



MINNESOTA

ENVIRONMENTAL QUALITY BOARD

520 Lafayette Road North, Saint Paul, MN 55155 | www.eqb.state.mn.us

Phone: 651-757-2873 | Fax: 651-757-2343

May 15, 2019

**Meeting Location: Minnesota Pollution Control Agency;
Lower Level Conference Room
520 Lafayette Rd N
St. Paul, Minnesota
1:00 pm – 4:00 pm**

AGENDA

Meeting Time and Location

This month's meeting will take place in the Minnesota Pollution Control Agency at 520 Lafayette Road in St. Paul. The Environmental Quality Board (EQB or Board) meeting is available for live viewing online by visiting our website: www.eqb.state.mn.us

The MPCA building is served by bus routes 64, 53, 860L, 61, and 74 and is accessible by bike. For more information about transit options please see <https://www.pca.state.mn.us/about-mPCA/st-paul-office>

The Blue Parking lot is only 2 blocks away, has many open spots, and is free/open for members of the public attending the EQB meeting. The Blue Parking Lot is located off University and Olive Streets. The Jupiter Parking Lot has limited spaces but is also free and open to public attending the EQB meeting. The Jupiter Parking Lot is located across from the Law Enforcement Center on Grove Street. <https://www.pca.state.mn.us/sites/default/files/stpaulmap.pdf>

If you need an accommodation for this event (i.e., sign language interpreter, braille, wheelchair accessibility, etc.), this can be made available upon advance request. This material can be given to you in different forms, like large print, braille, or on a recording. Please contact EQB staff at least one week prior to the event at info.EQB@state.mn.us to arrange an accommodation.

Public Engagement Opportunities at EQB Meetings

EQB encourages public input and appreciates the opportunity to build shared understanding with members of the public. EQB meetings include multiple ways for the public to be involved including either a public input period, community-building time, and in some cases, small group activities. More details about public participation are contained in the agenda and provided at the Board meeting.

Meeting Objectives

- Decision: re-designation for the Marshall Generation Station
- Provide background on rulemaking (RD-04157) and overview of comments received during comment period (Nov 13, 2018-Feb 4, 2019)
- Decision: revised rule

I. ***Adoption of Consent Agenda & Minutes**

Proposed Agenda for May 15, 2019, Board Meeting

May 1, 2019 Meeting Minutes (Includes Written Comments Submitted at 5/01 Board Meeting)

II. **EQB Welcome, Introductions, & Meeting Purpose**

Laura Bishop

EQB Chair; Commissioner

Minnesota Pollution Control Agency

651-757-2014

III. **Executive Director's Report**

Will Seuffert

Executive Director

Environmental Quality Board

651-757-2766

IV. **** Resolution for Responsible Governmental Unit Re-designation for the Marshall Generation Station**

Staff recommends adopting the resolution and approving the Findings, Conclusions of Law, and Order to re-designate the Responsible Governmental Unit (RGU) from the Environmental Quality Board (EQB) to the Minnesota Pollution Control Agency (MPCA) for the Marshall Generation Station project proposed by the Western Minnesota Municipal Power Agency (WMMPA), acting through its agent, Missouri River Energy Services (MRES) for the proposed installation of five new natural gas-fired electrical generating units in a new building.

Staff recommends that the MPCA is better suited as the RGU to conduct the EAW for this project because the agency has approval authority and greater expertise in analyzing the potential environmental impacts of the proposed Marshall Generation Station. The MPCA has indicated that they are willing to serve as the RGU for this project.

If the Board approves the resolution, EQB staff will notify the MPCA of the RGU re-designation and the environmental review process can continue for the proposed project.

* *Items requiring discussion may be removed from the Consent Agenda*

** *Denotes action may be taken*

Presenters:

Kristin Mroz
Environmental Review Planner
Environmental Quality Board
651-757-2793

Materials Enclosed:

- Letter of Request from Missouri River Energy Services
 - Data Submittal for the Marshall Generation Station
- Draft Resolution
- Letter of Support from the Minnesota Pollution Control Agency

V. ** Resolution Authorizing EQB Rulemaking to Adopt Amendments to the Environmental Review Rules, Minn. Rules, Part 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600. Authorizing EQB Staff to Proceed with Recommended Changes to the Proposed Rules Associated with Minnesota Revisor of Statutes File Number: RD-04157, with Any Modifications Approved By the Board (Decision Item)

Presenters:

