utilize 25,000 dry tons or more per year of input,</p> <p>B. Construction or <u>expansion</u> of a facility for the production of alcohol fuels which would have or would increase its capacity by 5,000,000 or more gallons per year of alcohol produced,</p>	<p><u>1982 SONAR</u></p> <p>This category area is proposed because of the potential for environmental impacts resulting from these facilities and because there are many areas of controversy relating to potential impacts of these types of categories since they are largely untested in practice. Specific categories recommended with this category area include:</p> <p>A. The current EAW category was designed primarily to deal with the potential for coal or peat conversion. This category was developed at a time when the likelihood of such a proposal was fairly remote. The proposed rules attempt to distinguish potential size differences for such projects and to distinguish those projects from alcohol production.</p> <p>Fuel conversion facilities for coal and peat have the potential for significant impacts with regard to air pollutant and water pollutant discharges, and transportation impacts. The state currently has no facilities of this nature. If such a proposal is submitted, it is likely to be highly controversial because of these potential impacts and because of the energy policy issues it would present.</p>	<p>Federal: Alcohol Tobacco Tax and Trade Bureau Distiller's Permit U.S. Corps of Engineers: 404 General Permit Section 404 Permit for the installation of water supply pipeline U.S. Fish and Wildlife Service</p> <p>State: <u>MPCA</u> Air Emissions Permit NPDES/SDS industrial stormwater Discharge Permit NPDES Authorization to discharge hydrostatic test water SDS Utility Water Holding Pond Permit, NPDES General stormwater Permit for construction activity Very Small Hazardous Waste Generators License Above Ground Storage Tank Permit Minnesota River Basin General Permit</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, recommend changes to Subpart A:</p> <ul style="list-style-type: none"> Review of definition of biomass in EQB Rules to ensure consistency with term as used in other rules or statutes. <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 5. Fuel conversion facilities. Fuel conversion facilities.</p> <p>A. Subitems (1) and (2) Items A and B designate the RGU for the type of project listed:</p> <p>(1) A. For construction of a <u>new fuel conversion</u> facility for the conversion of coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity to utilize 25,000 dry tons or more per year of input, the PCA shall be the RGU.</p> <p>(2) B. For construction or <u>expansion</u> of a <u>new fuel conversion</u> facility for the production of alcohol fuels which that would have <u>the capacity or would increase its capacity by to produce 5,000,000 or more gallons or more per year of alcohol produced</u>, the PCA shall be the RGU.</p> <p>B. A mandatory EAW is not required for projects described in Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (b).</p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU

Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p>4410.4400 subp. 5: EIS Thresholds:</p> <p>A. Construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity to utilize 250,000 dry tons or more per year of input,</p> <p>B. For construction or <u>expansion</u> of a facility for the production of alcohol fuels which would have or would increase its capacity by 50,000,000 or more gallons per year of alcohol produced if in the 7-county Twin Cities Metro area or by 125,000,000 or more gallons per year if outside that area,</p>	<p>B. Fuel conversion facilities for alcohol production are generally viewed as having a lesser potential for significant environmental impact. In addition, the technology for alcohol production has been tested and applied; consequently, more data on environmental impacts is available. These facilities are likely to become more common in the future; therefore, controversy relating to use of natural areas for energy production and the use of agricultural land for energy production is anticipated.</p>	<p><u>DNR</u> Water Appropriation Permit Work in Public Waters Permit Work in Public Lands Permit Natural Heritage and Nongame Database Review Minnesota Department of Agriculture Agricultural Liming License Minnesota Historical Society Archeological Survey Construction Easements Minnesota State Historical Concurrences on Findings of Cultural Preservation Office Resource Impacts Mississippi National River and Recreation Area Critical Area Site Plan Approval</p> <p><u>MnDOT</u> Highway Crossing Permit Utility Permit to work in the State Right-of-way</p> <p><u>Minnesota Department of Health</u> Dewatering Well Construction Permit Monitoring Well Construction Permit Plumbing and Engineering Plumbing Plan Review Special Well Construction Area Approval</p> <p>Fire Marshal Plan Approval</p> <p><u>Minnesota Department of Public Safety</u> Above Ground Flammable and Combustible Liquids Review</p> <p>County: Conditional Use Permit Utilities Permit On-site Septic Permit Building Permit Driveway Permit Incinerator Permit Permit to dispose at the County Landfill Ditch Use Authorization</p> <p>Watershed Districts Watershed District Permit</p> <p>City: Building Permit Utilities Permit Industrial Stormwater Agreement Conditional Use Permit</p>	<p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4400, subpart 5. Fuel conversion facilities.</p> <p>Fuel conversion facilities. Items A and B designate the RGU for the type of project listed:</p> <p>A. For construction of a <u>new fuel conversion facility for the conversion of converting</u> coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that <u>the facility has the capacity to utilize use</u> 250,000 dry tons or more per year of input, the PCA shall be <u>is</u> the RGU.</p> <p>B. For construction of <u>a new or expansion of a an existing fuel conversion facility</u> for the production of alcohol fuels which that <u>which that</u> would have or would increase it's <u>the facility's</u> capacity by 50,000,000 gallons or more per year of alcohol produced if the facility will be in the seven-county Twin Cities metropolitan area or by 125,000,000 gallons or more per year of alcohol produced if the facility will be outside the seven-county Twin Cities metropolitan area, the PCA shall be <u>is</u> the RGU.</p> <p>C. <u>A mandatory EIS is not required for projects described in Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (c).</u></p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU

Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p><u>Transfer Facilities</u></p> <p>4410.4300 subp. 8: EAW Thresholds:</p> <p>A. Construction of a facility designed for or capable of transferring 300 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility by these respective amounts,</p> <p>B. Construction of a new facility or the expansion by 50 percent or more of an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000 or more gallons per transfer, if the facility is located in a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, Minnesota River Project Riverbend area, or the Mississippi headwaters area,</p>	<p><u>1982 SONAR</u></p> <p>The category area is proposed because of environmental impacts associated with operation of the facilities, because these facilities are typically located near water resources and because these facilities are often very controversial in the immediate vicinity. Specific categories recommended within this category area include:</p> <p>A. The need for the category relating to coal transfer facilities was voiced early in the process of developing category areas. Concerns documenting this need included fugitive dust emissions, leaking, noise levels, transportation related issues, local land use issued, and potential water pollution issues if the facilities is located near a water resource. The threshold was developed to be consistent with certificate of need definitions. The threshold used corresponds to the definition of "coal transshipment facility". The exemption category threshold was set at 10% of this threshold. The intention of the exemption threshold is to prevent petitions for minor industrial operations where coal is used as an energy source. If operations of this nature have the potential for significant impacts, the issue should be raised pursuant to the primary purpose of the activity.</p> <p>B. The need for the category relating to the transfer of hazardous materials was raised during the public participation process. The primary concerns documenting this need included the potential for spills resulting in serious water contamination if that facility is near water resources. The threshold was derived to be higher than the amount of material carried by an average truck transport but still sensitive enough to apply to large transfer facilities associated with barge transportation.</p>	<p>Federal: Army Corp of Engineers Section 404 Wetland Permit</p> <p>State: <u>MPCA</u> NPDES General Construction Stormwater permit NPDES Industrial Stormwater Permit Above Ground Storage Tank Permit Section 401 Water Quality Certificate Air Emissions Permit</p> <p><u>MnDOT</u> Access Permit</p> <p><u>DNR</u> Minnesota Natural Heritage Database Search Work with in Waters of the State Permit</p> <p><u>Minnesota State Historical Preservation Office</u> Cultural Resources Review</p> <p>County: Conditional Use Permits Septic System Permit Watershed Districts Watershed Permits</p> <p>City: Building Permit Conditional Use Permit Fire Department</p>	<p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Transfer facilities. Items A and B to C designate the RGU for the type of project listed:</p> <p>A. For construction of a <u>new</u> facility which is designed for or capable of transferring 300 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility by these respective amounts, the PCA shall be <u>is</u> the RGU.</p> <p>B. For construction of a <u>new</u> facility or the expansion by 50 percent or more of an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000 or more gallons per transfer, if the facility is located in a shoreland area, a <u>delineated flood plain floodplain</u>, a state or federally designated wild and scenic rivers district, the <u>Minnesota River Project Riverbend area, or the Mississippi headwaters area,</u> the PCA shall be <u>is</u> the RGU.</p> <p>C. <u>The PCA is the RGU for a silica sand project that:</u></p> <p><u>(1) is designed to store or is capable of storing more than 7,500 tons of silica sand; or</u> <u>(2) has an annual throughput of more than 200,000 tons of silica sand.</u></p>
<p><u>Storage Facilities</u></p> <p>4410.4300 subp 10: EAW Thresholds:</p> <p>A. Construction of a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, -</p> <p>B. Construction of a facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials,</p> <p>C. Construction of a facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas, synthetic gas, or anhydrous ammonia,</p>	<p><u>1982 SONAR</u></p> <p>This category area is proposed because of concerns relating to potential environmental impacts and because of the likelihood of controversy relating to the siting of these types of projects. Specific categories recommended within this category area include:</p> <p>A. The need for proposed category was voiced early in the process of developing category areas. Concerns documenting the need for this category include fugitive dust emissions, leaching, transportation related issues, and water pollution issues. The threshold was developed to be consistent with certificate of need definitions.</p> <p>B. The category was changed as a result of comments received during the public participation process to apply to all hazardous materials as opposed to only petroleum fuels. It is likely, however, that only petroleum fuels will be stored in sufficient quantities to trigger this threshold.</p>	<p>Federal: Army Corp of Engineers Section 404 Wetland Permit</p> <p>State: <u>MPCA</u> NPDES General Construction Stormwater permit NPDES Industrial Stormwater Permit Above Ground Storage Tank Permit Section 401 Water Quality Certificate Minnesota Department Of Transportation Access Permit</p> <p><u>DNR</u> Minnesota Natural Heritage Database Search Minnesota State Historical Preservation Office</p>	<p><u>Recommendation:</u> After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Part 4410.4300, subpart 10. Storage facilities. Storage facilities. Items A to C <u>H</u> designate the RGU for the type of project listed:</p> <p>A. For construction of a <u>new</u> facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, the PCA shall be <u>is</u> the RGU.</p>

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	<p>C. Natural gas and synthetic gas facilities were separated from the proposed petroleum category because the 1,000,000 gallon threshold was unrealistic. Natural and synthetic gases are typically stored in much smaller facilities. These facilities are stored under pressure and create controversy relating to the explosive nature of the facility.</p> <p>1988 SONAR In the experience of the PCA staff, an anhydrous ammonia tank facility of 100,000 gallons or more size has a comparable potential for significant environmental impacts, including danger to the public health, as liquefied or natural gas storage facilities. Consequently, it is reasonable to explicitly add anhydrous ammonia tanks to this category with the same threshold. The spectrum of impacts is diverse and the regulation of the impacts varies in effectiveness with the units of government responsible. This type of project tends to be controversial, as witnessed by the number of projects previously subjected to environmental review. Specific categories recommended within this category area include:</p> <p>EIS The EIS threshold, 6 MCAR § 3.039 I. is set at an all or none threshold for new facilities. This is reasonable because the size of these facilities must be economically practical and that size would have the potential for significant impacts. These are new impacts on the local environment and significant wildlife and land use questions must also be addressed. This category corresponds to the current EAW threshold; however, in practice an EIS is likely to be prepared on a new facility pursuant to current procedures. Therefore, this does not represent a major change in the requirements for environmental documents.</p>	<p>Cultural Resources Review</p> <p>County: Conditional Use Permits Septic System Permit</p> <p>Watershed Districts Watershed Permits</p> <p>City: Building Permit Conditional Use Permit</p>	<p>B. For construction of a <u>new major facility, as defined in Minn. Rule ch. 7151.1200, subpart 22, on a single site designated for or capable of storing 1,000,000 gallons or more of hazardous materials, that results in a designed storage capacity of 1,000,000 gallons or more of hazardous materials, the PCA shall be</u> the RGU.</p> <p>C. <u>For expansion of an existing major facility, as defined in Minn. rule chapter 7151.1200, subpart 22, with a designed storage capacity of 1,000,000 gallons or more of hazardous materials, when the expansion adds a net increase of 1,000,000 gallons or more of hazardous materials, the PCA is the RGU.</u></p> <p>D. <u>For expansion of an existing facility that has less than 1,000,000 gallons in total designed storage capacity of hazardous materials, when the net increase in designed storage capacity results in 1,000,000 gallons or more of hazardous materials, the PCA is the RGU.</u></p> <p>E. For construction of a <u>new facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas, as defined in Minnesota Statutes, section 299F.56, subdivision 14, or synthetic gas, or anhydrous ammonia as defined in Minnesota Statutes, section 216B.02, subdivision 6b, the PCA shall be</u> PUC is the RGU, <u>except as provided in item G.</u></p> <p>F. <u>For construction of a new facility designed for or capable of storing on a single site 100,000 gallons or more of anhydrous ammonia, the MDA is the RGU, except as provided in item G.</u></p> <p>G. <u>For construction of a new facility designed for or capable of storing on a single site 100,000 gallons or more of a combination of liquefied natural gas, as defined in Minnesota Statutes, section 299F.56, subdivision 14, synthetic gas, as defined in Minnesota Statutes, section 216B.02, subdivision 6b, or anhydrous ammonia, the PUC is the RGU.</u></p> <p>H. <u>The PCA is the RGU for a silica sand project that:</u> (1) <u>is designed to store or is capable of storing more than 7,500 tons of silica sand; or has an annual throughput of more than 200,000 tons of silica sand.</u></p>

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Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p><u>Air Pollution</u></p> <p>4410.4300 subp. 15: EAW Threshold:</p> <p>A. For construction of a stationary source facility that generates 250 tons or more per year or modification of a stationary source facility that increases generation by 250 tons or more per year of any single air pollutant, other than those air pollutants described in item after installation of air pollution control equipment, the PCA shall be the RGU.</p> <p>B. For construction of a stationary source facility that generates a combined 100,000 tons or more per year or modification of a stationary source facility that increases generation by a combined 100,000 tons or more per year of greenhouse gas emissions, after installation of air pollution control equipment, expressed as carbon dioxide equivalents, the PCA shall be the RGU. For purposes of this subpart, "greenhouse gases" include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride, and their combined carbon dioxide equivalents shall be computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in Table A-1 to subpart A of Code of Federal Regulations, title 40, part 98, Global Warming Potentials, as amended, and summing the resultant value for each.</p>	<p><u>1982 SONAR</u></p> <p>This category area is proposed because of public concern relating to air quality and its impact on human health and the environment, especially via implications relating to acid rain. This category area is proposed because other category areas may not be specific enough to review projects with potentially significant impacts on air quality. Specific categories recommended within this category area include:</p> <p>A. The qualitative measure was changed from a measurement of only Particulates and sulfur oxides to a measurement for any single air pollutant. Emissions that would trigger the threshold are likely to be Particulates or sulfur oxides; however, other pollutants, especially nitrogen oxides and ozone, are also of major concern. The measurement is designated as post treatment as an incentive for the installation of proper pollution control equipment. Synergistic impacts are not addressed specifically in the category; however, a lower threshold will facilitate a review of potential synergistic impacts on a case-by-case basis. The quantitative measure was adjusted to a realistic figure. The threshold of 50 tons per day (18,250 tons per year) in the current rule's EAW category was so high it excluded all facilities. Very large and inefficient sources currently in operation in Minnesota would correspond to approximately only 1,000 tons per year. The proposed threshold coincides with federal regulations which classify facilities of 100 tons per year as a major source of air pollution. This threshold is also consistent with the proposed state off-set rule. Technology is available to minimize this impact and past experience has demonstrated that early environmental review can control problems associated with major sources of air pollution.</p> <p><u>1988 Sonar</u></p> <p>The words proposed to be added are intended to extend the coverage of this mandatory category to modifications of air emission facilities which will increase emissions by the same threshold amount as for new facilities. From an environmental standpoint, it is immaterial whether 100 tons of a pollutant came from a totally new facility or a modification of an existing facility. The omission of modified facilities from this category when the rules were adopted in 1982 was probably an unintentional oversight.</p> <p><u>Parking Facilities</u></p> <p>The mandatory category threshold was changed from 1,000 to 2,000 or more vehicles.</p> <p><u>2006 SONAR</u></p> <p>Two changes are proposed in this subpart. In item A, the threshold for air emission sources is proposed to be changed from 100 tons per year to 250 tons per year. Item B, relating to parking facilities, is proposed to be deleted entirely.</p> <p>The threshold for air emission facilities in item A was changed to 100 tons per year in 1982. Since then, item A has been changed only to add that the 100 tons per year threshold applies to modifications of existing facilities as well as new facilities. The MPCA has had 23 years of experience working with this threshold. A threshold change to 250 tons per year is based on recommendations of the MPCA staff. This staff is responsible for permitting facilities that emit air pollutants and environmental review of other projects that are sources of air emissions. A threshold of 250 tons would coincide</p>	<p>Federal: U.S. Fish and Wildlife Service Threatened and Endangered Species Review</p> <p>EPA Hazardous Waste Generators Identification Number</p> <p>State: <u>MPCA</u> Air Emissions Permit NPDES General Stormwater Construction Permit NPDES industrial Stormwater Activity Permit NPDES Wastewater Discharge Permit Above Ground Tanks Permit Very Small Quantity Hazardous Generator License Beneficial Use Approval for ash land application</p> <p><u>Minnesota State Historical Preservation Office</u> Concurrence on Findings of Cultural Resources Impacts</p> <p><u>DNR</u> Water Appropriation Permit Minnesota Natural Heritage Database Search</p> <p>Fire Marshall Plan Review</p> <p><u>MnDOT</u> Highway Crossing Permit</p> <p>County: Watershed District Permit Conditional Use Permit</p> <p>City: Building Permit Conditional Use Permit Sanitary Sewer Hook-up Wastewater Discharge Permit Zoning Certificate Utility Permit</p>	<p><u>Recommendation:</u> No changes are recommended.</p>

