



**Environmental Quality Board**  
**Mandatory Categories Rulemaking**  
**Preliminary Rule**

**Minnesota Rule Chapter 4410.4400, Mandatory EIS Categories**

---

The proposed changes to Minnesota Rules 4410.4400 herein are preliminary.

The Environmental Quality Board (EQB) staff have made the preliminarily proposed changes available for public comment. For more information on how to comment and the Mandatory Categories Rulemaking, please visit [EQB Mandatory Categories Rulemaking](#) webpage.

The preliminary rules are formatted as such:

- ~~Strikethrough~~ indicates a deletion
- Underline indicates new language
- **DISCUSSION** boxes follow the proposed rule changes and provide a brief description of the purpose of the deletion or addition of rule language
- Footnotes are intended to assist the reader in the preliminary rules and will not be included in the file rule

# 4410.4400 MANDATORY EIS CATEGORIES.

## Subpart 1. Threshold test.

An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part.

## Subp. 2. Nuclear fuels and nuclear waste.

Items A to D designate the RGU for the type of project listed:

- 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.
- B. For construction of a high level nuclear waste disposal site, the EQB shall be the RGU.
- C. For construction of an away-from-reactor facility for temporary storage of spent nuclear fuel, the Public Utilities Commission shall be the RGU.
- D. For construction of a low level nuclear waste disposal site, the MDH shall be the RGU.

## Subp. 3. Electric generating facilities.

For construction of a large electric power generating plant, [\(as defined by Minnesota Statute section 2016E.01, subdivision 5\)](#), the PUC shall be the RGU, as environmental review shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

### DISCUSSION: Subp. 3. Electric generating facilities.

The additional definition and addition of an RGU will eliminate any ambiguity over which types of facilities are captured by the category and who is conducting the environmental review.

## Subp. 4. Petroleum refineries.

For construction of a new petroleum refinery facility, the PCA shall be the RGU.

## Subp. 5. Fuel conversion facilities.

Items A and B designate the RGU for the type of project listed:

- A. For 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, the PCA shall be the RGU.
- B. [A facility or plant that only uses a cellulosic feedstock to produce chemical products for use by another facility as a feedstock shall not be considered a fuel conversion facility.](#) For construction or expansion 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 the facility will be in the seven-county Twin Cities metropolitan area or by 125,000,000 or more gallons per year of alcohol produced if the facility will be outside the seven-county Twin Cities metropolitan area, the PCA shall be the RGU.

44 **DISCUSSION: Subp. 3. Fuel conversion facilities.**

45 New language in item B is the result of a change in Minn. Stat. 116D.04, Subd. 2a (a).

46  
47 “A mandatory environmental impact statement shall not be required for a facility or plant located outside  
48 the seven-county metropolitan area that produces less than 125,000,000 gallons of ethanol, biobutanol, or  
49 cellulosic biofuel annually, or produces less than 400,000 tons of chemicals annually, if the facility or  
50 plant is: an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol  
51 facility, as defined in section 41A.105, subdivision 1a, clause (1); or a cellulosic biofuel facility. A  
52 facility or plant that only uses a cellulosic feedstock to produce chemical products for use by another  
53 facility as a feedstock shall not be considered a fuel conversion facility as used in rules adopted under this  
54 chapter.”

55  
56 **Subp. 6. Transmission lines.**

57 For construction of a high voltage transmission line, [the PUC shall be the RGU, as](#) environmental review  
58 shall be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

59 **DISCUSSION: Subp. 6. Transmission lines.**

60 The addition of an RGU will eliminate any ambiguity over which types of facilities are captured by the  
61 category and who is conducting the environmental review.