Erik Cedarleaf Dahl
Planning Director
Environmental Quality Board
651-757-2364

Denise Wilson
Director of Environmental Review Program
Environmental Quality Board
651-757-2523

Materials enclosed:

- Briefing Document
- Recommended Revisions to Rule Language – 5/15/2019
- Draft Resolution, Findings of Fact – 5/15/2019
- *Revisor Certified Rules – 9/5/2018
- *Draft Statement of Need and Reasonableness (SONAR) – 11/8/2018
- Summary document of all comments received during comment period (11/13/2018—2/4/2019)
 - *Revisor Certified rules and SONAR will be updated following public hearings (May 31 and June 26, 2019)

Staff recommendation:

Staff recommends adopting the resolution and approving the Findings, Conclusions of Law, and Order to allow EQB staff to recommend revisions to the rulemaking at the May 31, 2019 hearing.

The recommended revisions are as follows:

- Withdraw the proposed rule amendments from this rulemaking:

- Minnesota Rules Part 4410.4300 subp. 7. Pipelines;
 - Minnesota Rules Part 4410.4400 subp. 8. Metallic Mineral Mining.
- Revise the proposed rule language for the category 4410.4300 subp. 27. Wetlands.
 - No change to all other current proposed rule language amendments to Minnesota Rules Parts 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600.

If the Board approves the resolution, EQB staff will present the revisions to the rules at the May 31, 2019 and June 26, 2019 hearings.

Issue(s) before the EQB (Board):

The EQB approved the current rule package at the September 19, 2018 Board meeting.

During the November 13, 2018—February 4, 2019 official comment period (83-days), EQB received 190 comments on the proposed rule language and rulemaking process. EQB staff will present an overview of the comments, recommendations for revisions to the proposed rules at the May 31, 2019 and June 26, 2019 hearings with the Administrative Law Judge.

EQB staff request that the Board authorize the Executive Director and staff to make the recommended revisions to the rule language and proceed with the rulemaking process for the proposed draft amendments to Minnesota Rules 4410, which are attached in the Board packet. To do so, the Board can adopt the enclosed draft resolution.

If the Board authorizes the revisions to the rule language for this rulemaking, EQB staff will present the approved rule revisions at the May 31, 2019 1:30pm and June 26, 2019 5:30 pm-8:30 pm hearings with the Administrative Law Judge.

Rulemaking Hearings:

- **Pre-Hearing Comment Period:**
(*pre-hearing comment period May 20, 2019 – June 21, 2019 4:30pm*)

1. The 1st hearing will take place on May 31, 2019 in Room 100, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul MN, 55155 at 1:30 pm.

The 1st hearing (via a two-way-video-conference connection) will also be available at (anyone wishing to give testimony to the Judge can do so via the two-way-video-conference connection):

- Brainerd MPCA Office, [7678 College Road, Suite 105, Baxter, MN 56425](#)
- Detroit Lakes MPCA Office, [714 Lake Ave., Suite 220, Detroit Lakes, MN 56501](#)
- Duluth MPCA Office, [525 Lake Ave. S., Suite 400, Duluth, MN 55802](#)
- Marshall MPCA Office, [504 Fairgrounds Rd., Suite 200, Marshall, MN 56258](#)
- Rochester MPCA Office, [18 Wood Lake Drive SE, Rochester, MN 55904](#)

2. The 2nd hearing will take place on June 26, 2019 at the St Cloud Great River Regional Library, 1300 W. St. Germain St. St. Cloud MN 56301 from 5:30 pm to 8:30 pm.

Background:

This rulemaking combines several rulemaking initiatives by EQB that have been under development since 2014. Several rulemaking processes were combined into one rulemaking process under Revisor’s ID Number R-01457:

- In 2014, the EQB began rulemaking for silica sand projects under Revisor’s ID Number RD-4305 pursuant to Legislatively directed rulemaking related to silica sand projects ([Laws of Minnesota 2013, Chapter 114, Article 4, Section 105](#)).
- In 2015, the EQB began rulemaking for recreational trails projects under Revisor’s ID Number RD-4381 pursuant to legislatively directed language and rulemaking related to Recreational Trails ([Laws of Minnesota 2015, Chapter 4, Article 5, Section 33](#)).
- In 2015, the legislature directed the EQB to streamline environmental review efficiency ([2015 Special Session Law, Chapter 4, Article 3, Section 2](#)).

Periodic updates to the mandatory categories have been made since the establishment of the Environmental Review Program in 1970, the latest major revisions occurring in 2009.