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	<p>with the federal threshold for the Prevention of Significant Deterioration permitting review.</p> <p>There are programs and permits in effect now that were not in effect at the time the current threshold of 100 tons was set. The state of Minnesota now has the Federal Clean Air Act Title V program (sometimes called Part 70 permit). In Minnesota, this is a combined construction and operating permit. A facility needs a Part 70 permit if its potential to emit air pollutants meets or exceeds specific thresholds, which are:</p> <ul style="list-style-type: none"> • 100 tons per year of any criteria pollutant (sulfur dioxide, nitrogen oxides, particulate matter less than 10 microns in diameter; carbon monoxide, and lead); • 10 tons per year or more of any single hazardous air pollutant (about 185); or • 25 tons per year or more of any combination of hazardous air pollutants. <p>There are public notice requirements for Part 70 permits as well as EPA review. In addition, facilities emitting over 100 tons per year of one or more air pollutants often have to conduct air dispersion modeling, undergo an air emissions risk analysis, and for some modifications to existing facilities, must go through a Prevention of Significant Deterioration review, which includes installing best available control technology. The MPCA staff believes that the air emissions permitting program addresses all major and minor concerns regarding air pollutants from new or expanding facilities, particularly those below 250 tons per year of a single pollutant.</p> <p>Certain air emission facilities of concern to the MPCA and the general public are captured in other mandatory environmental review categories. These are:</p> <ul style="list-style-type: none"> • Electric Generating Facilities (25 Megawatts and over) – subpart 3; • Petroleum Refineries - subpart 4; • Fuel Conversion Facilities (mainly ethanol plants) – subpart 5; • Metallic Mineral Mining and Processing – subpart 11; • Paper or Pulp Processing Mills – subpart 13; and • Solid Waste (Incineration) – subpart 17D. • Other potential facilities of concern such as biomass to energy plants under 25 megawatts, soybean oil, and coatings (printing and painting) would most likely be over a 250 ton per year threshold. <p>Environmental review serves the purpose of helping the public, proposer, and government bodies to understand the environmental impact of a proposed project. For that reason, an EAW for the Air Pollution category not only identifies the effects of air pollutants, it also addresses water and waste related issues, as well as issues such as transportation patterns, truck traffic, archeological significance, and wildlife impacts.</p> <p>Between 2000 to 2003, 14 EAWs were completed under the Air Pollution category. Based on a review of these 14 EAWs, it is reasonable to conclude that the amount of air emissions from these projects has little, or no, relationship to the impact of the other environmental issues listed above. Furthermore, of the few public comments that came in on these projects, almost all were about air emissions or issues related to air that are addressed in the air emissions permit. Therefore, the environmental review threshold provides a rather “hit-or-miss” approach for examining other issues, and does not justify setting the threshold at 100 tons per year.</p> <p>These rule revisions will not change the ability for the public to petition the EQB for a proposed project to complete an EAW that is less than 250 tons</p>		

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	<p>per year. There are no exemptions for environmental review given to the Air Pollution Category.</p> <p>Because of the extensiveness of air emission permit programs at the MPCA, other environmental review categories covering air emissions, the weak relationship between air emissions and other issues, and the ability of the public to petition for an EAW, it is reasonable to increase the air pollution category threshold from 100 to 250 tons.</p>		
<p>Hazardous Waste</p> <p>4410.4300 subp. 16: EAW Thresholds:</p> <p>A. Construction or expansion of a hazardous waste disposal facility</p> <p>B. Construction of a hazardous waste processing facility with a capacity of 1,000 or more kilograms per month</p> <p>C. Expansion of a hazardous waste processing facility that increases its capacity by ten percent or more</p> <p>D. Construction or expansion of a facility that sells hazardous waste storage services to generators other than the owner and operator of the facility or construction of a facility at which a generator's own hazardous wastes will be stored for a time period in excess of 90 days, if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock</p> <p>4410.4400 subp. 12: EIS Thresholds:</p> <p>A. Construction or expansion of a hazardous waste disposal facility for 1,000 or more kilograms per month</p> <p>B. Construction or expansion of a hazardous waste disposal facility in a water-related land use management district, or in an area characterized by soluble bedrock</p> <p>C. Construction or expansion of a hazardous waste processing facility if the facility is located in a water-related land use</p>	<p>1982 Sonar</p> <p>This category area is proposed because of the potential for ground and surface water contamination and the resultant human health and environmental impacts that may result from the disposal, processing and storage of hazardous wastes. Additional concerns include potential air quality, noise and odor impacts, safety questions relating to handling, and transportation and land use issues. This issue was not specifically addressed in the current rules.</p> <p>These facilities are permanent and the danger of contamination is long lasting. The disposal facility categories have the same variable as processing facilities. The base line is that all disposal facilities will require some form of environmental review.</p> <p>A, B, C, and D</p> <p>The storage category is designed to apply to facilities for long term storage. The 5,000 gallon threshold is regarded as a likely dividing line between strictly temporary facilities and long term storage. Below this threshold it is likely that materials are being gathered primarily to make shipment economically practical. The gallon unit of measurement is used because these wastes are usually stored as liquids in 55 gallon drums. Concerns relating to storage facilities are mainly the potential for accidental spills and leaks. No EIS category is proposed because the need for an EIS can best be addressed on a case-by-case basis depending on the nature and location of the activity.</p> <p>The commercial/non-commercial distinction was included because commercial facilities are likely to acquire a variety of different substances from a variety of different sources. Such facilities are likely to generate a more board spectrum of pollutants and are likely to be more controversial. An all or none threshold is applied as an EIS threshold if the facility is to be located in a sensitive area. For other commercial facilities the 1,000 kilogram per month threshold is used. This threshold is selected because it is consistent with federal regulations relating to hazardous waste. For non-commercial facilities, environmental review is discretionary unless the facility is located in a sensitive area and processes in excess of 1,000 kilograms per month. This threshold was applied because the permit process is adequate to deal with non-commercial facilities in sensitive areas that process small amounts of hazardous waste. In non-sensitive areas, the permit process is capable of providing adequate review of non-commercial facilities.</p> <p>EIS</p> <p>If the facility is located within a sensitive area or if the facility has a capacity exceeding the federal threshold, an EIS is mandated. The need for an EIS on other disposal facilities is determined on a case-by-case basis. It is unlikely that small facilities will be proposed; therefore, an EIS will probably be mandated for all proposed facilities.</p> <p>1988 SONAR</p>	<p>Federal:</p> <p>Army Corp of Engineers Section 404 Wetland Permit</p> <p>State:</p> <p>MPCA</p> <p>NPDES General Construction Stormwater permit NPDES Industrial Stormwater Permit Above Ground Storage Tank Permit Section 401 Water Quality Certificate Air Emissions Permit</p> <p>MnDOT</p> <p>Access Permit</p> <p>DNR</p> <p>Minnesota Natural Heritage Database Search Work with in Waters of the State Permit</p> <p>Minnesota State Historical Preservation Office</p> <p>Cultural Resources Review</p> <p>County:</p> <p>Conditional Use Permits Septic System Permit</p> <p>Watershed Districts Watershed Permits</p> <p>City:</p> <p>Building Permit Conditional Use Permit Zoning Fire Department Review</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Part 4410.4300, subpart 16. Hazardous waste. Hazardous waste. Items A to D designate the RGU for the type of project listed:</p> <p>A. For construction of a <u>new</u> or expansion of a <u>an existing</u> hazardous waste disposal facility the PCA shall be <u>is</u> the RGU.</p> <p>B. For construction of a <u>new facility</u> for hazardous waste <u>storage, processing facility with a capacity of 1,000 or more kilograms per month or treatment that is generating or receiving 1,000 kilograms or more per month of hazardous waste or one kilogram or more per month of acute hazardous waste</u>, the PCA shall be <u>is</u> the RGU.</p> <p>C. For expansion of <u>an existing facility for hazardous waste storage, processing facility storage or treatment</u>, that increases it's <u>the facility's</u> capacity by ten percent or more, the PCA shall be <u>is</u> the RGU.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Part 4410.4400, subpart 12. Hazardous waste. Hazardous waste. Items A to C designate the RGU for the type of project listed:</p> <p>C. For construction of expansion of a <u>facility for hazardous waste processing facility storage, or treatment</u>, if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be <u>is</u> the RGU.</p>

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	The substantive change proposed in the hazardous waste EIS categories is to expand coverage (in item c) of processing facilities to cover all processing facilities located in water-related sensitive areas. Presently, only commercial facilities are covered. The RGU for these categories, the PCA, believes there is no valid distinction to be made relative to potential for environmental impacts between commercial generator-operated facilities. Additionally, the cumbersome listing of types of water-related sensitive areas is proposed to be replaced by the new term "water-related land use management district."		
<p>Solid Waste</p> <p>4410.4300 subp. 17: EAW Thresholds:</p> <p>A. Construction of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year</p> <p>B. Expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year</p> <p>C. Construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year,</p> <p>D. Construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 30 or more tons per day of input,</p> <p>E. Construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 50 or more tons per day of input</p> <p>F. Expansion by at least ten percent but less than 25 percent of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year,</p> <p>G. Construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste.</p>	<p>1982 SONAR</p> <p>This category area is proposed because of the potential for significant impacts relating to ground and surface water contamination through the migration of leachate and because environmental review is needed to assist governmental units in adequately assessing resource recovery alternatives. Additional environmental concerns relate to methane gas generation, fugitive dust, emissions, odor and noise problems, transportation issues, aesthetic impacts, toxic air emissions and land use issues. This category area is extremely controversial.</p> <p>EAW</p> <p>A. For new disposal facilities the issue of siting is of primary importance. Cost requirements of operation and transportation factors make small disposal facilities unlikely. The 100,000 cubic yard per year threshold coincides with state solid waste regulations. There are approximately 20 facilities in operation with a capacity of over 100,000 cubic yards per year. Smaller facilities are likely to be modified and are not subject to the same regulations as the large facilities. Environmental review is necessary for all new facilities; however, the decision on need for an EIS on a case -to-case basis is adequate for the small facilities. For expansions of existing facilities, siting is less of an issue; however, the 100,000 cubic yards per year threshold was utilized for an EIS to maintain consistency with state solid waste regulations and because of the potential for ground and surface water contamination from that amount of waste.</p> <p>B. The lesser EAW threshold is used for expansions that do not exceed 100,000 cubic yards per year and for very large facilities where the expansion exceeds that amount. A 25 percent cut off is used to allow small increases in capacity to accommodate minor changes in the configuration as may be necessary for final contour plans.</p> <p>C. The transfer facility category: Impacts associated with this type of facility are primarily transportation issues, noise, odor, aesthetics, rodent and pest problems, and land use issues. These problems are usually controversial because the facilities are typically located in populated areas. The cubic yard measure is used because transfer vehicles are measured in cubic yards and because existing state solid waste regulations utilize this measurement. The threshold of 300,000 cubic yards is proposed because only very large</p>	<p>State:</p> <p><u>MPCA</u></p> <p>Solid Waste Management Facility Permit</p> <p>NPDES General Storm Water Permit for Industrial Activities</p> <p>NPDES Storm Water Permit for Construction Activity</p> <p>Metropolitan Area Policy Plan Review</p> <p>MPCA</p> <p>Solid Waste Permit</p> <p>Very small Quantity Generators Hazardous Waste License</p> <p>NPDES General Storm Water Permit for Industrial Activities</p> <p>NPDES Storm Water Permit for Construction Activity</p> <p>County:</p> <p>Operating License</p> <p>Conditional Use Permit</p> <p>Septic Permit</p> <p>Very Small Quantity Generator Hazardous Waste License</p> <p>City:</p> <p>License to Operate Waste Transfer Facility</p> <p>Building Permit</p> <p>Utility Permit</p> <p>Conditional Use Permit</p> <p>Zoning Amendment</p> <p>Watershed Districts</p> <p>Watershed Permit</p> <p>Compost Facilities</p> <p>County:</p> <p>Conditional Use Permit</p> <p>Building Permit</p> <p>City:</p> <p>Conditional Use Permit</p> <p>Building Permit</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, the following additional changes are recommended: transfer facilities should be reviewed for possible elimination.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i></p> <p>Part 4410.4300, subpart 17. Solid waste.</p> <p>Solid waste. Items A to G designate the RGU for the type of project listed:</p> <p>A. For construction of a mixed municipal solid waste <u>land</u> disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.</p> <p>B. For expansion by 25 percent or more of previous <u>previously permitted</u> capacity of a mixed municipal solid waste <u>land</u> disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.</p> <p>C. For construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year, the PCA is the RGU.</p> <p>D. For construction or expansion of a mixed municipal solid waste energy recovery facility, or incinerator, or the utilization use of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a <u>permitted</u> capacity of 30 <u>tons</u> or more tons per day of input, the PCA is the RGU.</p> <p>E. For construction or expansion of a mixed municipal solid waste compost facility, or a refuse-derived fuel production facility with a <u>permitted</u> capacity of 50 <u>tons</u> or more tons per day of input, the PCA is the RGU.</p> <p>F. For expansion by at least ten percent but less than 25 percent of previous <u>previously permitted</u> capacity of a mixed municipal solid waste <u>land</u> disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.</p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU			
Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p>4410.4400 subp. 13: EIS Thresholds:</p> <p>A. Construction of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year,</p> <p>B. Construction or expansion of a mixed municipal solid waste disposal facility in a water-related land use management district, or in an area characterized by soluble bedrock</p> <p>C. Construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 250 or more tons per day of input,</p> <p>D. Construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 500 or more tons per day of input</p> <p>E. Expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year</p>	<p>transfer stations are likely to require environmental review. Other facilities can be adequately regulated through the permit process. The experience of the PCA indicates 300,000 cubic yards is reasonable as a threshold.</p> <p>D. The resource recovery facility categories; Impacts associated with this type of facility are primarily air emissions, ash disposal, noise, odor, and transportation issues. A tons per day unit of measure is used because tons is the standard unit of measure for resource recovery and BTU's/ton is the standard unit of measure with relation to use of solid waste for energy production. The 100 tons per day threshold was used for the EAW because these facilities are likely to be modular units. Performance and construction standards for modular units are standardized; therefore, project specific review on a discretionary basis is adequate. One hundred tons per day corresponds to 10% of the major air emission threshold. Resource recovery facilities are likely to be located in heavily populated areas with air quality problems and are likely to have toxic air emissions. Therefore, environmental review at this threshold is reasonable.</p> <p><u>EIS</u></p> <p>A. For expansions of existing facilities, siting is less of an issue; however, the 100,000 cubic yards per year threshold was utilized for an EIS to maintain consistency with state solid waste regulations and because of the potential for ground and surface water contamination from that amount of waste.</p> <p>B. An all or none threshold was used for facilities in sensitive areas. These locations carry a high potential for ground and surface water pollution. PCA experience in dealing with existing facilities demonstrates that problems are likely and that an EIS is necessary to adequately assess the potential for problems in these locations.</p> <p>C. Facilities involving combustion of mixed municipal solid wastes, "energy recovery facilities" and combustion in other incinerators, are proposed to require mandatory EISs' at a threshold of 250 tons per day of input. Mandatory EISs would be required for mixed municipal solid waste compost facilities and refuse-derived fuel production facilities at the same threshold as in the present rules, i.e., 500 tons per day. The other types of resource recovery facilities, recycling centers and yard waste compost facilities, would no longer be subject to a mandatory EIS ,category.</p> <p>D. The 500 tons per day threshold was used for the EIS because this is approximately the level at which an incinerator would have to meet new source performance standards. Five hundred tons per day would yield approximately 50 tons per year of particulate emissions. This corresponds to approximately 50% of the major source threshold. However, these facilities are likely to be located in heavily populated areas and are likely to have additional toxic emissions; therefore, this more restrictive threshold is reasonable.</p> <p>Mandatory EISs would be required for mixed municipal solid waste compost facilities and refuse-derived fuel production facilities at the same threshold as in the present rules, i.e., 500 tons per day. The other types of resource</p>	<p><u>Landfills</u></p> <p>Federal: Corps of Engineers Section 404 General Permit</p> <p>State: <u>MPCA</u> Solid Waste Disposal Facility Permit NPDES Facility Stormwater Permit Certificate of Need Title V Air Permit NPDES Stormwater Permit for Industrial Activity</p> <p>Metropolitan Control Commission License for Leachate Disposal</p> <p><u>Minnesota Historical Society Archeological Survey</u> Construction Easements</p> <p><u>Minnesota Historical Preservation Office</u> Concurrence on Findings of Cultural Resources Impacts</p> <p><u>Minnesota Department Of Health</u> Monitoring Well Permits</p> <p>County: Wetland Conservation Act Approval Building Permit Conditional Use Permit Septic System Permit Transport License Solid Waste License</p> <p>Township: Conditional Use Permit</p> <p>City: Conditional Use Permit</p> <p><u>Incinerators</u></p> <p>Federal: U.S. Fish and Wildlife Service Threatened and Endangered Species Review Federal Aviation Administration FAA Notification Form 7460-1</p> <p>State: <u>MPCA</u> Air Emissions Permit NPDES Stormwater Construction permit</p>	<p>Part 4410.4400, subpart 13. Solid waste.</p> <p>Solid waste. Items A to E designate the RGU for the type of project listed:</p> <p>A. For construction of a mixed municipal solid waste <u>land</u> disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.</p> <p>B. For construction or expansion of a mixed municipal solid waste <u>land</u> disposal facility₂ in a water-related land use management district₇, or in an area characterized by soluble bedrock, the PCA is the RGU.</p> <p>C. For construction or expansion of a mixed municipal solid waste energy recovery facility₄, or incinerator₇, or the utilization <u>use</u> of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel₁, with a <u>permitted</u> capacity of 250 <u>tons</u> or more tons per day of input, the PCA is the RGU.</p> <p>D. For construction or expansion of a mixed municipal solid waste compost facility₂ or a refuse-derived fuel production facility <u>when the construction or expansion results in a facility with a permitted capacity of 500 tons</u> or more tons per day of input, the PCA is the RGU.</p> <p>E. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste <u>land</u> disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.</p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU

Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
	<p>recovery facilities, recycling centers and yard waste compost facilities, would no longer be subject to a mandatory EIS category.</p> <p>E. No specific language for this section.</p> <p>General Discussion The need for lower thresholds for projects involving the combustion of mixed municipal solid waste results from a better understanding of the air emissions of such facilities and the mechanisms of possible exposure to these emissions than was possessed in 1982. As indicated in Appendix 3, of 17 permits for such facilities considered by PCA, 14 were considered since 1982 and all of the EAWs and EISs have been done since then. In addition, the scope of nationally available information about the potential impacts of burning solid wastes has also greatly expanded in recent years. One consequence of this increased information base is a recognition by the State that potentially severe impacts may occur from facilities smaller than the 500 ton per day threshold adopted in 1982.</p> <p>According to a recent U.S. Environmental Protection Agency study (Municipal waste Combustion study, Emission Data Base for Municipal Waste Combustors, U. S. EPA, EPA/530-SW-8 7-021 , June, 1987) mixed municipal solid waste, incinerators emit toxic Chemicals including dioxins/furans, PCB' s , , PAH's, arsenic, beryllium, cadmium, chromium, lead, mercury, and nickel. The toxic properties of these chemicals can cause acute or chronic poisoning ("systemic toxicity"), increased rates of mutations and birth defects, reproductive problems, immune system effects, and cancer (see, for example~ Winona County Incinerator EIS, Technical Work Paper Hazard Identification, ICF/Clement Associates, 1987).</p> <p>The risks to human health posed by these emissions are dependent on many factors in addition to the capacity of the facility: facility design, pollution control equipment, operational parameters,' composition of the fuel, facility location, local meteorology, surrounding terrain, and the types of receptors and land uses in the area. Depending' on the combination of specific factors for any given project, there may be considerable variation in environmental and health impacts for a facility of a given capacity. For example, the proposed Winona County incinerator was found, to have a projected health risk in excess of the Minnesota Dept. of Health guideline despite it relatively small size (150 tons per day) and state-of-the-art pollution control equipment because of potential exposure to humans through the consumption of contaminated fish. This was due to the proposed location near the Mississippi River, in an area noted as a fisheries resource (Winona County Resource Recovery Facility Draft (EIS, PCA, 1988.) This and other health risk assessments for resource recovery facilities have frequently indicated that human exposure to toxic emissions through the aquatic food chain is the exposure route of greatest significance (Anoka County RDF Facility EIS, MPCA, 1986; Hennepin Energy Recovery corporation Permit, MPCA, 1987; Summary of Risk Assessment and Proposed Risk Management Actions, Midland Michigan, U.S. EPA, Office of Public Affairs, Region 5, April 1988).</p> <p>The threshold proposed in item C for energy recovery facilities and incinerators has been a subject of considerable controversy between the PCA, local units of government interested in incineration as an alternative to landfilling of mixed municipal solid waste, the solid waste processing industry, and environmental groups. The 250 ton per day threshold represents a compromise between competing positions negotiated at two</p>	<p>NPDES Industrial Stormwater Permit</p> <p><u>Minnesota State Historical Preservation Office</u> Cultural Resources Review Minnesota Natural Heritage Database Review</p> <p><u>DNR</u> Water Appropriation Permit</p> <p>County: Conditional Use Permit</p> <p>City: Conditional Use Permit Building Permit and Zoning Certificate</p>	

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	<p>meetings of an ad hoc work group convened by the EQB to discuss the original PCA proposal to reduce the threshold to 100 tons per day.</p> <p>The 250 ton figure is the smallest-sized facility which is generally accepted to automatically have the potential for significant environmental effects. The work group concluded that while some -- perhaps many smaller facilities might warrant an EIS because of individual circumstances, it was not reasonable to set the mandatory threshold below 250 tons per day. It was agreed by the work group that all energy recovery and incineration project EAWs in the future should include a health risk assessment, and the results of that assessment, as well as other EAW information, should form the basis for a case-by-case decision on the need for an EIS for facilities less than 250 tons per day. The EAW procedure will allow for consideration of the individual circumstances which largely dictate the magnitude of the potential impacts of each project, circumstances which it is not possible with present knowledge to specify in the rules themselves.</p>		
<p>Wastewater Systems</p> <p>4410.4300 subp. 18: EAW Thresholds:</p>	<p>1982 Sonar</p> <p>This category area is proposed because of problems associated with treatment facilities including ground and surface water pollution due to effluent discharges and sludge and ash disposal, and air pollution from sludge incineration. Problems associated with sewer systems include erosion during construction and maintenance, elimination or degradation of wetland habitats and adjacent water resources, and ground and surface water pollution resulting from seepage from sewer lines. Additional concerns are generated because of increased potential for secondary development fostered by the installation of a new system.</p>	<p>Sewer Collection Systems</p> <p>Federal: U.S. Corp of Engineers Section 10 Permit for activities affecting navigable waters in the U.S. Section 404 Letter of Permission</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category</p>
<p>A. Expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with a capacity less than 20,000,000 gallons per day or for expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with the capacity of 20,000,000 gallons or greater,</p> <p>B. Expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least 200,000 gallons per day of its average wet weather design flow capacity, or construction of a new municipal or domestic wastewater treatment facility with an average wet weather design flow capacity of 200,000 gallons per day or more,</p> <p>C. Expansion or reconstruction of an existing industrial process wastewater treatment facility which increases its design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more, or construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or</p>	<p>A. A sewage system may be viewed as consisting of the treatment facility and the sewer system or conveyance system to that facility. Sewage systems were formerly a major source of concern relating to water pollution; however, much progress has been made in lessening impacts pursuant to the federal Clean Water Act. For projects receiving federal funds pursuant to the Clean Water Act, limited environmental review takes place. For facilities not receiving federal funds no federal environmental review is required. The threshold is proposed to exclude small new facilities and minor additions to existing sewage systems. The threshold for new systems was set at a level approximately equivalent to the required size of a facility to service 300 people. The threshold for expansions was set at a level approximately equal to the expansion of services for 500 people. A second threshold for expansions was set for 50% because the base expansion threshold would potentially exclude small facility expansions for 150 to 500 people. Expansions of that relative magnitude are likely to generate significant local impacts such that environmental review is reasonable.</p> <p>1988 Sonar</p> <p>The threshold for collection system expansions in item A would be raised for cities of all sizes, including those which discharge to systems operated by Metropolitan Council Wastewater Services (MCWS) or the Western Lake Superior Sanitary District (WLSSD). Presently, EAWs are required for sewer</p>	<p>State: <u>MPCA</u> Sewer Extension Permit NPDES General Stormwater Construction Permit Section 401 Water Quality Certificate</p> <p><u>DNR</u> Water Appropriation Permit Minnesota Natural Heritage Database Review Utility Crossing License Work Within Public Waters Permit</p> <p><u>MnDOT</u> Utility Permit on Trunk Highway Right-Of-Way</p> <p><u>Minnesota Department of Health</u> Watermain Plan Approval Water Extension Permit</p> <p><u>Metropolitan Council</u></p>	<p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 18. Wastewater system. Wastewater system. Items A to C designate the RGU for the type of project listed: A. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with a capacity less than 20,000,000 gallons-per day or for expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with the capacity of 20,000,000 gallons or greater, the PCA is shall be the RGU. B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least 200,000 gallons per day of its average wet weather design flow capacity, or construction of a new municipal or domestic</p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU

Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
<p>more, or 20,000,000 gallons per year or more, This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly-owned treatment works or to a tailings basin reviewed pursuant to subpart 11, item B.</p> <p>Recording secretary</p>	<p>projects with design flows of 500,000 gallons per day within 1st and 2nd class cities or the MCWS or WLSSD systems, 100,000 gpd for 3rd class cities, and 50,000 gpd for 4th class cities and unincorporated areas. Over the most recent three-year period, the MPCA has prepared EAWs for approximately 15 projects per year under the sewage system category, more than half of which were sewer extensions. This level of review is believed to be unjustified because the majority of the sewer extensions are relatively minor expansions of much larger systems, and because the increases in wastewater flow accompanying sewer extensions usually occur gradually over a period of many years.</p> <p>Furthermore, problems which have been cited as associated with sewer systems, i.e., construction erosion, the degradation or loss of wetlands, seepage from sewer lines, and the potential for secondary development, are addressed by permit programs for runoff from construction sites and the preservation of wetlands, and by the application of minimum standards for sewer construction and maintenance. The potential for impacts from secondary development will also continue to be addressed through state and local requirements for environmental review and permitting.</p> <p>B. In item B, a clarification is proposed stating that an EAW is not mandatory for a domestic wastewater treatment expansion unless it increases the design flow capacity of the facility by at least 50\ AND it is an increase of at least 50,000 gallons per day. This is consistent with past and present policy of the MPCA that the preparation of EAWs should not be mandatory for projects that involve relatively minor expansions of existing, small treatment facilities.</p> <p>C. Regarding new item C, the rules currently provide for mandatory EAW categories for certain types of industrial facilities which may involve the generation of industrial wastewater. Examples are petroleum refineries, fuel conversion facilities, mineral mining and processing, and pulp and paper processing. These and other industrial project may also require environmental review because of their potential air emissions (under subpart 15). However, because there is currently no EAW category pertaining directly to the generation of industrial wastewater, some major industrial projects may not be subject to mandatory review. Examples would be food processing and the manufacture of wood products other than pulp or paper.</p> <p>The proposed new category at item C would establish a threshold for the construction of new or expansion of existing industrial process wastewater treatment facilities. Process wastewater is not intended to include noncontact cooling water, storm water runoff, or animal feedlot runoff. The proposed threshold is based on existing PCA nondegradation regulations for new or expanded discharges. Projects of this magnitude are likely to generate significant local impacts. This category would not apply to industries which discharge to publicly owned treatment facilities. Such discharges are subject to the terms and conditions of preexisting discharge permits and are also regulated by local jurisdictions under existing programs and subject to state and federal oversight. It also would not apply to tailings basins which are covered by the mandatory metallic mineral mining category at subpart 11, item B; this exclusion is stated in the proposed amendment to eliminate the potential for future questions over which agency, MPCA or DNR, should be the RGU for review of such facilities.</p>	<p>Connection Permit</p> <p><u>State Historical Preservation Office</u> Concurrence on Findings of Cultural Resources Impacts</p> <p>County: Highway Access/Entrance Permit</p> <p>Watershed District Project Approval Watershed Permit Application for Minnesota Wetland conservation Act Exemption</p> <p>City: Conditional Use Permit Street and Utility Plan Approval</p> <p>Wastewater Treatment Facility Permits</p> <p>Federal: U.S. Corp of Engineers Section 404 Permit Wastewater Infrastructure Funding Program Outfall Permits</p> <p>State: <u>MPCA</u> WWTF Plans and Specifications Approval SDS Permit for land application of treated Wastewater NPDES General Stormwater Construction Permit Sanitary Sewer Extension Permit NPDES/SDS Surface Water Discharge Permit NPDES Industrial Stormwater discharge Permit Air Quality Permit for backup generators Non-degradation to All Waters Review</p> <p><u>DNR</u> Water Appropriation Permit License to Cross Public Lands and Waters Natural Heritage and Nongame Database Review Outfall Permits</p> <p><u>Minnesota Department of Health</u> Well Abandonment Permit State Historic Preservation Office Concurrence on Findings of Cultural Resource Impacts</p> <p><u>Public Facilities Authority</u> Funding Application</p> <p><u>Board of Water and Soil Resources</u> Wetland Conservation Act Permits</p> <p>County: Certificate of Wetland Conservation Act Exemption Conditional Use Permit</p>	<p>wastewater treatment facility with an average wet weather design flow capacity of 200,000 gallons per day or more, the PCA shall be the RGU.</p> <p>C. For expansion or reconstruction of an existing industrial process wastewater treatment facility which increases its design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more, or construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or more, or 20,000,000 gallons per year or more, the PCA shall be the RGU. This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly owned treatment works or to a tailings basin reviewed pursuant to subpart 11, item B.</p> <p><u>B. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with the capacity of 20,000,000 gallons or greater, the PCA is the RGU.</u></p> <p>C. B. For expansion or reconstruction modification of an existing municipal or domestic wastewater treatment facility which that results in an increase by 50 percent or more and by at least 200,000 gallons per day of it's the facility's average wet weather design flow capacity, the PCA is the RGU.</p> <p><u>D. For construction of a new municipal or domestic wastewater treatment facility with an average wet weather design flow capacity of 200,000 gallons per day or more, the PCA shall be is the RGU.</u></p> <p>E. For expansion or reconstruction modification of an existing industrial process wastewater treatment facility which that increases it's the facility's design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more or, the PCA is the RGU.</p> <p><u>F. For construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or more, or 20,000,000 gallons per year or more, the PCA shall be is the RGU. This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly owned publicly owned treatment works or to a tailings basin reviewed pursuant according to subpart 11, item B.</u></p>