62  
63 **Subp. 7. Underground storage.**

64 Items A and B designate the RGU for the type of project listed:

- 65  
66 A. For construction of an underground storage facility for gases or liquids that requires a permit  
67 pursuant to Minnesota Statutes, section 103I.681, subdivision 1, paragraph (a), the DNR shall be  
68 the RGU.  
69  
70 B. For construction of an underground storage facility for gases or liquids, using naturally occurring  
71 rock materials, that requires a permit pursuant to Minnesota Statutes, section 103I.681,  
72 subdivision 1, paragraph (b), the DNR shall be the RGU.  
73

74 **Subp. 8. Metallic mineral mining and processing.**

75 Items A to ~~B~~ C designate the RGU for the type of project listed:

76 ~~A. For mineral deposit evaluation involving the extraction of 1,000 tons or more of material that is~~  
77 ~~of interest to the proposer principally due to its radioactive characteristics, the DNR shall be the~~  
78 ~~RGU.~~

79  
80 ~~B.A.~~ For construction of a new facility for mining metallic minerals or for the disposal of  
81 tailings from a metallic mineral mine, the DNR shall be the RGU.

82  
83 ~~C.B.~~ For construction of a new metallic mineral processing facility, the DNR shall be the  
84 RGU.

85 **DISCUSSION: Subp. 8. Metallic mineral mining and processing.**

86 Item A is deleted as it is not used due to the lack of deposits in the state with radioactive characteristics.

87  
88 **Subp. 9. Nonmetallic mineral mining.**

89 Items A to C designate the RGU for the type of project listed:

- 90  
91 A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of  
92 land or more during its existence, the DNR shall be the RGU.  
93  
94 B. For development of a facility for the extraction or mining of sand, gravel, stone, or other  
95 nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean  
96 depth of ten feet or more during its existence, the local government unit shall be the RGU.  
97  
98 C. For development of a facility for the extraction or mining of sand, gravel, stone, or other  
99 nonmetallic minerals, other than peat, which will excavate 40 or more acres of forested or other  
100 naturally vegetated land in a sensitive shoreland area or 80 or more acres of forested or other  
101 naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.  
102

103 **Subp. 10. Paper or pulp processing.**

104 For construction of a new paper or pulp processing mill, the PCA shall be the RGU.  
105

106 **Subp. 11. Industrial, commercial, and institutional facilities.**

107 Items A and B designate the RGU for the type of project listed, except as provided in items C and D:  
108

- 109 A. For construction of a new or expansion of an existing warehousing or light industrial facility  
110 equal to or in excess of ~~the 1,500,000 square feet~~ following thresholds, expressed as gross floor  
111 space, the local governmental unit is the RGU.:

- 112  
113 ~~(1) unincorporated area, 375,000;~~  
114 ~~(2) third or fourth class city, 750,000;~~  
115 ~~(3) second class city, 1,000,000;~~  
116 ~~(4) first class city, 1,500,000.~~  
117

- 118 B. For construction of a new or expansion of an existing industrial, commercial, or institutional  
119 facility, other than a warehousing or light industrial facility, equal to or in excess of 1,000,000  
120 square feet ~~the following thresholds~~, expressed as gross floor space, the local government unit  
121 shall be the RGU.:

- 122  
123 ~~(1) unincorporated area, 250,000 square feet;~~  
124 ~~(2) third or fourth class city, 500,000 square feet;~~  
125 ~~(3) second class city, 750,000 square feet;~~  
126 ~~(4) first class city, 1,000,000 square feet.~~  
127

- 128 C. This subpart applies to any industrial, commercial, or institutional project which includes multiple  
129 components, if there are mandatory categories specified in subparts 2 to 10, 12, 13, 15, or 17, or  
130 part 4410.4300, subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29 for two or more of the components,  
131 regardless of whether the project in question meets or exceeds any threshold specified in those  
132 subparts. In those cases, the entire project must be compared to the thresholds specified in items  
133 A and B to determine the need for an EIS. If the project meets or exceeds the thresholds specified  
134 in any other subparts as well as those in item A or B, the RGU must be determined as provided in  
135 part 4410.0500, subpart 1.  
136

137 D. This subpart does not apply to projects for which there is a single mandatory category specified in  
138 subparts 2 to 10, 12, 13, 17, or 22, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 23, 25, 29, or  
139 34, regardless of whether the project in question meets or exceeds any threshold specified in those  
140 subparts. In those cases, the need for an EIS or an EAW must be determined by comparison of the  
141 project to the threshold specified in the applicable subpart, and the RGU must be the  
142 governmental unit assigned by that subpart.