As part of the requirements in the Minnesota Administrative Procedure Act (APA) Minnesota Statutes chapter 14 a Statement of Need and Reasonableness (SONAR) is required to explain the need and reasonableness of the proposed rules. The SONAR document reflects results of comments received during preliminary outreach and engagement efforts, and includes a:

- discussion of the need for the change, and
- justification for the reasonableness of the proposed change.

Discussion:

Drawing from the [2013 Mandatory Environmental Review Categories Report](#) and subsequent legislation, EQB staff initiated the mandatory categories rulemaking process: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>.

To date, the process included requests for input from RGUs and the public, multiple public meetings, and a formal comment period November 13, 2018 – February 4, 2019 (83 days).

During the comment period, EQB received 190 comments on the proposed rules and 176 hearing requests.

Most comments during the comment period were focused on these rule subparts:

- Part 4410.0500, subpart 6. Exception RGU selection procedures
- Part 4410.4300, subpart 4. Petroleum refineries Mandatory EAW Category
- Part 4410.4300, subp. 7. Pipeline Mandatory EAW Category
- Part 4410.4300, subp. 27. Wetland Mandatory EAW Category
- Part 4410.4300, subpart 37. Recreational trails
- Part 4410.4400, subp. 8. Metallic mineral mining and processing
- Part 4410.4400, subpart 20. Wetlands and public waters.

The EQB received numerous comments asking to make changes broader than the scope of this

rulemaking outlined in the Statement of Need and Reasonableness (SONAR)

The EQB received several comments objecting to all proposed rules.

Staff recommends adopting the resolution and approving the Findings, Conclusions of Law, and Order to allow EQB staff to recommend revisions to the rulemaking at the May 31, 2019 hearing.

The recommended revisions are as follows:

- Withdraw the proposed rule amendments from this rulemaking:
 - Minnesota Rules Part 4410.4300 subp. 7. Pipelines;
 - Minnesota Rules Part 4410.4400 subp. 8. Metallic Mineral Mining.
- Revise the proposed rule language for the category 4410.4300 subp. 27. Wetlands.
- No change to all other current proposed rule language amendments to Minnesota Rules Parts 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600.

If the Board approves the resolution, EQB staff will present the revisions to the rules at the May 31, 2019 and June 26, 2019 hearings.

VI. Public Input on Proposed Rule Changes

The purpose of this public input section is to provide board members with input on the proposed rule changes. Time for input will be allocated depending on the number of people wishing to provide public input.

VII. Closing Remarks and Next Steps

Pre-Hearing Comment Period:

(pre-hearing comment period May 20, 2019 – June 21, 2019 4:30pm)

Rulemaking Hearings:

- **Friday, May 31, 2019 1:30 pm** in Room 100, Minnesota Pollution Control Agency, [520 Lafayette Road, St. Paul, MN 55155](#).
The hearing (via a two-way-video-conference connection) will also be available at (anyone wishing to give testimony to the Judge can do so via the two-way-video-conference connection):
 - Brainerd MPCA Office, [7678 College Road, Suite 105, Baxter, MN 56425](#)
 - Detroit Lakes MPCA Office, [714 Lake Ave., Suite 220, Detroit Lakes, MN 56501](#)
 - Duluth MPCA Office, [525 Lake Ave. S., Suite 400, Duluth, MN 55802](#)
 - Marshall MPCA Office, [504 Fairgrounds Rd., Suite 200, Marshall, MN 56258](#)
 - Rochester MPCA Office, [18 Wood Lake Drive SE, Rochester, MN 55904](#)
- **June 26, 2019 5:30 pm-8:30 pm** hearing at the Great River Regional Library, 1300 W. St. Germain St., St. Cloud, MN 56301

**MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES**

May 1, 2019

Meeting Location: MPCA Rooms 200/201

520 Lafayette Rd N

St. Paul, Minnesota 55101

1:00 p.m. – 4:00 p.m.