TABLE C: MANDATORY CATEGORIES: MINNESOTA POLLUTION CONTROL AGENCY as RGU			
Category	Intended Historical Purpose - SONAR (Year)	Government Actions	Analysis and Recommendation
		Utility Permit Building Permits Right-Of-Way Permit Conditional Use Permit City: Building Permit	
<u>Animal Feedlots</u> 4410.4300 subp. 29 A. Construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more, provided the facility is not in an area listed in item B, PCA or county. B. Construction of an animal feedlot facility of more than 500 animal units or expansion of an existing animal feedlot facility by more than 500 animal units if the facility is located wholly or partially in any of the following sensitive locations: shoreland; a delineated flood plain, except that in the flood plain of the Red River of the North the sensitive area includes only land within 1,000 feet of the ordinary high water mark; a state or federally designated wild and scenic river district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; or an area within a drinking water supply management area delineated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or within 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley, PCA or county. Exemptions Animal feedlots. The activities in items A to D are exempt. A. Construction of an animal feedlot facility with a capacity of less than 1,000 animal units or the expansion of an existing animal feedlot facility to a total cumulative capacity of less than 1,000 animal units, if all of the following apply: (1) the feedlot is not in an environmentally sensitive location listed in part 4410.4300 , subpart 29, item B; (2) the application for the animal feedlot permit includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with PCA feedlot rules; and (3) the county board holds a public meeting for citizen input at least ten business days prior to the PCA or county issuing a feedlot permit for the facility, unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. B. The construction of an animal feedlot facility of less than 300 animal units or the expansion of an existing facility by less than 100 animal units, no part of either of which is located within a shoreland area; delineated flood plain; state or federally designated wild and scenic rivers district; the Minnesota River Project Riverbend area; the Mississippi headwaters	<u>1982 SONAR</u> This category was proposed because of the potential for significant environmental impacts relating to ground and surface water quality, odors, and local land use issues. This type of activity is likely to be controversial if the location is in a sensitive area or near residential or recreational developments. Specific categories proposed within this category area include: The current rules contain no EAW or exemption categories relating to the animal feedlot category area. Although the current rules do not contain a mandatory EAW category relating to these facilities, several citizen petitions were submitted on animal feedlot facilities pursuant to the current rules. Facilities petitioned were of a smaller size than the proposed threshold but the facilities were located in areas of soluble bedrock. The proposed threshold corresponds to the threshold established in the Clean Water Act. Facilities of this size must be evaluated to determine if a national Pollutant Discharge Elimination System (NPDES) permit is required. The alternative of requiring an EAW only for facilities located within a shoreland area, delineated flood plain area or area with soluble bedrock was considered but rejected on the basis of local government comments indicating that activities of this scale are very controversial and should be noticed to the public. Exemptions The exemption category is proposed because projects of this size are not likely to result in significant impacts. Projects of this type have the potential to generate petitions based more on "neighborhood disputes" than true impacts. This threshold is a reasonable level to prevent abuse of the environmental review process in this manner.	State: <u>MPCA</u> NPDES/SDS Feedlot Permit NPDES Construction Stormwater Permit <u>DNR</u> Water Appropriations Permit <u>Board of Animal Health</u> Notification to Compost Dairy Cattle Fire Marshall Plan Review County: Conditional Use Permit Building Permit Watershed District Discharge to Surface Waters Township: Conditional Use Permit	<u>Recommendation:</u> No additional changes are recommended. See Appendix A for EQB's analysis of these categories

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<p>area; an area within a drinking water supply management area designated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.</p> <p>C. The construction or expansion of an animal feedlot facility with a resulting capacity of less than 50 animal units regardless of location.</p> <p>D. The modification without expansion of capacity of any feedlot of no more than 300 animal units if the modification is necessary to secure a Minnesota feedlot permit.</p>			

APPENDIX D: Prepared by the Environmental Quality Board

TABLE D: MANDATORY CATEGORIES: ENVIRONMENTAL QUALITY BOARD as RGU			
Mandatory Categories: EQB as RGU Prepared with assistance of Department of Commerce	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 2. Nuclear fuels and nuclear waste. Items A to F designate the RGU for the type of project listed:</p> <p>A. For construction or expansion of a facility for the storage of high level nuclear waste, the EQB shall be the RGU.</p> <p>B. For construction or expansion of a facility for the storage of low level nuclear waste for one year or longer, the MDH shall be the RGU.</p> <p>C. For expansion of a high level nuclear waste disposal site, the EQB shall be the RGU.</p> <p>D. For expansion of a low level nuclear waste disposal site, the MDH shall be the RGU.</p> <p>E. For expansion of an away-from-reactor facility for temporary storage of spent nuclear fuel, the EQB shall be the RGU.</p> <p>F. For construction or expansion of an on-site pool for temporary storage of spent nuclear fuel, the EQB shall be the RGU.</p>	<p><u>Page 112 of 1982 SONAR</u>: In establishing these categories, nuclear waste was categorized into three main types: high level waste, low level waste, and spent nuclear fuel. In addition, nuclear fuel processing facilities are addressed. Waste facilities are distinguished by whether they are designed for disposal or for temporary storage and by whether the proposal entails construction at a new site or the expansion of an existing facility.</p> <p>These categories are addressed on an all or none basis, i.e. no quantitative thresholds are applied. The basic reason for this is that commercially feasible operations are likely to generate enough waste to be of concern and that even small amounts of nuclear waste are likely to generate significant public concern and could be hazardous.</p> <p>The Minnesota Department of Health has regulatory authority relating to fissionable materials pursuant to Minn. Stat. § 144.12. The Radioactive Waste Management Act at Minn. Stat. § 116C.71 requires legislative authorization of any radioactive waste management facility. Primary authority relating to the impacts of processing facilities rests with the Pollution Control Agency pursuant to Minn. Stat. § 115.03 and Minn. Stat. § 116.07.</p>	<p>Fissionable materials: Minnesota Department of Health pursuant to Minn. Stat. § 144.12</p> <p>Minn. Stat. § 116C.72 requires legislative authorization of any radioactive waste management facility.</p> <p>Processing facilities: Pollution Control Agency pursuant to Minn. Stat. § 115.03 and Minn. Stat. § 116.07</p> <p>Environmental review documents prepared pursuant to these proposed rules would be subject to cooperative state/federal procedures.</p> <p>The U.S. Nuclear Regulatory Commission has jurisdiction over nuclear materials.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p><i>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW</i> Part 4410.4300, subpart 2. Nuclear fuels and nuclear waste. Nuclear fuels and nuclear waste. Items A to F designate the RGU for the type of project listed:</p> <p>A. For construction or expansion of a facility of the storage of high level nuclear waste, <u>other than an independent spent-fuel storage installation</u>, the EQB shall be <u>is</u> the RGU.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 2. Nuclear fuels and nuclear waste. Items A to D designate the RGU for the type of project listed:</p> <p>A. For the construction or expansion of a nuclear fuel or nuclear waste processing facility, including fuel fabrication facilities, reprocessing plants, and uranium mills, the DNR shall be the RGU for uranium mills; otherwise, the PCA shall be the RGU.</p> <p>B. For construction of a high level nuclear waste disposal site, the EQB shall be the RGU.</p> <p>C. For construction of an away-from-reactor facility for temporary storage of spent nuclear fuel, the Public Utilities Commission shall be the RGU.</p> <p>D. For construction of a low level nuclear waste disposal site, the MDH shall be the RGU.</p>	<p>Environmental review documents prepared pursuant to these proposed rules would be subject to cooperative state/federal procedures. The U.S. Nuclear Regulatory Commission has jurisdiction over nuclear materials.</p>	<p>The U.S. Nuclear Regulatory Commission has jurisdiction over nuclear materials.</p>	<p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4400, subpart 2. Nuclear fuels. Nuclear fuels. Items A to D E designate the RGU for the type of project listed:</p> <p>A. For the construction or expansion of a nuclear fuel or nuclear waste processing facility, including fuel fabrication facilities, reprocessing plants, and uranium mills, the DNR shall be <u>is</u> the RGU for uranium mills; otherwise, the PCA shall be <u>is</u> the RGU.</p> <p>B. For construction of a high level nuclear waste disposal site, the EQB shall be <u>is</u> the RGU.</p> <p>C. <u>For construction or expansion of an independent spent-fuel storage installation</u>, the Department of Commerce is <u>is</u> the RGU.</p> <p>D. For construction of an away-from-reactor, facility for temporary storage of spent nuclear fuel, the Public Utilities Commission <u>PUC</u> is <u>is</u> the RGU.</p> <p>E. For construction of a low level nuclear waste disposal site, the MDH shall be <u>is</u> the RGU.</p>
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 3. Electric generating facilities. For construction of an electric power generating plant and associated facilities designed for or capable of operating at a capacity of between 25 megawatts and 50 megawatts, the EQB shall be the RGU. For electric power generating plants and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>	<p><u>Page 115 of 1982 SONAR</u>: This category area is proposed because of the need for coordinating public review with relation to the need for and alternatives to generating facilities as well as with relation to the siting of proposed facilities and because of potential significant environmental impacts relating to air quality, energy use and secondary development resulting from these facilities. Environmental impacts likely to be of concern include air pollution, water pollution, thermal pollution, transportation and storage related impacts, and adjacent land use issues. Hydro, alternative fuel, solar or wind powered facilities are likely to be less than 25 megawatts in size. All nuclear facilities would require an EIS.</p> <p><u>Page 1 of 2003 SONAR</u>: In 1977 language was added to rules to specifically address how environmental review would be conducted on large power plants and high voltage transmission lines: the Minnesota Energy Agency (the predecessor to the Public Utilities Commission) would prepare an Environmental Report when it received an application. A separate Environmental</p>	<p>Permitting is addressed through Minn. Rules 7849, 7850 for projects of 50 MW and larger.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p>

TABLE D: MANDATORY CATEGORIES: ENVIRONMENTAL QUALITY BOARD as RGU

Mandatory Categories: EQB as RGU Prepared with assistance of Department of Commerce	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 3. Electric generating facilities. For construction of a large electric power generating plant, environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>	<p>Report would be prepared by the EQB when a permit was applied for from the EQB. The environmental review rules were amended again in 1981 including "Special Rules for Certain Large Energy Facilities" that stated that the Department of Energy, Planning and Development would prepare an Environmental Report for inclusion in the record of the certificate of need hearing, and the EQB would prepare an Environmental Impact Statement when a permit was applied for. In 1986 the rules were amended to recognize that the Public Utilities Commission could request approval from the EQB of an alternative form of review for high voltage transmission lines. No corresponding language was included for large electric power generating plants. In 1990 the EQB again amended parts 4410.7000 to 4410.7500. Some editing was made, and parts 4410.7200 and 4410.7300 were repealed. 4410.7010 to 4410.7050 were renumbered 7849.7010-7090 in 2009.</p>		<p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 3. Electric-generating facilities. Electric-generating facilities.</p> <p><u>Items A through D designate the RGU for the type of project listed:</u></p> <p><u>A.</u> For construction of an electric power generating plant and associated facilities designated for or capable of operating at a capacity of between 25 megawatts and 50 megawatts, the EQB shall be the RGU or more but less than 50 megawatts and for which an air permit from the PCA is required, the PCA is the RGU.</p> <p><u>B.</u> For construction of an electric power generating plants plant and associated facilities designed for and capable of operating at a capacity of 25 megawatts or more but less than 50 megawatts or more. Environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600, and for which an air permit from the PCA is not required, the local governmental unit is the RGU.</p> <p><u>C.</u> For construction of an electric power generating plant and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, the PUC is the RGU, environmental review must be conducted according to parts 7849.1000 to 7849.2100 and chapter 7850.</p> <p><u>D.</u> For construction of a wind energy conversion system, as defined in Minnesota Statutes section 216F.01, designed for and capable of operating at a capacity of 25 megawatts or more, the PUC is the RGU and environmental review must be conducted according to chapter 7854.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4400, subpart 3. Electric-generating facilities. Electric-generating facilities. For construction of a large electric power generating plant, as defined in Minnesota Statutes, section 216E.01, subdivision 5, the PUC is the RGU. Environmental review shall must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>

TABLE D: MANDATORY CATEGORIES: ENVIRONMENTAL QUALITY BOARD as RGU			
Mandatory Categories: EQB as RGU Prepared with assistance of Department of Commerce	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 6. Transmission lines. For construction of a transmission line at a new location with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles of its length in Minnesota, the EQB shall be the RGU. For transmission lines and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more, environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>	<p>Page 118 of 1982 SONAR: This category area is proposed because of the potential for significant adverse environmental impacts associated with construction, operation, and maintenance of a linear facility, as well as significant social and economic impacts associated with the location of a linear facility. The proposed EAW threshold is set for facilities that exceed 20 miles in length. These facilities frequently traverse more than one county and usually entail greater impact as a function of increased length. The abbreviated EAW format would place little additional burden upon the utility because the information requested would be developed pursuant to their own internal environmental review or pursuant to federal requirements. The EIS threshold proposed is consistent with regulations relating to the routing of transmission lines.</p>	<p>Permitting is addressed through Minn. Rules 7849, 7850 for projects of 100 kilovolts or more.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p><i>LANGUAGE INCLUDED IN 2018 MANDATORY CATEGORIES RULEMAKING</i> Part 4410.4300, subpart 6. Transmission lines. Transmission lines. For construction of a transmission line at a new location with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles of its length in Minnesota, the EQB shall be the RGU. For construction of a high-voltage transmission line and associated facilities, as defined in part 7850.1000 designed for and capable of operating at a nominal voltage of 100 kilovolts or more, the PUC is the RGU. Environmental review shall <u>must</u> be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p> <p>Part 4410.4400, subpart 6. Transmission lines. Transmission lines. For construction of a high-voltage transmission line and associated facilities, as defined in part 7850.1000, the PUC is the RGU. Environmental review shall <u>must</u> be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 6. Transmission lines. For construction of a high voltage transmission line, environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.</p>			<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 7. Pipelines. Items A to D designate the RGU for the type of project listed:</p> <p>A. For routing of a pipeline, greater than six inches in diameter and having more than 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum fuels, or oil or their derivatives, the EQB shall be the RGU.</p> <p>B. For the construction of a pipeline for distribution of natural or synthetic gas under a license, permit, right, or franchise that has been granted by the municipality under authority of Minnesota Statutes, section 216B.36, designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than:</p> <p>(1) five miles if the pipeline will occupy streets, highways, and other public property; or</p> <p>(2) 0.75 miles if the pipeline will occupy private property; the EQB or the municipality is the RGU.</p> <p>C. For construction of a pipeline to transport natural or synthetic gas subject to regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et. seq., designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than:</p> <p>(1) five miles if the pipeline will be constructed and operated within an existing right-of-way; or</p> <p>(2) 0.75 miles if construction or operation will require new temporary or permanent right-of-way; the EQB is the RGU. This item shall not apply to the extent that the application is expressly preempted by federal law, or under specific circumstances when an actual conflict exists with applicable federal law.</p> <p>D. For construction of a pipeline to convey natural or synthetic gas that is not subject to regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et. seq.; or to a license, permit, right, or franchise that has been granted by a municipality under authority of Minnesota Statutes, section 216B.36; designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the EQB is the RGU. Items A to D do</p>