143 **DISCUSSION: Subp. 11. Industrial, commercial, and institutional facilities.**

144 Deletion reflects concerns with the threshold change corresponding to the size of the city. Adding “square  
145 feet” as the unit of measurement in part A as it was incidentally omitted from previous rulemaking.

146  
147 **Subp. 12. Hazardous waste.**

148 Items A to C designate the RGU for the type of project listed:

- 149  
150 A. For construction or expansion of a hazardous waste disposal facility for 1,000 or more kilograms  
151 per month, the PCA shall be the RGU.  
152  
153 B. For the construction or expansion of a hazardous waste disposal facility in a water-related land  
154 use management district, or in an area characterized by soluble bedrock, the PCA shall be the  
155 RGU.  
156  
157 C. For construction or expansion of a hazardous waste ~~processing-storage~~ [\(as defined by Minnesota](#)  
158 [Rules 7045.0020, subpart 87<sup>1</sup>\)](#) or [treatment \(as defined by Minnesota Rules 7045.0020, subpart](#)  
159 [97<sup>2</sup>\)](#) facility if the facility is located in a water-related land use management district, or in an area  
160 characterized by soluble bedrock, the PCA shall be the RGU.

161 **DISCUSSION: Subp. 12. Hazardous waste.**

162 For clarification and consistency, insertions clarify the language in the existing rule regarding thresholds  
163 for mandatory EIS for hazardous waste facilities.

164  
165 **Subp. 13. Solid waste.**

166 Items A to ~~C~~ designate the RGU for the type of project listed:

167  
168 ~~A. For construction of a mixed municipal solid waste disposal facility for 100,000 cubic yards or~~  
169 ~~more of waste fill per year, the PCA is the RGU.~~

- 170  
171 ~~B.~~A. For construction or expansion of a mixed municipal solid waste disposal facility [\(as](#)  
172 [defined by Minnesota Rules 7035.0300, subpart 64<sup>3</sup>\)](#) in a water-related land use management  
173 district, or in an area characterized by soluble bedrock, the PCA is the RGU.  
174

<sup>1</sup> Subp. 87. Storage. "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

<sup>2</sup> Subp. 97. Treatment. "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, or so as to recover energy or material resources from the waste, or so as to render the waste nonhazardous, or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

<sup>3</sup> Subp. 64. Mixed municipal solid waste land disposal facility. "Mixed municipal solid waste land disposal facility" means a site used for the disposal of mixed municipal solid waste in or on the land.

175 | ~~C.B.~~ For construction or expansion of a mixed municipal solid waste energy recovery facility  
176 | [\(as defined by Minnesota Rules 7035.0300, subpart 35<sup>4</sup>\)](#) or incinerator, or the utilization of an  
177 | existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel [\(as](#)  
178 | [defined by Minnesota Rules 7035.0300, subpart 91<sup>5</sup>\)](#), with a **permitted** capacity of 250 or more  
179 | tons per day of input, the PCA is the RGU.  
180 |

181 | ~~D.C.~~ For construction or expansion of a mixed municipal solid waste compost facility [\(as](#)  
182 | [defined by Minnesota Rules 7035.0300, subpart 19<sup>6</sup>\)](#) or a refuse-derived fuel [\(as defined by](#)  
183 | [Minnesota Rules 7035.0300, subpart 91<sup>7</sup>\)](#) production facility with a **permitted** capacity of 500 or  
184 | more tons per day of input, the PCA is the RGU.  
185 |

186 | ~~E. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste~~  
187 | ~~disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.~~