EQB Members Present: Margaret Anderson Kelliher, Laura Bishop, Kristin Eide-Tollefson, Jan Malcolm, Tom Moibi, Bryan Murdock, Thom Petersen, Alice Roberts-Davis, Steve Kelley, Benjamin Yawakie, Alan Forsberg, Julie Goehring, Steve Grove, Sarah Strommen, Gerald Van Amburg

EQB Members Absent:

Activity	Audio*
I. Adoption of Consent Agenda & Minutes	0:00:00
II. EQB Welcome & Introductions	0:02:23
III. Reflections on History of the Minnesota Environmental Review Program Peter Gove, John Herman, and Charles Dayton provided an historical context on the creation of the EQB and assessed gaps and potential for the Environmental Review program moving forward.	0:19:25
IV. Environmental Review Program Overview State and local government representatives provided an overview on authorities, responsibilities and viewpoints from agencies that implement the ER program.	1:05:50
V. Reflections on Environmental Review and Opportunities for Program Improvements A diverse group of practitioners gave reflections on strengths and weaknesses of the Environmental Review program.	1:44:20
VI. Dialogue on Minnesota’s Environmental Review Program Time was dedicated during the meeting for questions and answers with Board members, followed by a small ground discussion period for attendees, presenters, and Board members to reflect on the Environmental Review Program.	**
VII. Closing Remarks and Next Steps	**

* An audio recording of the May 1 meeting resides on our website: www.eqb.state.mn.us

** The “Dialogue on Minnesota’s Environmental Review Program” and “Closing Remarks and Next Steps” were not captured by audio recording because they featured multiple small group conversations.

May 1, 2019

Minnesota Environmental Quality Board
520 Lafayette Road
St. Paul, MN 55155

Dear Board Members,

The Minnesota Academy of Family Physicians (MAFP) is the state's largest physician specialty organization representing 3,200 family physicians throughout our state. Leaders from MAFP have worked diligently for the past three years to provide input and rationale on the importance of the inclusion of Health Impact Assessments (HIA) in the Environmental Review Process.

The Minnesota Academy of Family Physicians believes that the health and well-being of the citizens of Minnesota is promoted with a thorough, comprehensive and broadly-scoped evaluation during the environmental review process using a health impact assessment (HIA). To that end, MAFP supports the appointment of an independent panel of unbiased experts and civic-minded citizens to conduct a thorough "performance review" of the MEPA process and make recommendations for reforms. It is our hope that this oversight committee will be an opportunity for citizens to highlight health concerns in the environmental review process and further consider the inclusion of HIA's in that process.

Sincerely,

A handwritten signature in cursive script that reads "Glenn Nemec MD".

Glenn Nemec, MD, FAAFP
President

Hello Mn EQB,

1) Yesterday's meeting confirmed what everyone already knows; there is a massive failure by the Environmental Review(ER) process to mitigate ongoing environmental degradation, and this has been for decades a running failure.

2) Many people have called for citizen oversight of this ER process, to have people who live in the areas that are affected by projects involved in decision making. Involve those who have real skin in the game before things get any uglier. Chuck Dayton's blue ribbon panel proposal needs to be acted upon.

3) The notes taken by the official note takers at each round table discussion need to be published in their entirety. I found our note taker had been far from copious and had completely omitted my first (and the the groups very first) comment regarding the above. I do not think many people will be pleased to find their comments are missing, and there should be the option to review all the notes taken and add to them as necessary.

4)

May 1 2019 EQB meeting statement

I am no Chuck Dayton.

I am a plumber by trade but I have been moonlighting as a water protector for the past couple of years, mainly as petitioners' representative asking yet again for Environmental Review of the Pineland Sands Area of N central Mn. Most of the people I talk with have very low expectations about the prospects of stopping deforestation and chemical contamination of our area by potato giant RD Offutt Company (otherwise known as RDO). Not being one to stomach abuse of neighbors by corporate interests, I have logged thousands of hours on the phone, by computer and in personal conversations, working to advance the idea that we all are connected to the land in ways we don't fully understand, that we can no longer afford to play dice with the planet when we don't understand the rules of the game. I know my neighbors are counting on people like me to carry their concerns to organizations like this EQB, and I will continue to do this as much as I am able.

This effort is not without it's personal costs to family and finances however, and this seems to be a weakness well exploited by a deep-pocketed political juggernaut, army-of lawyers-on-call industry which is not interested in the 7 generations philosophy that ascribes to preserving and regenerating resources for future generations.

Human resources are definitely not available to me like they are for a multi-national corporation like RDO.

What I do have as an advantage, amongst other evidences, are the sciences of soil health and human health, and lately a much increased number of citizens who are recognizing the real problems and those who have created them. Citizens have seen public resources abused and destroyed for far too long as responsible government units like DNR and PCA deny mountains of proof that our environmental course is unsustainable. Citizen groups have been placed in a position of distinct and repressive disadvantage as the Environmental Review process has been steadily diluted or blatantly ignored. The end result of this manifests increasingly as modern day serfdom for ourselves and our children, and I for one will tolerate this no longer.