<p>not apply to repair or replacement of an existing pipeline within an existing right-of-way or to a pipeline located entirely within a refining, storage, or manufacturing facility.</p>			<p>application is expressly preempted by federal law, or under specific circumstances when an actual conflict exists with applicable federal law.</p> <p>D. For construction of a pipeline to convey natural or synthetic gas that is not subject to regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et seq.; or to a license, permit, right, or franchise that has been granted by a municipality under authority of Minnesota Statutes, section 216B.36; designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the EQB is the RGU. Items A to D do not apply to repair or replacement of an existing pipeline within an existing right of way or to a pipeline located entirely within a refining, storage, or manufacturing facility.</p> <p>For construction, as defined in Minnesota Statutes, section 216G.01, subdivision 2, of a pipeline, as defined in Minnesota Statutes, section 216G.01, subdivision 3 or 216G.02, subdivision 1, the PUC is the RGU. Environmental review must be conducted according to Minnesota Rules, chapter 7852 and Minnesota Statutes, chapter 216G.</p>
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Mandatory Categories: EQB as RGU Prepared with assistance of Department of Agriculture	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 35. Release of genetically engineered organisms. For the release of a genetically engineered organism that requires a release permit from the EQB under chapter 4420, the EQB is the RGU. For all other releases of genetically engineered organisms, the RGU is the permitting state agency. This subpart does not apply to the direct medical application of genetically engineered organisms to humans or animals.</p>	<p>The 1991 SONAR for Proposed Permanent Rules Relating to Release of Genetically Engineered Organisms stated:</p> <p>“This new mandatory EAW category is proposed to carry out the statutory mandate of Minn. Stat. S 116C.94 that the board adopt rules to require an EAW for the proposed release of genetically engineered organisms.</p> <p>“The requirement for an EAW for the release of a genetically engineered organism is needed because a number of potentially serious environmental impacts could result from such activities, if not properly conducted. These environmental impacts could include but are not limited to</p> <p>“(1) genetically engineered organism could be better suited to the environment than natives species and consequently could take over an ecological niche;</p> <p>“(2) genetically engineered organisms could evolve and become more adapted to their environment, resulting in increased competition for native organisms or increased risks to native organisms; and</p> <p>“(3) undesirable traits could be transferred to pests (e.g., insects or weeds) making them more resistant to pesticides or other methods of control.”</p>	<p>Local Government: - none</p> <p>State: The EQB issues a release permit unless the Board has authorized an agency with a significant environmental permit. The EQB determined that the MDA had a significant environmental permit for agriculturally-related GEOs, and the MDA adopted rules in 1994 (Minn. Rules Ch. 1558). To date, all releases of GEOs have been agriculturally-related. The potential exists, however, for non-agriculturally-related GEOs (e.g., genetically-engineered fish).</p> <p>Federal: The USDA has jurisdiction over agriculturally-related GEOs. The MDA cooperated with the USDA in regulation of agriculturally-related GEOs.</p>	<p>Recommendation: EQB recommends leaving these categories unchanged. No new permitting or review processes have been identified for this type of project. The information provided in past SONARs remain relevant justifications for the current thresholds for review.</p> <p>MDA recommends leaving these categories unchanged.</p>
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 28. Genetically engineered wild rice. For the release and a permit for a release of genetically engineered wild rice for which an EIS is required by Minnesota Statutes, section 116C.94, subdivision 1, paragraph (b), the EQB is the RGU.</p>	<p>The 2007 SONAR for Proposed Rules of the Environmental Quality Board Governing the Environmental Review Program stated:</p> <p>“This new subpart establishes a mandatory category for preparation of an EIS for any project proposed in Minnesota that would involve the release and a permit for a release of genetically engineered wild rice. The 2007 session of the Minnesota Legislature enacted a law making this specific requirement (Laws of Minnesota, Chapter 57, Article 1, Section 141). The wording of this category follows the language of the enactment of that session law.</p> <p>“Currently there are no EIS thresholds for release of any genetically engineered organisms; hence this new category. There is a requirement for an EAW at chapter 4410.4300, subpart35. This is for release of any genetically engineered organism that requires a permit under chapter 4420 or for genetically engineered organisms covered by a significant environmental permit program of a permitting state agency. This new EIS requirement goes beyond that and is specific to genetically engineered wild rice only.</p>		

Mandatory Categories: EQB as RGU Prepared with assistance of Department of Agriculture	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply	Should category be modified, eliminated, or unchanged based on relationship to existing permits or other federal/state/local laws/ordinances?
	<p>"The Minnesota Department of Agriculture has a significant environmental permit program, authorized at Minnesota Statutes 2006, Chapter 18F- Genetically Engineered Organisms. Under that statute, wild rice is specifically named as an Agriculturally Related Organism (chapter 18F.02, Definitions, subdivision 2a). Wild rice is subject to the Department of Agriculture permit program if produced by genetic engineering methods.</p> <p>"A further requirement of Laws of Minnesota, Chapter 57, Article 1, Section 142 applies the requirement to prepare an EIS in essentially all cases. It eliminates the availability of exceptions or exemptions from environmental review to any permit covered by a qualified federal program, or application by an individual permit applicant seeking an exemption from the board or permitting state agency. The requirement for an EIS for the release and a permit for a release of genetically engineered wild rice is uniform."</p>		

APPENDIX E: Prepared by the Environmental Quality Board

TABLE E: MANDATORY CATEGORIES: LOCAL GOVERNMENTAL UNIT as RGU			
Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 12. Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence, the DNR shall be the RGU.</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence, the local government unit shall be the RGU.</p> <p>C. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 20 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 40 acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit shall be the RGU.</p>	<p>page 127 OF 1982 SONAR This category area was proposed because of the potential for significant effects on ground and surface water quality and quantity, air quality, land use, and the local and state economy. Other local and state regulations relating to these activities do not necessarily deal with the full spectrum of potential impacts. Environmental review would facilitate multi-agency coordination.</p> <p>This category area is subdivided into categories relating to peat and categories relating to aggregate minerals because the impacts relating to these activities differ.</p> <p>The extraction of peat resources has the potential for causing environmental impacts relating to land use, air quality, water quality, mining and drainage. Peat mining activities tended to be of small scale and for the purpose of marketing the peat as a horticultural product or as a briquet fuel. Peat mining was expected to be extremely controversial if proposals developed to utilize the resource for other energy uses. Data based on actual development of these resources on a broad scale is limited. The threshold levels of 160 acres for a mandatory EAW and 320 acres for a mandatory EIS coincided with Department of Natural Resources policy as set forth in the Minnesota Permit Program Policy Recommendations. In the previous rules the 320 acre threshold for an EAW for nonmetallic resources would have applied to peat extraction.</p> <p>The extraction of aggregate resources has the potential for causing environmental impacts relating to land use, transportation, noise, air quality, water quality and vibrations. Proposed activities are frequently in or near populated areas and therefore tend to be controversial. The threshold levels of 40 acres to a ten foot depth -for a mandatory EAW and 160 acres to a ten foot depth for a mandatory EIS were developed pursuant to the public participation process and on the basis of the history of environmental review for these activities. A previous rule was not specific as to the degree of mining required to trigger the threshold. If a lesser area is actually developed, the entire parcel of land would still be included in the measurement. Petitions have been received for environmental review on facilities as low as 10 acres.</p> <p>pages 42 and 52 of 2007 SONAR: The clauses for projects in shoreland areas were added in 2007 due to concern over lakeshore development. (See Subp. 19a.)</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Rezoning if the community has zoning. Subdivision/platting approval.</p> <p>Conditional Use Permit, Interim Use Permit, and/or a local mining permit. Site plan approval. Grading/drainage/erosion control plan. Wetland Conservation Act approval and/or mitigation plan. Road access permit on local road. Building permits for structures.</p> <p>State: Water appropriation permit Permit to mine (Reclamation permit) Land lease NPDES/SDS permit Clean Water Act 401 certif. Driveway permit (Mn/DOT) if state highway.</p> <p>Federal: Clean Water Act 404 permit (wetlands)</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p>See Appendix D for DNR's recommendations on this category.</p> <p>PROPOSED LANGUAGE IN 2018 MANDATORY CATEGORIES RULEMAKING Part 4410.4300, subpart 12. Nonmetallic mineral mining.</p> <p>Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will extract 40 or more acres of land to a mean depth of ten feet or more during its existence, the local government governmental unit shall be is the RGU.</p> <p>D. For development of a silica sand project that excavates 20 or more acres of land to a mean depth of ten feet or more during the project's existence, the local governmental unit is the RGU.</p> <p>Part 4410.4400, subpart 9. Nonmetallic mineral mining.</p> <p>Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of land or more during its existence, the DNR shall be is the RGU.</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean depth of ten feet or more during its existence, the local government governmental unit shall be is the RGU.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 9. Nonmetallic mineral mining. Items A to C designate the RGU for the type of project listed:</p> <p>A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of land or more during its existence, the DNR shall be the RGU.</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean depth of ten feet or more during its existence, the local government unit shall be the RGU.</p> <p>C. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 80 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.</p>	<p>page 130 OF 1982 SONAR This category area is proposed because of the potential for significant impacts on water quality, air quality, solid waste generation, hazardous waste generation, transportation, land use, demographic and economic impacts on local economies. The spectrum of impacts is diverse and the regulation of the impacts varies in effectiveness with the units of government responsible. This type of project tends to be controversial, as witnessed by the number of projects previously subjected to environmental review.</p> <p>The diversity of projects precludes fine tuning of categories further. Thresholds relating to the operational size of the facility relative to the size of the local community are used. The basic theory is that the larger the facility, the greater the output and the greater the potential for local societal and environmental disruption. Square footage thresholds were set at relatively high levels (i.e., not likely to be proposed) for the EIS category and at moderate levels for the EAW category to allow discretion of the RGU in evaluating the merit of the other variables.</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Zoning permits. Subdivision/platting approval. Conditional Use Permit. Site plan approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Building permits for structures.</p> <p>State: Driveway permit (Mn/DOT) if state highway.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 14. Industrial, commercial, and institutional.</p> <p>Industrial, commercial, and institutional. Items A and B designate the RGU for the type of project listed, except as provided in items C and D:</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds,</p>
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 14. Industrial, commercial, and institutional facilities. Items A and B designate the RGU for the type of project listed, except as provided in items C and D:</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be the RGU:</p> <ol style="list-style-type: none"> (1) unincorporated area, 150,000; (2) third or fourth class city, 300,000; (3) second class city, 450,000; (4) first class city, 600,000. <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:</p> <ol style="list-style-type: none"> (1) unincorporated area, 100,000 square feet; (2) third or fourth class city, 200,000 square feet; 	<p>page 130 OF 1982 SONAR This category area is proposed because of the potential for significant impacts on water quality, air quality, solid waste generation, hazardous waste generation, transportation, land use, demographic and economic impacts on local economies. The spectrum of impacts is diverse and the regulation of the impacts varies in effectiveness with the units of government responsible. This type of project tends to be controversial, as witnessed by the number of projects previously subjected to environmental review.</p> <p>The diversity of projects precludes fine tuning of categories further. Thresholds relating to the operational size of the facility relative to the size of the local community are used. The basic theory is that the larger the facility, the greater the output and the greater the potential for local societal and environmental disruption. Square footage thresholds were set at relatively high levels (i.e., not likely to be proposed) for the EIS category and at moderate levels for the EAW category to allow discretion of the RGU in evaluating the merit of the other variables.</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Zoning permits. Subdivision/platting approval. Conditional Use Permit. Site plan approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Building permits for structures.</p> <p>State: Driveway permit (Mn/DOT) if state highway.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 14. Industrial, commercial, and institutional.</p> <p>Industrial, commercial, and institutional. Items A and B designate the RGU for the type of project listed, except as provided in items C and D:</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds,</p>

<p>(3) second class city, 300,000 square feet; (4) first class city, 400,000 square feet.</p> <p>C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29, or part 4410.4400, subparts 2 to 10, 12, 13, 15, or 17, for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EAW. If the project meets or exceeds the thresholds specified in any other subpart as well as that of item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.</p> <p>D. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 13, 16, 17, 20, 23, 25, 29, or 34, or part 4410.4400, subparts 2 to 10, 12, 13, 17, or 22, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.</p>	<p>The actual quantitative thresholds proposed were the subject of considerable controversy through the public meeting process used in preparation of these rules. Although these thresholds do not represent consensus, they do represent a negotiated workable threshold.</p> <p><u>pages 9 and 14 of 1986 SONAR:</u> The amendment adding C. and D. was intended to make explicit in the rules how to interpret the general mandatory categories for industrial, commercial, and institutional projects. This amendment was needed to avoid confusion about how this category should be applied in two types of situations: (1) where the project consists of several components, some of which may be of types for which mandatory EAW categories have been established; and (2) where the project is of an industrial, commercial or institutional nature, but of a single specific type for which there is a mandatory EAW category.</p> <p><u>page 39 of 1988 SONAR:</u> The category was separated into two types of projects, distinguishing "warehousing or light industrial facility" from others. The rationale was that traffic generation was the greatest impact, and warehousing and light industry generated less traffic than other types of industrial, commercial, and institutional projects. Therefore, the thresholds could be higher for warehousing and light industry.</p>	<p>Federal: Clean Water Act 404 permit (wetlands)</p>	<p>expressed as gross floor space, the local governmental unit shall be <u>is</u> the RGU:</p> <p>(1) unincorporated area, 150,000 <u>square feet</u>; (2) third or fourth class city, 300,000 <u>square feet</u>; (3) second class city, 450,000 <u>square feet</u>; <u>and</u> (4) first class city, 600,000 <u>square feet</u>.</p> <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be <u>is</u> the RGU:</p> <p>(1) unincorporated area, 100,000 square feet; (2) third or fourth class city, 200,000 square feet; (3) second class city, 300,000 square feet; <u>and</u> (4) first class city, 400,000 square feet.</p> <p><i>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW</i> Part 4410.4400, subpart 11. Industrial, commercial, and institutional facilities.</p> <p>Industrial, commercial, and institutional. Items A and B designate the RGU for the type of project listed, except as provided in items C and D:</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit is the RGU:</p> <p>(1) unincorporated area, 375,000 <u>square feet</u>; (2) third or fourth class city, 750,000 <u>square feet</u>; (3) second class city, 1,000,000 <u>square feet</u>; <u>and</u> (4) first class city, 1,500,000 <u>square feet</u>.</p> <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government <u>governmental</u> unit shall be <u>is</u> the RGU:</p> <p>(1) unincorporated area, 250,000 square feet; (2) third or fourth class city, 500,000 square feet; (3) second class city, 750,000 square feet; <u>and</u> (4) first class city, 1,000,000 square feet.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 11. Industrial, commercial, and institutional facilities. Items A and B designate the RGU for the type of project listed, except as provided in items C and D:</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit is the RGU:</p> <p>(1) unincorporated area, 375,000; (2) third or fourth class city, 750,000; (3) second class city, 1,000,000; (4) first class city, 1,500,000.</p> <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:</p> <p>(1) unincorporated area, 250,000 square feet; (2) third or fourth class city, 500,000 square feet; (3) second class city, 750,000 square feet; (4) first class city, 1,000,000 square feet.</p> <p>C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 10, 12, 13, 15, or 17, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29 for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EIS. If the project meets or exceeds the thresholds specified in any other subparts as well as those in item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.</p> <p>D. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 10, 12, 13, 17, or 22, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 23, 25, 29, or 34, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EIS or an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.</p>			