### 188 | **DISCUSSION: Subp. 13. Solid waste.**

189 | Changes to this category correspond with the changes made to the solid waste EAW category. Proposed  
190 | changes bring the EQB mandatory category language up to date with current solid waste permit  
191 | terminology.  
192 |

### 193 | **Subp. 14. Residential development.**

194 | An EIS is required for residential development if the total number of units that the proposer may  
195 | ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option  
196 | to purchase, except land identified by an applicable comprehensive plan, ordinance, resolution, or  
197 | agreement of a local governmental unit for a future use other than residential development, equals or  
198 | exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include  
199 | the number of units in any plans of the proposer; for land for which the proposer has not yet prepared  
200 | plans, the RGU shall use as the number of units the product of the number of acres multiplied by the  
201 | maximum number of units per acre allowable under the applicable zoning ordinance, or if the maximum  
202 | number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall  
203 | average number of units per acre indicated in the plans of the proposer for those lands for which plans  
204 | exist. If the total project requires review but future phases are uncertain, the RGU may review the  
205 | ultimate project sequentially in accordance with part 4410.2000, subpart 4.  
206 |

207 | The RGU may review an initial stage of the project, that may not exceed ten percent of the applicable EIS  
208 | threshold, by means of the procedures of parts 4410.1200 to 4410.1700 instead of the procedures of parts  
209 | 4410.2000 to 4410.2800. If the RGU determines that this stage requires preparation of an EIS under part  
210 | 4410.1700, it may be reviewed through a separate EIS or through an EIS that also covers later stages of  
211 | the project.  
212 |

---

<sup>4</sup> Subp. 35. Energy recovery facility. "Energy recovery facility" means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting it into an intermediate fuel product. Municipal solid waste combustors are included in the definition of energy recovery facilities.

<sup>5</sup> Subp. 91. Refuse-derived fuel. "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

<sup>6</sup> Subp. 19. Compost facility. "Compost facility" means a site used to compost or cocompost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

<sup>7</sup> Subp. 91. Refuse-derived fuel. "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

213 If a project consists of mixed unattached and attached units, an EIS must be prepared if the sum of the  
214 quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold,  
215 plus the quotient obtained by dividing the number of attached units by the applicable attached unit  
216 threshold, equals or exceeds one.

217  
218 The local governmental unit is the RGU for construction of a permanent or potentially permanent  
219 residential development of:

- 220
- 221 A. 100 or more unattached or 150 or more attached units in an unsewered unincorporated area or 400  
222 unattached units or 600 attached units in a sewerred unincorporated area;
  - 223
  - 224 B. 400 unattached units or 600 attached units in a city that does not meet the conditions of item D;
  - 225
  - 226 C. 400 unattached units or 600 attached units in a city meeting the conditions of item D if the project  
227 is not consistent with the adopted comprehensive plan; or
  - 228
  - 229 D. 1,000 unattached units or 1,500 attached units in a city within the seven-county Twin Cities  
230 metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section  
231 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has  
232 filed with the EQB chair a certification that it has adopted a comprehensive plan containing the  
233 following elements:
    - 234
    - 235 (1) a land use plan designating the existing and proposed location, intensity, and extent of  
236 use of land and water for residential, industrial, agricultural, and other public and private  
237 purposes;
    - 238
    - 239 (2) a transportation plan describing, designating, and scheduling the location, extent,  
240 function, and capacity of existing and proposed local public and private transportation  
241 facilities and services;
    - 242
    - 243 (3) a sewage collection system policy plan describing, designating, and scheduling the areas  
244 to be served by the public system, the existing and planned capacities of the public  
245 system, and the standards and conditions under which the installation of private sewage  
246 treatment systems will be permitted;
    - 247
    - 248 (4) a capital improvements plan for public facilities; and
    - 249
    - 250 (5) an implementation plan describing public programs, fiscal devices, and other actions to  
251 be undertaken to implement the comprehensive plan, and a description of official controls  
252 addressing the matters of zoning, subdivision, private sewage systems, and a schedule for  
253 the implementation of the controls. The EQB chair may specify the form to be used for  
254 making a certification under this item.