To mitigate and reverse this march toward ecological disaster and American serfdom **what we require now is the formation of an independent citizen's panel** that will collaborate with unbiased scientists to begin truly addressing the issues that have been often talked of here without adequate result. The options for action have grown slim in our collective dilemmas but today EQB is in a position to reverse this trend by allowing citizens who have real skin in the game to have input to the Environmental Review process. Let people like us, with the assistance of clean science, help EQB find truth in these matters, uninhibited by profit driven co-opting.

My wife made a statement during the ride here today that is worth repeating. She pointed out that when we were kids 30 years ago no one bought water, we thought it was crazy when the pop companies began stocking shelves with bottled water. We laughed and said who would pay for something you can get right out of any tap?

We are almost all buying or filtering our water now.

As is abundantly clear water is life.
Now let us all be water protectors.

Mike Tauber - Northern Water Alliance

Written Comment Form

Thank you for attending the EQB Board meeting. EQB values your input and appreciates the opportunity to build shared understanding. If you would like to provide written comment at today's meeting, please fill out the form below and present it to an EQB staff member. Written comments will be included in the meeting minutes and circulated in the next Board packet.

Name: Red Willow's Butterfly Zip code: 55441

Organization (if applicable): _____

Topic: Land Use, Stewardship

Written comment

In the spirit of equity & environment,
with consideration for the next 7
generations, please do continue
to pursue the application &
consideration for tribal lands &
culture w/in this program.

Written Comment Form

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Name: Mike Neaton Zip code: 55410

Organization (if applicable): Vote-climate

Topic: water-pollution - ~~EXT~~traction and Farming

Written comment

I feel the efforts of citizen to take time to attend the discussion and promote responsible control over our NW environment deserves to have better prep for our efforts. -

- Parley - not marked - on direction to Blue Lot - 25 Blaks away
- not marked and on paved
- Sound not tested in overflow -
- no monitor to actual meeting -
- find a large space for public meeting - Large CLASS Rm?

We deserve to be treated with more appreciation than this!

Written Comment Form

Thank you for attending the EQB Board meeting. EQB values your input and appreciates the opportunity to build shared understanding. If you would like to provide written comment at today's meeting, please fill out the form below and present it to an EQB staff member. Written comments will be included in the meeting minutes and circulated in the next Board packet.

Name: Pat Renner Zip code: 55416

Organization (if applicable): Votes Climate

Topic: _____

Written comment

Minnesota Environmental Quality Board
could collaborate with non-partisan
local organizations to work together
to prevent damage to our climate
and protect our climate.
Please partner with MEP-MN350,
Sierra Club, Land Stewardship, Fuel
Energy - MN Interface Power + Light
Water Legacy, Honor the Earth
All of us working together can
have a greater impact to
save our Earth for future
generations



Logistics Suggestions: • Large space
• Train speakers how to speak clearly into mics
• enforce agenda timing

Written Comment Form
Submitted 5/01/2019

Written Comment Form

Thank you for attending the EQB Board meeting. EQB values your input and appreciates the opportunity to build shared understanding. If you would like to provide written comment at today's meeting, please fill out the form below and present it to an EQB staff member. Written comments will be included in the meeting minutes and circulated in the next Board packet.

Name: Bernadette Knaeble Zip code: 55408
Organization (if applicable): Mn 350 Land Steward Ship Project / Dem. Socialists
Topic: How Could Environmental Review Be Improved? of America

Written comment

- More project developers out of the EIS + EAW processes.
- Consider capital development as always ~~is~~ ~~process~~ degrading the environment.
- Find a way to broaden the "public" being considered to include ~~the~~ Tribal Entities

Written Comment Form

Thank you for attending the EQB Board meeting. EQB values your input and appreciates the opportunity to build shared understanding. If you would like to provide written comment at today's meeting, please fill out the form below and present it to an EQB staff member. Written comments will be included in the meeting minutes and circulated in the next Board packet.