TABLE E: MANDATORY CATEGORIES: LOCAL GOVERNMENTAL UNIT as RGU

Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 19. Residential development. An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.1000, subpart 4. If a project consists of mixed unattached and attached units, an EAW must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:</p> <p>A. 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewerer unincorporated area;</p> <p>B. 100 unattached units or 150 attached units in a city that does not meet the conditions of item D;</p> <p>C. 100 unattached units or 150 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or</p> <p>D. 250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:</p> <p>(1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;</p> <p>(2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;</p> <p>(3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;</p> <p>(4) a capital improvements plan for public facilities; and</p> <p>(5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of those controls. The EQB chair may specify the form to be used for making a certification under this item.</p>	<p><u>page 141 OF 1982 SONAR</u>: This category area is proposed because of the potential for significant impacts on land use, demographic and economic impacts on local economies, transportation facilities, wildlife habitat and water quality. Additional concerns are generated because of increased potential for secondary development fostered by increased population and human activity. The spectrum of impacts is diverse and the regulation of the impacts varies in effectiveness with the units of government responsible. This type of project tends to be controversial, as witnessed by the number of projects previously subjected to environmental review.</p> <p>The diversity of projects precludes fine tuning of categories further. Thresholds relating the number of residential dwellings to the size of the local community were used. This measure was used because larger communities are more likely to be able to provide social and economic services to accommodate a greater population increase; therefore, the societal and environmental disruption per capita increase is likely to be lower. Thresholds were set at relatively high levels (i.e., not likely to be proposed) for the EIS categories and at moderate levels for the EAW categories to allow discretion by the RGU in evaluating the merit of all variables.</p> <p>The 1982 SONAR included separate thresholds for projects in shoreland, floodplain, or wild and scenic river areas if the community had not adopted ordinances for those areas.</p> <p>The category for developments near water resources was further tied to whether or not the local governmental unit has complied with existing regulations. Those that have are presumed to have incorporated adequate environmental protection measure and are therefore subject to the same threshold as developments in upland areas. Those that have not are subject to more stringent thresholds. In actual application developments in shoreland areas are most likely to be involved. All Minnesota counties have adopted shoreland ordinances; therefore, all developments in unincorporated areas actually would have the same measure applied. Approximately 50 of Minnesota's approximately 850 cities have adopted shoreland ordinances. Approximately 150 more cities will have adopted ordinances within the next biennium. This schedule will cover almost all cities likely to have proposed developments of sizes exceeding this threshold. Communities that feel they may be adversely impacted may develop ordinances ahead of the DNR schedule. Therefore, the use of this measurement for developments near water resources is projected to have relatively minimal long range impact in relation to the number of projects subject to environmental review.</p> <p>The actual quantitative thresholds proposed were the subject of considerable controversy through the public meeting process used in preparation of these rules. Although these thresholds do not represent consensus, they do represent a negotiated workable threshold.</p> <p><u>pages 47 and 63 of 1988 SONAR</u>: Added the beginning passage to avoid circumvention of the rules by segmenting of larger projects into smaller increments. Means of addressing mixed residential projects (attached and unattached units in one project) also are added. In addition, the rule was amended to raise the thresholds for cities with approved comprehensive plans. The existence of comprehensive plans, which anticipate development and allow a city to plan for it, increases a city's capacity to absorb growth without serious environmental or social disruption. Also added that when a project crosses the mandatory EIS threshold, an initial stage up to ten percent of the project could be reviewed with an EAW. This was intended to recognize the uncertainty of the ultimate size of a project, and that it may be unreasonable to delay it all for the length of time needed for an EIS.</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Rezoning if the community has zoning. Subdivision/platting approval. Conditional Use Permit Site plan approval. Grading/drainage/erosion control plan. Wetland Conservation Act approval and/or wetlands mitigation plan. Road access permit on local road Building permits for structures.</p> <p>State: Driveway permit (MnDOT) if state highway.</p> <p>Federal: Clean Water Act 404 permit (wetlands)</p>	<p>Recommendation: EQB supports recommendations from LGUs for modification of the criteria and threshold for these categories; to provide greater clarity in determining if environmental review is required for a proposed project.</p>

TABLE E: MANDATORY CATEGORIES: LOCAL GOVERNMENTAL UNIT as RGU

Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 14. Residential development. An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance, or if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.2000, subpart 4. The RGU may review an initial stage of the project, that may not exceed ten percent of the applicable EIS threshold, by means of the procedures of parts 4410.1200 to 4410.1700 instead of the procedures of parts 4410.2000 to 4410.2800. If the RGU determines that this stage requires preparation of an EIS under part 4410.1700, it may be reviewed through a separate EIS or through an EIS that also covers later stages of the project. If a project consists of mixed unattached and attached units, an EIS must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:</p> <p>A. 100 or more unattached or 150 or more attached units in an unsewered unincorporated area or 400 unattached units or 600 attached units in a sewerer unincorporated area;</p> <p>B. 400 unattached units or 600 attached units in a city that does not meet the conditions of item D;</p> <p>C. 400 unattached units or 600 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or</p> <p>D. 1,000 unattached units or 1,500 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:</p> <p>(1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;</p> <p>(2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;</p> <p>(3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;</p> <p>(4) a capital improvements plan for public facilities; and</p> <p>(5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision,</p>			

<p>private sewage systems, and a schedule for the implementation of the controls. The EOB chair may specify the form to be used for making a certification under this item.</p>			
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.</p> <p>A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development located wholly or partially in shoreland outside the seven-county Twin Cities metropolitan area of a type listed in items B to E. For purposes of this subpart, "riparian unit" means a unit in a development that abuts a public water or, in the case of a development where units are not allowed to abut the public water, is located in the first tier of the development as provided under part 6120.3800, subpart 4, item A. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EAW must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EAW must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.</p> <p>B. A development containing 15 or more unattached or attached units for a sensitive shoreland area or 25 or more unattached or attached units for a nonsensitive shoreland area, if any of the following conditions is present: (1) less than 50 percent of the area in shoreland is common open space; (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or (3) if any portion of the project is in an unincorporated area, the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b.</p> <p>C. A development containing 25 or more unattached or attached units for a sensitive shoreland area or 50 or more unattached or attached units for a nonsensitive shoreland area, if none of the conditions listed in item B is present.</p> <p>D. A development in a sensitive shoreland area that provides permanent mooring space for at least one nonriparian unattached or attached unit.</p> <p>E. A development containing at least one unattached or attached unit created by the conversion of a resort, motel, hotel, recreational vehicle park, or campground, if either of the following conditions is present: (1) the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b.</p> <p>F. An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU</p>	<p><u>pages 39 and 43 and 52 of 2007 SONAR</u>: Major impetus was significant change in pattern of lakeshore development: conversion of seasonal cabins into year-round homes, size of new homes, and increasing density of new projects. Shoreland areas once less desirable or difficult to develop being proposed for development often are low-lying and marshy, with shallow water offshore and beds of aquatic vegetation, features that make the areas important to the lake ecology. The number of citizen petitions for lakeshore development was increasing. There was widespread concern about the consequences of poor development on water quality and fish and wildlife habitat caused by poorly functioning onsite septic systems and increased impervious surface runoff that negatively affected water quality. These factors led to the recognition that existing mandatory review categories may not be adequate for the changing conditions.</p> <p>The category does not apply within the Twin City Metro because questions arose whether the common open space and unit density criteria were appropriate to projects located in urbanized areas. (p. 28 of ALJ report May 7, 2009)</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Rezoning if the community has zoning. Subdivision/platting approval. Conditional Use Permit or Planned Unit Development Permit. Site plan approval. Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Road access permit on local road. Building permits for structures.</p> <p>State: Driveway permit (Mn/DOT) if state highway. Public Waters Permit (DNR)</p> <p>Federal: Clean Water Act 404 permit (wetlands)</p>	<p>Recommendation: EOB supports recommendations from LGUs for modification of the criteria and threshold for these categories; to provide greater clarity in determining if environmental review is required for a proposed project.</p>

<p>shall include the number of units in any plans of the proposer. For land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average</p>			
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 14a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.</p> <p>A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development located wholly or partially in shoreland outside the seven-county Twin Cities metropolitan area of a type listed in items B to D. For purposes of this subpart, "riparian unit" means a unit in a development that abuts a public water or, in the case of a development where units are not allowed to abut the public water, is located in the first tier of the development as provided under part 6120.3800, subpart 4, item A. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EIS must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EIS must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.</p> <p>B. A development containing 50 or more unattached or attached units for a sensitive shoreland area or 100 or more unattached or attached units for a nonsensitive shoreland area, if any of the following conditions is present:</p> <p>(1) less than 50 percent of the area in shoreland is common open space;</p> <p>(2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or</p> <p>(3) any portion of the project is in an unincorporated area.</p> <p>C. A development of 100 or more unattached or attached units for a sensitive shoreland area or 200 or more unattached or attached units for a nonsensitive shoreland area, if none of the conditions listed in item B is present.</p> <p>D. A development creating 20 or more unattached or attached units for a sensitive shoreland area or 40 or more unattached or attached units for a nonsensitive shoreland area by the conversion of a resort, motel, hotel, recreational vehicle park, or campground, if either of the following conditions is present:</p> <p>(1) the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area and width standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or</p> <p>(2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b.</p> <p>E. An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer. For land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units</p>			

allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist.			
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 20. Campgrounds and RV parks. For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by 50 or more sites, the local government unit shall be the RGU.</p>	<p><u>page 144 of 1982 SONAR</u>: Category Area: Recreational Development This category is proposed because recreational developments are typically proposed adjacent to areas with significant natural resources. Such development may significantly human activity in sensitive areas. These developments often are very controversial locally and may have significant impacts on local land use. The threshold measure as proposed is designed to exclude wilderness camps accessible only by foot, canoe or plane: facilities usually not located in areas where local controversy is likely. The 50 unit threshold was developed through the public meeting process. It corresponds to the threshold in the current rules for recreational developments in sensitive areas (see next subp.) The alternative of a higher threshold for developments that are not located in shoreland areas, flood plain areas, and wild and scenic river areas was considered but rejected at the request of- representatives of local governmental unit. This alternative was rejected because of the likelihood of local controversy regardless of the proximity to water resources. Projects of this nature may be proposed to facilitate hunting, snowmobiling, hiking, horseback riding, bike riding, etc. These activities may have significant impacts on local land use for the EAW categories to allow discretion by the RGU in evaluating the merit of all variables.</p> <p><u>PAGE 19 of 1997 SONAR</u>: Caption changed to recognize the specific types of development intend for inclusion in the category. Added "expansion" language to recognize that, given the high natural resource values generally present where these facilities are located, expansion has the same potential for environmental impacts as original construction.</p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Rezoning if the community has zoning. Subdivision/platting approval. Conditional Use Permit or Interim Use Permit. Site plan approval. Grading/drainage/erosion control plan. Wetland Conservation Act approval and/or wetlands mitigation plan. Road access permit on local road. Building permits for structures.</p> <p>State: Water appropriation permit. Driveway permit (Mn/DOT) if state highway.</p> <p>Federal: Clean Water Act 404 permit (wetlands).</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <hr/> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 20. Campgrounds and RV parks. Campgrounds and RV parks. For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by 50 or more sites, the local governmental unit shall be the RGU.</p>
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 20a. Resorts, campgrounds, and RV parks in shorelands. The local government unit is the RGU for construction or expansion of a resort or other seasonal or permanent recreational development located wholly or partially in shoreland, accessible by vehicle, of a type listed in item A or B:</p> <p>A. construction or addition of 25 or more units or sites in a sensitive shoreland area or 50 units or sites in a nonsensitive shoreland area if at least 50 percent of the area in shoreland is common open space; or</p> <p>B. construction or addition of 15 or more units or sites in a sensitive shoreland area or 25 or more units or sites in a nonsensitive shoreland area, if less than 50 percent of the area in shoreland is common open space. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EAW must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EAW must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.</p>	<p><u>pages 49 and 55 of 2007 SONAR</u>: This new category was created to parallel Subp. 20 but incorporate the concerns regarding shoreland development as described for Subp. 19a.</p> <p><i>Note: Page 144 of 1982 SONAR includes the following:</i> <i>"DISCUSSION: Under the current rules, the following category is directly relevant to the recreational development category area:</i> <i>Mandatory EAW – 6 MCAR§ 3.024 Construction of a development consisting of "condominium type" campgrounds, mobile home parks, or other semi-permanent residential and/or recreational facilities, any part of which is within a shoreland area (as defined by Minn. Stat. § 105.485 (1974) for floodplain (as defined by the "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota" exceeding a total of 50 units or, if located in areas other than the above, exceeding a total of 100 units – (Local);"</i></p>	<p>Local Government: Comprehensive plan amend if the community has a plan. Rezoning if the community has zoning. Subdivision/platting approval. Conditional Use Permit. Site plan approval. Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Road access permit on local road. Building permits for structures.</p> <p>State: Water appropriation permit. Driveway permit (Mn/DOT) if state highway.</p> <p>Federal: Clean Water Act 404 permit (wetlands).</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <hr/> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 20a. Resorts, campgrounds, and RV parks in shorelands</p> <p>Resorts, campgrounds, and RV parks in shorelands. The local governmental unit is the RGU for construction or expansion of a resort or other seasonal or permanent recreational development located wholly or partially in shoreland, accessible by vehicle, of a type listed in item A or B:</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 26. Resorts, campgrounds, and RV parks in shorelands. For construction or expansion of a resort or other seasonal or permanent recreational development located wholly or partially in shoreland, accessible by vehicle, adding 100 or more units or sites in a sensitive shoreland area or 200 or more units or sites in a nonsensitive shoreland area, the local governmental unit is the RGU. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EIS must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the</p>			

<p>number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EIS must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.</p>			
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 21. Airport projects. Items A and B designate the RGU for the type of project listed: A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. B. For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.</p>	<p><u>page 145 of 1982 SONAR:</u> This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, and energy. New facilities and expansion of existing facilities to accommodate noisier aircraft are likely to be very controversial. The EAW threshold for a new airport runway in the "key system" existed in the previous rule. The basic qualitative measure applied to these categories is that airports able to accommodate jet aircraft have greatest potential to create significant environmental impacts. Facilities to accommodate jet aircraft must include a runway of 5,000 length or greater. The construction of a new facility to accommodate jet air traffic is proposed as a mandatory EIS threshold. The more likely case is that an existing facility would be expanded from a strictly small aircraft facility to a jet aircraft facility. Similar concerns could arise with runway modifications to allow use by larger jet facilities. Such potential expansion is addressed as a mandatory EAW with the need for an EIS discretionary. The 12,500 pound aircraft weight corresponds to a minimal weight for jet aircraft. The three decibel increase corresponds to a noise increase 1000 times the prior noise level. Construction of new facilities for multi-engine, twin engine and single engine aircraft and expansion of these facilities to less than jet aircraft capacity is subject to environmental review on a discretionary basis. The proposed EIS category corresponds to the current EAW threshold. Minnesota has 18 key system airports. Key system airports are airports capable of handling jet aircraft. Minnesota has 73 intermediate system airports (light to medium sized multi-engine aircraft) and 50 landing strip system airports (single and twin engine aircraft).</p> <p><u>page 19 of 1997 SONAR:</u> In 1997, the rule was amended to require an EAW for all new airport runways.</p>	<p>Local Government: Site plan approval. Grading/drainage/erosion control plan. Wetlands mitigation plan. Conditional use permits Zoning</p> <p>State: See MnDOT analysis of this category in Appendix B.</p> <p>Federal: See MnDOT analysis of this category in Appendix B.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>See Appendix B for MN DOT's analysis of these categories.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 21. Airport projects. Airport projects. Items A and B designate the RGU for the type of project listed: A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. B. For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 22. Highway projects. Items A to C designate the RGU for the type of project listed: A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local government unit shall be the RGU. B. For construction of additional travel lanes on an existing road for a length of one or more miles, the DOT or local government unit shall be the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local government unit shall be the RGU.</p>	<p><u>page 146 of 1982 SONAR:</u> This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, energy, water quality, erosion, drainage, water resources, habitat destruction, and construction impacts. New facilities and the expansion of existing facilities to accommodate increased traffic are likely to be very controversial. Although the cumulative impact of local roadways is greatest, primary concern is generated by the construction of arterial and collector roadways because they tend to induce secondary development in the area and they accommodate approximately 85% of the total mileage driven by motorists. Arterial roadways are commonly four or more lanes in width. The EIS category at uses this as a qualitative threshold.</p>	<p>Local government:</p> <ul style="list-style-type: none"> Grading/drainage/erosion control plan. Wetland Conservation Act approval and/or wetlands mitigation plan. Shoreland permit. Floodplain permit/approval. Subdivision/platting approval. Conditional use permits Easement Vacation <p>State: See MnDOT analysis of this category in Appendix B.</p> <p>Federal: See MnDOT analysis of this category in Appendix B.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>See Appendix B for MN DOT's analysis of these categories.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 22. Highway projects. Highway projects. Items A to C designate the RGU for the type of project listed: A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local governmental unit shall be the RGU. B. For construction of additional travel through lanes or passing lanes on an existing road for a length of one two or more miles, exclusive of auxiliary lanes, the DOT or local governmental unit shall be the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local governmental unit shall be the RGU.</p>
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 16. Highway projects. For construction of a road on a new location which is four or more lanes in width and two or more miles in length, the DOT or local government unit shall be the RGU.</p>			