255 **Subp. 14a. Residential development in shoreland outside of the seven-county Twin**  
256 **Cities metropolitan area.**

- 257 A. The local governmental unit is the RGU for construction of a permanent or potentially permanent  
258 residential development located wholly or partially in shoreland outside the seven-county Twin  
259 Cities metropolitan area of a type listed in items B to D. For purposes of this subpart, "riparian  
260 unit" means a unit in a development that abuts a public water or, in the case of a development

261 where units are not allowed to abut the public water, is located in the first tier of the development  
262 as provided under part 6120.3800, subpart 4, item A. If a project is located partially in a sensitive  
263 shoreland area and partially in nonsensitive shoreland areas, an EIS must be prepared if the sum  
264 of the quotient obtained by dividing the number of units in the sensitive shoreland area by the  
265 applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number  
266 of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold,  
267 equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland,  
268 an EIS must be prepared if the sum of the quotients obtained by dividing the number of units in  
269 each type of area by the applicable threshold for each area equals or exceeds one.  
270

- 271 B. A development containing 50 or more unattached or attached units for a sensitive shoreland area  
272 or 100 or more unattached or attached units for a nonsensitive shoreland area, if any of the  
273 following conditions is present:
- 274 (1) less than 50 percent of the area in shoreland is common open space;
  - 275
  - 276 (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that  
277 would be allowable calculated according to the applicable lot area and width standards  
278 for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or
  - 279 (3) any portion of the project is in an unincorporated area.  
280
- 281 C. A development of 100 or more unattached or attached units for a sensitive shoreland area or 200  
282 or more unattached or attached units for a nonsensitive shoreland area, if none of the conditions  
283 listed in item B is present.  
284
- 285 D. A development creating 20 or more unattached or attached units for a sensitive shoreland area or  
286 40 or more unattached or attached units for a nonsensitive shoreland area by the conversion of a  
287 resort, motel, hotel, recreational vehicle park, or campground, if either of the following conditions  
288 is present:
- 289 (1) the number of nonriparian units in shoreland exceeds by at least 15 percent the number of  
290 lots that would be allowable on the parcel calculated according to the applicable lot area  
291 and width standards for nonriparian unsewered single lots under part 6120.3300, subparts  
292 2a and 2b; or
  - 293 (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that  
294 would be allowable calculated according to the applicable lot area and width standards  
295 for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b.  
296  
297
- 298 E. An EIS is required for residential development if the total number of units that the proposer may  
299 ultimately develop on all contiguous land owned by the proposer or for which the proposer has an  
300 option to purchase, except land identified by an applicable comprehensive plan, ordinance,  
301 resolution, or agreement of a local governmental unit for a future use other than residential  
302 development, equals or exceeds a threshold of this subpart. In counting the total number of  
303 ultimate units, the RGU shall include the number of units in any plans of the proposer. For land  
304 for which the proposer has not yet prepared plans, the RGU shall use as the number of units the  
305 number of acres multiplied by the maximum number of units per acre allowable under the  
306 applicable zoning ordinance or, if the maximum number of units allowable per acre is not  
307 specified in an applicable zoning ordinance, by the overall average number of units per acre  
308 indicated in the plans of the proposer for those lands for which plans exist.  
309



310 **Subp. 15. Airport runway projects.**

311 For construction of a paved and lighted airport runway of 5,000 feet of length or greater, the DOT or local  
312 government unit shall be the RGU.

313

314 **Subp. 16. Highway projects.**

315 For construction of a road on a new location which is four or more lanes in width and two or more miles  
316 in length, the DOT or local government unit shall be the RGU.

317

318 **Subp. 17. Barge fleeting facilities.**

319 For construction of a barge fleeting facility at a new off-channel location that involves the dredging of  
320 1,000 or more cubic yards, the DOT or port authority shall be the RGU.