Name: Kristi Rosenquist

Zip code: 55956

Organization (if applicable): _____

Topic: Large Wind energy Conversion System - no EAW/EIS
LWECs - over 25 MW

Written comment

- State has been exempting wind from review under The Power Plant Siting Act - against nuclear statements of law
- There is no EAW/EIS process
- There are no Rules adopted through rule making for wind over 25 MW projects
- No one represents the interest of citizens
- Negative health, safety and livability impacts
- Loss of birds & bats and their habitat
- Loss of basic health, safety & welfare

April 30, 2019

Letter No. MRES-OTHER-0008

Ms. Denise Wilson
Director, Environmental Review Program
520 Lafayette Road North
St. Paul, MN 55155

RE: Marshall Generation Station: Environmental Assessment Worksheet RGU
Re-designation Request

Dear Ms. Wilson:

Western Minnesota Municipal Power Agency (WMPMA), acting through its agent Missouri River Energy Services (MRES), is proposing to install five new natural gas fired electrical generating units in a new building described herein.

The plant output, which is the sum of the output from the five generating units and measured at the generator terminals, is anticipated to be between 46.9 and 48.7 MW. This value will not be finalized until the engine manufacturer is selected by WMPMA. The plant output will be less than 50 MW. Per Minnesota Administrative Rule 4410.4300 Subpart 3, the proposed facility requires an Environmental Assessment Worksheet (EAW), with the Environmental Quality Board (EQB) acting as the Responsible Governmental Unit (RGU). As per conversations with the Local Government Coordinator from the EQB and representatives from the Minnesota Pollution Control Agency (MPCA), MRES is requesting re-designation of the RGU for the EAW from the EQB to the MPCA.

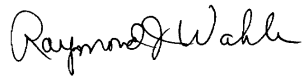
The proposed generating capacity is considered intermediate level generation, traditionally used to bridge the electrical system needs between coal and nuclear generation (base-load) and short-term, peaking facilities. In recent years, the addition of renewable sources of energy, such as wind and solar, have created unique challenges to the reliability of the electric grid. As wind or solar asset production fluctuates due to weather conditions, there is a need for responsive generating capacity to follow these changes in order to maintain reliability of the electrical grid.

Subject to review by the MPCA, we are proposing in our air quality permit application to limit operation of each engine to roughly 35 percent of the year. This will limit our NOx emissions to 237.50 tons annually.

With this in mind, we enclose a draft EAW for review by the EQB. Please feel to contact Nick Fanning of MRES at 605.330.6984 / nick.fanning@mrenergy.com or Travis Zipf of DGR Engineering at 712.472.2531 / travis.zipf@dgr.com with any comments or

questions. Thank you in advance for your review and consideration of our request to have the EQB re-designate the MPCA as the RGU for this project.

Respectfully,

A handwritten signature in cursive script that reads "Raymond J. Wahle".

Raymond J. Wahle, P.E.
Director, Power Supply & Operations
Missouri River Energy Services
Agent for Western Minnesota Municipal Power Agency

Enclosures: Environmental Assessment Worksheet for the Marshall Generation Station

c: Travis Zipf, PE - DGR Engineering

ENVIRONMENTAL ASSESSMENT WORKSHEET

This Environmental Assessment Worksheet (EAW) form and EAW Guidelines are available at the Environmental Quality Board's website

at: <http://www.eqb.state.mn.us/EnvRevGuidanceDocuments.htm>. The EAW form provides information about a project that may have the potential for significant environmental effects. The EAW Guidelines provide additional detail and resources for completing the EAW form.

Cumulative potential effects can either be addressed under each applicable EAW Item, or can be addresses collectively under EAW Item 19.

Note to reviewers: Comments must be submitted to the RGU during the 30-day comment period following notice of the EAW in the *EQB Monitor*. Comments should address the accuracy and completeness of information, potential impacts that warrant further investigation and the need for an EIS.

1. Project title: Marshall Generation Station

2. Proposer: Western Minnesota Municipal Power Agency (WMMPA)

Contact person: Mr. Raymond Wahle, PE

Title: Second Assistant Secretary

Address: 3724 West Avera Drive
PO Box 88920

City, State, ZIP: Sioux Falls, SD 57109-8920

Phone: 605.330.6963

Fax: 605.978.9360

Email: ray.wahle@mrenergy.com

3. RGU: Environmental Quality Board

Contact person:

Title:

Address: 520 Lafayette Rd N

City, State, ZIP: St. Paul, MN 55155-4194

Phone:

Fax:

Email:

4. Reason for EAW Preparation: (check one)

Required:

EIS Scoping

Mandatory EAW

Discretionary:

Citizen petition

RGU discretion

Proposer initiated

If EAW or EIS is mandatory give EQB rule category subpart number(s) and name(s):

Minn. R. 4410.4300, subp 3 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 Environmental Quality Board (EQB) is the Responsible Governmental Unit (RGU).