TABLE E: MANDATORY CATEGORIES: LOCAL GOVERNMENTAL UNIT as RGU			
Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 23. Barge fleeting. For construction of a new or expansion of an existing barge fleeting facility, the DOT or port authority shall be the RGU.</p> <p>4410.4400 MANDATORY EIS CATEGORY. Subp. 17. Barge fleeting facilities. For construction of a barge fleeting facility at a new off-channel location that involves the dredging of 1,000 or more cubic yards, the DOT or port authority shall be the RGU.</p>	<p><u>page 149 of 1982 SONAR:</u> This category is proposed because of the potential for significant environmental impacts related to water quality, sedimentation and erosion, recreational use of water resources, commercial transportation, habitat deterioration, and adjacent land use. No single agency is responsible for coordinated programming of proposed activities, therefore, environmental review is necessary. Under the current rules there are no mandatory EAW or exemption categories directly relevant to the barge fleeting category area. Regulation of barge fleeting is not focused with any central agency. Local government comprehensive plans typically do not address the problems and needs of a commercial barge navigation system. Primary problems associated with the environmental impacts center on the effects of dredging and spoil disposal on water quality and habitat disruption for wildlife populations.</p> <p>The EAW category sets forth an all or none threshold relating to the construction or expansion of the capacity of facilities at either on channel or off-channel locations. Dredging for the purpose of maintaining existing capacity would not be included in this category. The all or none threshold is reasonable to facilitate coordination between governmental units involved and to address the impacts related to disturbance of the habitat and operation of the facility in addition to potential dredging impacts.</p> <p>The threshold used for the EIS category centers on off-channel facilities at new locations which entail controversial siting and land use issues. A minimum dredge threshold was set to allow minor or temporary facilities. The threshold was established as a reasonable cut-off pursuant to the public meeting process.</p> <p>No exemptions for this category: coordination between governmental units is needed, and adequate site specific information is usually lacking.</p>	<p>Local Government: Site Plan Approval. Possible subdivision/platting review Grading permit Building permit for structures Conditional use permits (operator facilities)</p> <p>State: See MnDOT analysis of this category in Appendix B.</p> <p>Federal: See MnDOT analysis of this category in Appendix B.</p>	<p>Recommendation: No additional changes are recommended.</p> <p>See Appendix B for MnDOT's analysis of these categories.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 25. Marinas. For construction or expansion of a marina or harbor that results in a 20,000 or more square foot total or a 20,000 or more square foot increase of water surface area used temporarily or permanently for docks, docking, or maneuvering of watercraft, the local government unit shall be the RGU.</p> <p>4410.4400 MANDATORY EIS CATEGORY. Subp. 19. Marinas. For construction of a new or expansion of an existing marina, harbor, or mooring project on a state or federally designated wild and scenic river, the local government unit shall be the RGU.</p>	<p><u>page 151 of 1982 SONAR:</u> This category area is proposed because of the potential for significant impacts related to water quality, air quality, noise, wildlife habitat, aesthetics, and the use of public resources. The qualitative measure of the thresholds applied to the EAW category is the area of water surface occupied by the facility. This measure most appropriately reflects the total potential for impacts from the facility. The quantitative threshold proposed corresponds to approximately one half acre. Such a facility would accommodate approximately 80 boats. The proposed category is the same as the current rules. This threshold has proven to be reasonable for defining major facilities. Marinas may be constructed in wild and scenic river areas. However, because of the unique character of these areas, the areas are generally inappropriate for marinas. Under the current rules, requests for EISs on marinas have mostly been confined to wild and scenic river systems.</p>	<p>Local Government: Comprehensive plan amend if community has a plan. Rezoning if the community has zoning. Subdivision/platting approval. Conditional Use Permit. Site plan approval. Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Road access permit on local road. Building permits for structures.</p> <p>State: Work in public waters</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 25. Marinas. For construction or expansion of a marina or harbor that results in a 20,000 or more square foot total or a 20,000 or more square foot increase of water surface area used temporarily or permanently for docks, docking, or maneuvering of watercraft, the local governmental unit is the RGU.</p> <p>Part 4410.4400 Subp. 19. Marinas. For construction of a new or expansion of an existing marina, harbor, or mooring project on a state or federally designated wild and scenic river, the local governmental unit shall be the RGU.</p>

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Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 26. Stream diversion. For a diversion, realignment, or channelization of any designated trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles unless exempted by part 4410.4600, subpart 14, item E, or 17, the local government unit shall be the RGU.</p>	<p><u>page 152 of 1982 SONAR:</u> This category area is proposed because the alteration of watercourses affects flooding in downstream and adjacent areas, wildlife habitat, fisheries resources, water quality, and area land use. The traditional analysis of flood control and drainage projects usually does not consider broad and long range environmental implications. Environmental review will facilitate a more comprehensive analysis. The qualitative measure applied to the EAW category is restricted to trout streams and natural watercourses because they have significant habitat, recreational, and resource values. Alteration of these watercourses may significantly impact natural drainage. A ten square mile quantitative threshold is applied to make the category administratively feasible and because minor diversion of headwaters watercourses is likely to have minimal flooding and habitat impacts. A ten square mile drainage area corresponds to approximately 6,400 acres.</p> <p><u>page 20 of 1997 SONAR:</u> "Realignment" is added as an activity that <i>will</i> require an EAW. Realignment often means straightening, which has a serious effect on water flows and stream habitat. The 500-foot minimum length was added so that the category would no longer apply to minor stream alterations; this minimum threshold does not apply to trout streams. Experience has shown that stream diversions of less than this length generally have minimal environmental impacts and do not warrant a mandatory EAW requirement.</p>	<p>Local Government: Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan.. Land alteration permit. Conditional use permit.</p> <p>State: Work in public waters. (DNR)</p> <p>Federal: Section 404 Clean Water Act.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW</p> <p>Part 4410.4300, subpart 26. Stream diversion. Stream diversion. For a diversion, realignment, or channelization of any designed trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles unless exempted by part 4410.4600, subpart 14, item E, or 17, the <u>DNR</u> or local governmental shall be <u>is</u> the RGU.</p>
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 27. Wetlands and public waters. Items A and B designate the RGU for the type of project listed:</p> <p>A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G, the local government unit shall be the RGU.</p> <p>B. For projects that will change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more, excluding public waters wetlands, if any part of the wetland is within a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government unit shall be the RGU.</p>	<p><u>page 153 of 1982 SONAR:</u> This category area is proposed because of the potential for significant impacts related to flood control, erosion control, water quality, wildlife habitat, recreation, and aesthetics. Impacts generated by proposals subject to this category area often are long range and are often manifested at locations removed from the area of immediate impact. Environmental review facilitates a comprehensive view of the potential impacts of these projects.</p> <p>An EIS is required for the elimination of a protected water or protected wetland. This is reasonable because these resources have been determined to be significant pursuant to the DNR's inventory program. The elimination of such resources would have significant local and regional impacts. A quantitative threshold of one acre is set to require an EAW. This is reasonable because an alteration of one acre is likely to affect the total aquatic ecosystem. In addition, impacts of that size are likely to foster additional in the area. Environmental review is reasonable to reduce the possibility of piecemealing the elimination or degradation of the resource.</p>	<p>Local Government: Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Conditional use permit</p> <p>State: Work in public waters. (DNR)</p> <p>Federal: Section 404 Clean Water Act.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>Part 4410.4300, subpart 27. Wetlands and public waters. Wetlands and Public waters, public water wetlands and wetlands. Items A and B designate the RGU for the type of project listed:</p> <p>A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetlands except for those to be drained without a permit <u>pursuant according to Minnesota Statutes, chapter 103G, DNR or the local governmental unit shall be is</u> the RGU.</p> <p>B. For projects that will change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more cause an impact, as defined in part 8420.0111, to a total of one acre or more of <u>wetlands</u>, excluding public waters wetlands, if any part of the wetland is within a shoreland area, <u>a delineated flood plain floodplain</u>, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local governmental <u>unit shall be is</u> the RGU.</p> <p>Part 4410.4400, subpart 20. Wetlands and public waters. Wetlands and Public waters, public water wetlands. For projects that will eliminate a public water or public water wetland, <u>the DNR or the local governmental unit shall be is</u> the RGU.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 20. Wetlands and public waters. For projects that will eliminate a public water or public waters wetland, the local government unit shall be the RGU.</p>	<p><u>page 39 of 2005 SONAR:</u> The Legislature later amended State water laws to replace the term "protected waters" with "public waters" and the term "protected wetland" with "public waters wetland." The rules were updated in 2005 to reflect this.</p>	<p>Local Government: Grading/drainage/erosion control plan. Shoreland permit. Floodplain permit/approval. Wetland Conservation Act approval and/or wetlands mitigation plan. Conditional use permit</p> <p>State: Work in public waters. (DNR)</p> <p>Federal: Section 404 Clean Water Act.</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>Part 4410.4400, subpart 20. Wetlands and public waters. Wetlands and Public waters, public water wetlands. For projects that will eliminate a public water or public water wetland, <u>the DNR or the local governmental unit shall be is</u> the RGU.</p>

TABLE E: MANDATORY CATEGORIES: LOCAL GOVERNMENTAL UNIT as RGU

Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 29. Animal feedlots. The PCA is the RGU for the types of projects listed in items A and B unless the county will issue the feedlot permit, in which case the county is the RGU. However, the county is not the RGU prior to January 1, 2001. A. For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more if the facility is not in an area listed in item B. B. For the construction of an animal feedlot facility of more than 500 animal units or expansion of an existing animal feedlot facility by more than 500 animal units if the facility is located wholly or partially in any of the following sensitive locations: shoreland; a delineated flood plain, except that in the flood plain of the Red River of the North the sensitive area includes only land within 1,000 feet of the ordinary high water mark; a state or federally designated wild and scenic river district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; or an area within a drinking water supply management area delineated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or within 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley. The provisions of part 4410.1000, subpart 4, regarding connected actions do not apply to animal feedlots. The provisions of part 4410.1000, subpart 4, regarding phased actions apply to feedlots. With the agreement of the proposers, the RGU may prepare a single EAW to collectively review individual sites of a multisite feedlot proposal.</p>	<p><u>page 156 of 1982 SONAR:</u> This category is proposed because of the potential for significant environmental impacts relating to ground and surface water quality, odors, and local land use issues. This type of activity is likely to be controversial if the location is in a sensitive area or near residential or recreational developments. Thresholds were amended in 1988.</p> <p>The MEPA statute (116D) was amended in 2003 to exempt feedlots from environmental review if they are under 1,000 animal units or the county holds a public hearing on the project and the project complies with MPCA permit requirements. The exemptions section in the rules was amended accordingly. The result is that few, if any, environmental reviews have local governments RGUs anymore. The MPCA is the RGU for the ones that are prepared.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Conditional Use Permit. - Grading/drainage/erosion control plan. - Wetland Conservation Act approval and/or wetlands mitigation plan - Zoning. - Building permits for structures. <p>State:</p> <ul style="list-style-type: none"> - NPDES/SDS permit, construction stormwater permit, water appropriation permit <p>Federal:</p> <ul style="list-style-type: none"> - NPDES administered by State 	<p>Recommendation: EQB recommends leaving this category unchanged. No new permitting or review processes have been identified for this type of project. The information provided in past SONARs remain relevant justifications for the current thresholds for review.</p> <p>See Appendix E for MPCA's analysis of these categories.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 30. Natural areas. For projects resulting in the permanent physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.</p>	<p><u>page 157 of 1982 SONAR:</u> This category is proposed because natural areas are publicly owned properties that have been set aside to preserve significant natural resources for future generations. These are sensitive areas of unique quality which may be significantly impacted by inappropriate development. Environmental review is necessary for these activities to allow public involvement in decisions affecting publicly owned resources. Enabling legislation conferring authority for the designation of these public facilities mandates the preparation of a master management plan for the unit. These plans may vary according to the characteristics of the area and purposes for designation. As a result, the standard of inconsistent with the management plan is proposed. This is the most reasonable method of addressing the diversity among these units.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Comprehensive plan amend if community has a plan. - Zoning. - Subdivision/platting approval. - Conditional Use Permit. - Site plan approval. - Grading/drainage/erosion control plan. - Wetland Conservation Act approval and/or wetlands mitigation plan. - Road access permit on local road. - Building permits for structures. <p>State:</p> <p>Master plan per M.S. 86A.09</p> <p>Federal:</p> <p>National park or forest management plans.</p>	<p>Recommendation: EQB recommends the modifying this category to include changes in the proposed rule language that is currently under review.</p> <p>The draft SONAR states that: The more recent addition of a recreational trails category, (Minn. Rules part 4410.4300, subpart 37), was developed to be a more precise measure for determining if a trail project may have the potential for environmental effects than inconsistency with state trail master plan revisions. There was no mandatory recreational trails category when the rule was enacted.</p> <p>Eliminating the state trail provision is appropriate because it is unlikely that a project inconsistent with the state trail master plan would be authorized by DNR to encroach on a state trail corridor. An unintended consequence of the existing rule language is that revisions to state trail master plans can be interpreted as a "project" under Minnesota Rules 4410.0200. This interpretation results in these plan revisions requiring environmental review under the Recreational trails mandatory category if the master plan revisions propose to add new recreational uses, regardless of length, type or size.</p> <p>See Appendix D for DNR's recommendations on this category.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 30. Natural areas. Natural areas. For projects resulting in the permanent physical encroachment of lands within a national park, <u>a</u> state park, <u>a</u> wilderness area, state lands and water within the boundaries of the Boundary Waters Canoe Area, <u>or a</u> scientific and natural areas, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local governmental unit shall be is the RGU.</p>

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Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 31. Historical places. For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.</p>	<p><u>page 157 of 1982 SONAR:</u> This category area is proposed because there is very little government authority to protect sites listed on the National Register of Historic Places. The requirement for environmental review prior to the destruction of such facilities is needed to provide the public an opportunity to take part in decisions that may significantly affect the preservation of our national heritage. Historical resources are protectable natural resources under the Minnesota Environmental Rights Act. Approximately 907 sites in Minnesota are currently listed on the National Register. Sites so listed are regarded to be nationally significant resources. These sites are frequently privately owned and there may be little financial incentive for the owner to maintain the site. Public review may produce feasible alternatives to the destruction of the facility. The opportunity to review these alternatives via environmental review is reasonable because of the lack of other forms of regulation. <u>page 21 of 1997 SONAR:</u> The rules were amended to: clarify moving of a building was included; add the State Register of Historic Places; and add two exemptions for federal program review. <u>page 39 of 2005 SONAR:</u> The 2005 rules amendment added two situations where an EAW is not required. The first is when destruction will be reviewed by a certified local heritage preservation commission. The State Historic Preservation Office believes that review by such a commission gives adequate oversight over historic places without preparation of an EAW. To be certified, a local heritage preservation commission applies to SHPO, which reviews the application and local ordinance for consistency with nationwide standards established in the Code of Federal Regulations at the cited locations. The second situation added has to do with the nature of the property proposed for destruction. In some cases, the historic place included on the National or State Register is an entire district rather than a single structure. In such districts, not all the properties actually have or contribute to the historic value of the district.</p>	<p>Local government:</p> <ul style="list-style-type: none"> - Demolition permit (building permit). - Zoning. <p>State: Environmental Site Assessments (if state funding is provided)</p>	<p>Recommendation: EOB recommends the minor clarifying edits in proposed rule language, and also recommends this category be further modified based on an analysis of its intended outcomes, and the relationship of this category to existing permits or other federal, state, or local laws or ordinances.</p> <p>Additional stakeholder outreach should be implemented to identify whether this category should be considered for an alternative form of review, allowed under MN Rule 4410.3600.</p> <p>See Appendix D for DNR's analysis of these categories.</p> <hr/> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 31. Historical places. For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or <u>local governmental unit of government shall be</u> is the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16-54, section 470 <u>306108</u>, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 32. Mixed residential and industrial-commercial projects. If a project includes both residential and industrial-commercial components, the project must have an EAW prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 14, equals or exceeds one. The local governmental unit is the RGU.</p>	<p><u>page 55 and 66 of 1988 SONAR:</u> A new category created to close a loophole whereby mixed use projects were not covered by either the residential or industrial/commercial/institutional categories.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Comprehensive plan amend if the community has a plan. - zoning. - Subdivision/platting approval. - Conditional Use Permit or Planned Unit Development Permit. - Site plan approval. - Wetland Conservation Act approval and/or wetlands mitigation plan. - Building permits for structures. <p>State:</p> <ul style="list-style-type: none"> - Driveway permit (Mn/DOT) if state highway. <p>Federal:</p> <ul style="list-style-type: none"> - -Clean Water Act 404 permit (wetlands) 	<p>Recommendation: No changes.</p>
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 21. Mixed residential and commercial-industrial projects. If a project includes both residential and commercial-industrial components, the project must have an EIS prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 14, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 11, equals or exceeds one.</p>			