321

322 **Subp. 18. Water appropriation and impoundments.**

323 For construction of a Class I dam, the DNR shall be the RGU.

324

325 **Subp. 19. Marinas.**

326 For construction of a new or expansion of an existing marina, harbor, or mooring project on a state or  
327 federally designated wild and scenic river, the local government unit shall be the RGU.

328

329 **Subp. 20. ~~Wetlands and public waters-~~ Public waters, public water wetlands, and wetlands.**

330 For projects that will eliminate a public water or public waters wetland, the local government unit or the  
331 DNR shall be the RGU.

332 **DISCUSSION - Subp. 20. Public waters and wetlands.**

333 Adding a DNR as an RGU reduces the need for EQB to designate a different RGU in the future.

334

335 **Subp. 21. Mixed residential and commercial-industrial projects.**

336 If a project includes both residential and commercial-industrial components, the project must have an EIS  
337 prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable  
338 residential threshold of subpart 14, plus the quotient obtained by dividing the amount of industrial-  
339 commercial gross floor space by the applicable industrial-commercial threshold of subpart 11, equals or  
340 exceeds one.

341

342 **Subp. 22. Sports or entertainment facilities.**

343 For construction of a new outdoor sports or entertainment facility designed for or expected to  
344 accommodate a peak attendance of 20,000 or more persons or a new indoor sports or entertainment  
345 facility designed for or expected to accommodate a peak attendance of 30,000 or more persons, or the  
346 expansion of an existing facility by these amounts, the local governmental unit is the RGU.

347

348 **Subp. 23. Water diversions.**

349 For a diversion of waters of the state to an ultimate location outside the state in an amount equal to or  
350 greater than 2,000,000 gallons per day, expressed as a daily average over any 30-day period, the DNR is  
351 the RGU.

352

353 **Subp. 24. Pipelines.**  
354 For routing of a pipeline subject to the full route selection procedures under Minnesota Statutes, section  
355 216G.02, the Public Utilities Commission is the RGU.  
356

357 **Subp. 25. Incineration of wastes containing PCBs.**  
358 For the incineration of wastes containing PCB's for which an EIS is required by Minnesota Statutes,  
359 section 116.38, subdivision 2, the PCA shall be the RGU.  
360

361 **Subp. 26. Resorts, campgrounds, and RV parks in shorelands.**  
362 For construction or expansion of a resort or other seasonal or permanent recreational development located  
363 wholly or partially in shoreland, accessible by vehicle, adding 100 or more units or sites in a sensitive  
364 shoreland area or 200 or more units or sites in a nonsensitive shoreland area, the local governmental unit  
365 is the RGU. If a project is located partially in a sensitive shoreland area and partially in nonsensitive  
366 shoreland areas, an EIS must be prepared if the sum of the quotient obtained by dividing the number of  
367 units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient  
368 obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive  
369 shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially  
370 not in shoreland, an EIS must be prepared if the sum of the quotients obtained by dividing the number of  
371 units in each type of area by the applicable threshold for each area equals or exceeds one.  
372

373 **Subp. 27. Land conversion in shorelands.**  
374 For a project that permanently converts 40 or more acres of forested or other naturally vegetated land in a  
375 sensitive shoreland area or 80 or more acres of forested or other naturally vegetated land in a nonsensitive  
376 shoreland area, the local governmental unit is the RGU.  
377

378 **Subp. 28. Genetically engineered wild rice.**  
379 For the release and a permit for a release of genetically engineered wild rice for which an EIS is required  
380 by Minnesota Statutes, section 116C.94, subdivision 1, paragraph (b), the EQB is the RGU.  
381

382 **Statutory Authority:** *MS s 116D.04; 116D.045*

383 **History:** *11 SR 714; 13 SR 1437; 13 SR 2046; 21 SR 1458; 28 SR 951; L 2005 c 97 art 3 s 19; 31*  
384 *SR 539; 34 SR 721*

385 **Published Electronically:** *November 30, 2009*