5. Project Location:

County: Lyon

City/Township: City of Marshall / Fairview Township

PLS Location (¼, ¼, Section, Township, Range): NE ¼ of Section 33 in Township 112N, Range 41W.

The legal description for this project site is forthcoming.

Watershed (81 major watershed scale): Redwood River (HUC: 07020006)

GPS Coordinates: N 44° 28' 2.86", W 95° 46' 56" (44.467461, -95.782221)

Tax Parcel Number: Existing parcel ID is 06-033001-0. Subdivision is underway and new tax parcel number is pending.

At a minimum attach each of the following to the EAW:

- County map showing the general location of the project;
- U.S. Geological Survey 7.5 minute, 1:24,000 scale map indicating project boundaries (photocopy acceptable); and
- Site plans showing all significant project and natural features. Pre-construction site plan and post-construction site plan.

Attached to the EAW:

Attachment 1 – County Location Map

Attachment 2 – Site Topographic Map

Attachment 3 – Site Location in Marshall, MN

Attachment 4 – Protected Waters and Wetlands

Attachment 5 – Well Log Reports

Attachment 6 – MDNR Natural Heritage Information System (Included when available)

Attachment 7 – State Historic Preservation Office correspondence

Attachment 8 – Archaeological and Historical Record Review

Attachment 9 – Location of Noise Measurements (Included when available)

Attachment 10 – Air Emission Risk Assessment (Included when available)

6. Project Description:

- a. Provide the brief project summary to be published in the *EQB Monitor*, (approximately 50 words).

Western Minnesota Municipal Power Agency (WMMPA - Proposer), a municipal corporation and political subdivision of the State of Minnesota, will own the proposed Marshall Generation Station, a new electric generation power plant, in Marshall, Minnesota. Missouri River Energy Services (MRES), a municipal joint action agency existing under the laws of Iowa, Minnesota, North Dakota and South Dakota and acting as an agent of the Proposer, will operate the facility. The Project includes installation of five new 9,770 kilowatt natural gas fired electrical generating units in a new building for a total capacity up to 48.9 megawatts. Production from the units will back up intermittent resources such as wind and solar power generation during peak demand periods to ensure reliability of the electric grid.

- b. Give a complete description of the proposed project and related new construction, including infrastructure needs. If the project is an expansion include a description of the existing facility. Emphasize: 1) construction, operation methods and features that will cause physical manipulation of the environment or will produce wastes, 2) modifications to existing equipment or industrial processes, 3) significant demolition, removal or remodeling of existing structures, and 4) timing and duration of construction activities.

Construction Activities

WMMPA proposes to install five new 9,770 kW natural gas fired generating units, oxidation catalysts and associated monitoring equipment, heat exchangers, pumps, filters, valves and other equipment in a new building.

Each of the five new engine-generator sets will have auxiliary equipment associated with the installation. Radiators will cool the engines and exhaust silencers will reduce noise from the engines while venting exhaust gasses to the atmosphere.

Associated construction extending beyond the Project site includes a natural gas pipeline and a high voltage electric transmission line.

The Proposer will start construction after receipt of all necessary permits and approvals, with completion planned in the fall of 2022. The Proposer expects the construction period to last up to 24 months.

Table 6-1 lists the equipment that will be at the facility.

Table 6-1 – Emission Sources at the Proposed Power Plant Site

Equipment	Fuel
EQUI 001 – 9,770 kW electrical generating unit (spark ignition engine / generator set) with 130-foot stack	Pipeline-quality Natural Gas
EQUI 002 – 9,770 kW electrical generating unit (spark ignition engine / generator set) with 130-foot stack	Pipeline-quality Natural Gas
EQUI 003 – 9,770 kW electrical generating unit (spark ignition engine / generator set) with 130-foot stack	Pipeline-quality Natural Gas
EQUI 004 – 9,770 kW electrical generating unit (spark ignition engine / generator set) with 130-foot stack	Pipeline-quality Natural Gas
EQUI 005 – 9,770 kW electrical generating unit (spark ignition engine / generator set) with 130-foot stack	Pipeline-quality Natural Gas
EQUI 006 – 3 MMBTU/hour hot water boiler with 45-foot stack	Pipeline-quality Natural Gas
EQUI 007 – 3 MMBTU/hour hot water boiler with 45-foot stack	Pipeline-quality Natural Gas

c. Project magnitude:

Total Project Acreage	10.00
Linear project length	N/A
Number and type of residential units	N/A
Commercial building area (in square feet)	N/A
Industrial building area (in square feet)	36,000
Institutional building area (in square feet)	N/A
Other uses – specify (in square feet)	N/A
Structure height(s)	40 feet

d. Explain the project purpose; if the project will be carried out by a governmental unit, explain the need for the project and identify its beneficiaries.