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Mandatory Categories: Local Government as RGU	Intended Historical Purpose	Example Local, State, Federal Permits, Laws, Ordinances that may (or may not) apply.	Should category be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 33. Communications towers. For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any public water or public waters wetland or within two miles of the Mississippi, Minnesota, Red, or St. Croix rivers or Lake Superior, the local governmental unit is the RGU.</p>	<p>page 56 in 1988 SONAR: Category created in response to a number of petitions involving communication towers, which apparently were reflective of the increasing number of towers being constructed. Information from the DNR indicates that towers have a high potential for killing night migrating birds. There also was the potential for significant aesthetic impacts. Up until just before this time, the federal FCC prepared an environmental assessment for any tower in excess of 500 feet, but had recently eliminated that procedure. The new rule adopted the former federal threshold. page 22 of 1997 SONAR: added the 300' height in sensitive areas.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Conditional Use Permit. - Zoning permit - Grading/drainage/erosion control plan. - Wetland Conservation Act approval and/or wetlands mitigation plan. - Site plan approval. - Building permits for structures. - Road access permit local road <p>State:</p> <ul style="list-style-type: none"> - Driveway permit (Mn/DOT) if state highway. 	<p>Recommendation: EQB recommends leaving this category unchanged. No new permitting or review processes have been identified for this type of project. The information provided in past SONARs remain relevant justifications for the current thresholds for review.</p>
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 34. Sports or entertainment facilities. For construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility by this amount, the local governmental unit is the RGU.</p>	<p>pages 57 and 66 of 1988 SONAR: New category created. A significant number of such facilities had been reviewed since 1982 (horse tracks, amphitheaters, a sports complex, a basketball arena, and a zoo expansion.). Experience demonstrated that environmental review was appropriate. However, existing categories were not well-suited to such facilities. Industrial/commercial/institutional category is based on gross floor space. Experience reviewing sports facilities led to the conclusion that attendance rather than floor space is a better estimator of environmental effects.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Comprehensive plan amend if community has a plan. - Rezoning if the community has zoning. - Subdivision/platting approval. - Conditional Use Permit. - Site plan approval. - Building permits for structures. <p>STATE NPDES, highway improvements</p> <p>FEDERAL highway improvements</p>	<p>Recommendation: EQB recommends leaving this category unchanged. No new permitting or review processes have been identified for this type of project. The information provided in past SONARs remain relevant justifications for the current thresholds for review.</p> <p><i>INPUT RECEIVED FROM POLITICAL SUBDIVISIONS:</i></p> <ul style="list-style-type: none"> - This category meets its intended historical purpose.
<p>4410.4400 MANDATORY EIS CATEGORY. Subp. 22. Sports or entertainment facilities. For construction of a new outdoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 20,000 or more persons or a new indoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 30,000 or more persons, or the expansion of an existing facility by these amounts, the local governmental unit is the RGU.</p>			
<p>4410.4300 MANDATORY EAW CATEGORY. Subp. 36. Land use conversion, including golf courses. Items A and B designate the RGU for the type of project listed: A. For golf courses, residential development where the lot size is less than five acres, and other projects resulting in the permanent conversion of 80 or more acres of agricultural, native prairie, forest, or naturally vegetated land, the local governmental unit shall be the RGU, except that this subpart does not apply to agricultural land inside the boundary of the Metropolitan Urban Service Area established by the Metropolitan Council. B. For projects resulting in the conversion of 640 or more acres of forest or naturally vegetated land to a different open space land use, the local governmental unit shall be the RGU.</p>	<p>page 54 of 1988 SONAR: The exemption for land within the Metropolitan Urban Service Area was added because the planning policies for the metropolitan area was considered to have adequately addressed the issue of agricultural land conversion. page 22 of 1997 SONAR: The land conversion for golf courses threshold formerly was part of the "forestry and agriculture" category of Subp. 28. Residential development for lots larger than urban size was added as well. The intent was to acknowledge that conversion of land can have environmental effects, not just the number of units as is the measure for the residential category.</p>	<p>Local government:</p> <ul style="list-style-type: none"> - Comprehensive plan amend if community has a plan. - Rezoning if the community has zoning. - Subdivision/platting approval. - Conditional Use Permit. - Land use amendment. - Site plan approval. - Wetland Conservation Act approval and/or wetlands mitigation plan. -Road access permit on local road. - Building permits for structures. - Grading/drainage/erosion control plan. <p>State:</p>	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking for additional information.</p> <p><i>INPUT RECEIVED FROM POLITICAL SUBDIVISIONS:</i></p> <ul style="list-style-type: none"> - This category meets its intended historical purpose <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW Part 4410.4300, subpart 36. Land use conversion, including golf courses. A. For golf courses, residential development where the lot size is less than five acres, and other projects resulting in the permanent conversion of 80 or more acres of agricultural, native prairie, forest, or naturally vegetated land, the local governmental unit shall be the RGU, except that this subpart does not apply to</p>

		<ul style="list-style-type: none"> - Water appropriation permit. - Driveway permit if state hwy. <p>Federal:</p> <ul style="list-style-type: none"> - CWA 404 permit 	<p>agricultural land inside the boundary of the Metropolitan Urban Service Area established by the Metropolitan Council.</p> <p>B. For projects resulting in the conversion of 640 or more acres of forest or naturally vegetated land to a different open space land use, the local governmental unit shall be the RGU.</p>
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 36a. Land conversions in shoreland.</p> <p>A. For a project that alters 800 feet or more of the shoreline in a sensitive shoreland area or 1,320 feet or more of shoreline in a nonsensitive shoreland area, the local governmental unit is the RGU.</p> <p>B. For a project that alters more than 50 percent of the shore impact zone if the alteration measures at least 5,000 square feet, the local governmental unit is the RGU.</p> <p>C. For a project that permanently converts 20 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 40 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.</p>	<p>pages 50 and 55 of 2007 SONAR: As a result of the concerns over shoreland development (see Subp. 19.a.) this threshold was added to parallel the existing Subp. 36 conversion category while focusing on shorelands.</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Comprehensive plan amend if community has a plan. - Rezoning if the community has zoning. - Subdivision/platting approval. - Conditional Use Permit. - Site plan approval. - Grading/drainage/erosion control plan. - Shoreland permit. - Floodplain permit/approval. - Wetland Conservation Act approval and/or wetlands mitigation plan. - Road access permit on local road. - Building permits for structures. <p>State:</p> <ul style="list-style-type: none"> - Water appropriation permit. - Driveway permit (Mn/DOT) if state highway. - Permit to mine (Reclamation permit). - Clean Water Act 401 certif. <p>FEDERAL</p> <ul style="list-style-type: none"> - Clean Water Act 404 permit (wetlands). 	<p>Recommendation: After the proposed changes in the current rulemaking are implemented, no additional changes are recommended for this category. Additional information on the proposed changes, use may use the following link: https://www.egb.state.mn.us/content/egb-mandatory-categories-rulemaking for additional information.</p> <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REIVEW</p> <p>Part 4410.4300, subpart 36a. Land conversions in shoreland.</p> <p>Subp. 36a. Land conversions in shoreland.</p> <p>A. For a project <u>proposing a permanent conversion</u> that alters 800 feet or more of the shoreline in a sensitive shoreland area or 1,320 feet or more of shoreline in a nonsensitive shoreland area, the local governmental unit is the RGU.</p> <p>B. For a project <u>proposing a permanent conversion</u> that alters more than 50 percent of the shore impact zone if the alteration measures at least 5,000 square feet, the local governmental unit is the RGU.</p> <p>C. For a project that permanently converts 20 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 40 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.</p>
<p>4410.4400 MANDATORY EIS CATEGORY.</p> <p>Subp. 27. Land conversion in shorelands. For a project that permanently converts 40 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 80 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.</p>			
<p>4410.4300 MANDATORY EAW CATEGORY.</p> <p>Subp. 37. Recreational trails. If a project listed in items A to F will be built on state-owned land or funded, in whole or part, by grant-in-aid funds administered by the DNR, the DNR is the RGU. For other projects, if a governmental unit is sponsoring the project, in whole or in part, that governmental unit is the RGU. If the project is not sponsored by a unit of government, the RGU is the local governmental unit. For purposes of this subpart, "existing trail" means an established corridor in current legal use.</p> <p>A. Constructing a trail at least ten miles long on forested or other naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing, unless exempted by part 4410.4600, subpart 14, item D, or constructing a trail at least 20 miles long on forested or other naturally vegetated land exclusively for snowmobiling or cross-country skiing.</p> <p>B. Designating at least 25 miles of an existing trail for a new motorized recreational use other than snowmobiling. In applying items A and B, if a proposed trail will contain segments of newly constructed trail and segments that will follow an existing trail but be designated for a new motorized use, an EAW must be prepared if the sum of the quotients obtained by dividing the length of the new</p>	<p><u>2004 SONAR dedicated exclusively to this category</u></p> <p>pages 4 & 5: One particular aspect of the controversy over motorized recreational vehicle usage in Minnesota led to this rulemaking (to create this category) in a direct way. When the DNR released its first trail system plans for the three regions of northern Minnesota in 2000 and 2001, citizens petitioned for Environmental Review and filed lawsuits when the DNR, in part, denied the petitions. While the Court of Appeals ruled that only some of the actions in the system plans constituted actual "projects" subject to environmental review, trail planning by the DNR was seriously impeded for several years. This situation brought attention to the fact that the existing Environmental Review program rules did not have any guidance in the form of mandatory review and exemption categories regarding which kinds of trails were subject to review. This realization is a major factor leading to this rulemaking. The legislature in 2003 ordered the EQB to adopt rules providing for threshold levels for environmental review for recreational trails.</p> <p>RGU assignment is consistent with the general principles for RGU assignment in the rules: (1) if a state agency will carry out a project it is the RGU and (2) the RGU is the unit with the greatest responsibility for supervising or approving the project as a whole or has expertise that is relevant for the review. The Department of Natural Resources (DNR) is named as RGU</p>	<p>Local Government:</p> <ul style="list-style-type: none"> - Subdivision/platting approval. - Conditional Use Permit. - Grading/drainage/erosion control plan. - Wetland Conservation Act approval and/or wetlands mitigation plan. - Road access permit on local road. - Land Alteration Permit <p>State:</p> <ul style="list-style-type: none"> - Driveway permit (Mn/DOT) if state highway. 	<p>Recommendation: EQB recommends the modifying this category to include changes in the proposed rule language that is currently under review.</p> <p>The draft SONAR notes that the current rule change to part A. and B. is necessary to fulfill a directive by the Legislature to update Environmental Review rules to allow certain trails to be built or designated without requiring Environmental Review.</p> <p>See Appendix D for DNR's recommendations on this category.</p> <p>INPUT RECEIVED FROM POLITICAL SUBDIVISIONS:</p> <ul style="list-style-type: none"> - This category meets its intended historical purpose. <p>PROPOSED RULE LANGUAGE CURRENTLY UNDER REVIEW</p> <p>Part 4410.4300, subpart 37. Recreational trails.</p> <p>Recreational trails. If a project listed in items A to F will be built on state-owned land or funded, in whole or part, by grant-in-aid funds administered by the DNR, the DNR or the LGU is the RGU. For other projects, if a governmental unit is sponsoring the project, in whole or in part, that</p>

<p>construction by ten miles and the length of the existing but newly designated trail by 25 miles, equals or exceeds one.</p> <p>C. Paving ten or more miles of an existing unpaved trail, unless exempted by part 4410.4600, subpart 27, item B or F. Paving an unpaved trail means to create a hard surface on the trail with a material impervious to water.</p> <p>D. Constructing an off-highway vehicle recreation area of 80 or more acres, or expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural land or forested or other naturally vegetated land.</p> <p>E. Constructing an off-highway vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle recreation area by 640 or more acres, if the land on which the construction or expansion is carried out is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities such as mineral mining.</p> <p>F. Some recreation areas for off-highway vehicles may be constructed partially on agricultural naturally vegetated land and partially on land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities. In that case, an EAW must be prepared if the sum of the quotients obtained by dividing the number of acres of agricultural or naturally vegetated land by 80 and the number of acres of land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities by 640, equals or exceeds one.</p>	<p>for all trail projects for which it is either the project constructor or the provider of grant-in-aid funds. This gives the DNR a strong degree of authority over the project. In addition, the DNR staff has expertise with the review of recreational trails that is likely to be greater than that available to a local unit of government that would be a sponsor for a grant-in-aid trail. For those projects not constructed by the DNR or involving state grant-in-aid funds, but which will be sponsored by another unit of government, the sponsoring unit will be the RGU; this is consistent with the general principle of RGU assignment.</p>	<p>Federal:</p> <ul style="list-style-type: none"> - Clean Water Act 404 permit (wetlands). - Clean Water Act 401 certif. 	<p>governmental unit is the RGU. If the project is not sponsored by a unit of government, the RGU is the local governmental unit. For purposes of this subpart, "existing trail" means an established corridor in current legal use.</p> <p><u>A.</u> Constructing a trail at least ten 25 miles long on forested or other naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing, unless exempted by part 4410.4600, subpart 14, item D, or constructing a trail at least 20 miles long on forested or other naturally vegetated land exclusively for snowmobiling or cross-country skiing.</p> <p><u>B.</u> Designating at least 25 miles of an existing trail for a new motorized recreational use other than snowmobiling. <u>When designating an existing motorized trail or existing corridor in current legal use by motor vehicles, the designation does not contribute to the 25-mile threshold under this item. When adding a new recreational use or seasonal recreational use to an existing motorized recreational trail, the addition does not contribute to the 25-mile threshold if the treadway width is not expanded as a result of the added use.</u></p> <p>In applying items A and B, if a proposed trail will contain segments of newly constructed trail and segments that will follow an existing trail but be designated for a new motorized use, an EAW must be prepared if the sum total length of the quotients obtained by dividing the length of the newly constructed and newly designated trail by 25 miles, equals or exceeds one <u>segments is at least 25 miles.</u></p> <p><u>C.</u> Paving ten or more miles of an existing unpaved trail, unless exempted by part 4410.4600, subpart 27, item B or F. Paving an unpaved trail means to create a hard surface on the trail with a material impervious to water.</p> <p><u>D.</u> Constructing an off-highway vehicle recreation area of 80 or more acres, or expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural land or forested or other naturally vegetated land.</p> <p><u>E.</u> Constructing an off-highway vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle recreation area by 640 or more acres, if the land on which the construction or expansion is carried out is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities such as mineral mining.</p> <p><u>F.</u> Some recreation areas for off-highway vehicles may be constructed partially on agricultural naturally vegetated land and partially on land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities. In that case, an EAW must be prepared if the sum of the quotients obtained by dividing the number of acres of agricultural or naturally vegetated land by 80 and the number of acres of land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities by 640, equals or exceeds one.</p>
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