The proposed generating capacity is considered intermediate level generation, traditionally used to bridge the electrical system needs between coal and nuclear generation (base-load) and short-term peaking facilities. In recent years, the addition of renewable sources of energy, such as wind and solar, have created unique challenges to the reliable operation of the electrical grid. As wind or solar asset production drops due to weather conditions, there is a need for responsive generating capacity to follow these changes in order to maintain electrical grid reliability.

e. Are future stages of this development including development on any other property planned or likely to happen? Yes No

If yes, briefly describe future stages, relationship to present project, timeline and plans for environmental review.

Not applicable.

f. Is this project a subsequent stage of an earlier project? Yes No

If yes, briefly describe the past development, timeline and any past environmental review.

Not applicable.

7. **Cover types:** Estimate the acreage of the site with each of the following cover types before and after development:

	Before	After		Before	After
Wetlands	0	0	Lawn/landscaping	0	0.4
Deep water/streams	0	0	Impervious surface	0	1.25
Wooded/forest	0	0	Stormwater Pond	0	TBD
Brush/Grassland	0	0	Electrical Substation	0	.7
Cropland	10.00	5.00			
			TOTAL	10.00	10.00

- 8. Permits and approvals required:** List all known local, state and federal permits, approvals, certifications and financial assistance for the project. Include modifications of any existing permits, governmental review of plans and all direct and indirect forms of public financial assistance including bond guarantees, Tax Increment Financing and infrastructure. *All of these final decisions are prohibited until all appropriate environmental review has been completed. See Minnesota Rules, Chapter 4410.3100.*

Unit of government	Type of application	Status
MPCA	Air Emission Permit	Submitted
MPCA	National Pollutant Discharge Elimination System (NPDES) / State Disposal System (SDS) Construction Stormwater General Permit (CSW Permit)	To be submitted
City of Marshall	Building Permit	To be submitted
EQB / PUC (TBD)	Natural Gas Pipeline Routing Permit	To be submitted
City of Marshall / Lyon County	High Voltage Electric Transmission Line Routing Permit	To be submitted
MN Dept. of Public Safety	State Fire Protection Permit	To be submitted
MDOT	Highway Access Permit and Oversize and Overweight Permits	To be submitted

Cumulative potential effects may be considered and addressed in response to individual EAW Item Nos. 9-18, or the RGU can address all cumulative potential effects in response to EAW Item No. 19. If addressing cumulative effect under individual items, make sure to include information requested in EAW Item No. 19

9. Land use:

a. Describe:

- i. Existing land use of the site as well as areas adjacent to and near the site, including parks, trails, prime or unique farmlands.

The facility site is located on previously undeveloped land on the north side of the City of Marshall. Current land use of the site is agricultural / cropland. The site is south-southeast of the intersection between N 7th St and E Erie Rd (290th St).

The proposed Project site is surrounded by industrial facilities to the North and East. Agricultural areas surround the balance. The nearest residence is located approximately 2,700 feet to the East-Southeast of the proposed Project site. The closest industrial facility is located across E Erie Rd approximately 1500 feet to the North of the proposed Project site.

- ii. Plans. Describe planned land use as identified in comprehensive plan (if available) and any other applicable plan for land use, water, or resources management by a local, regional, state, or federal agency.

The proposed Project site is currently zoned as “Orderly Annexation”. Prior to start of Project construction, the Project Site will be annexed into the City of Marshall where it will be zoned as “General Industrial” which is compatible with electric power generation (i.e., the proposed Project).

- iii. Zoning, including special districts or overlays such as shoreland, floodplain, wild and scenic rivers, critical area, agricultural preserves, etc.

See response to 9.a.ii above. The Project site does not contain part of any special districts or overlays such as shoreland, delineated flood plain or a designated wild or scenic river land use district, critical area, or agricultural preserves.

- b. Discuss the project’s compatibility with nearby land uses, zoning, and plans listed in Item 9a above, concentrating on implications for environmental effects.

The proposed Project site is currently zoned as “Orderly Annexation”. Prior to start of Project construction, the Project site will be annexed into the City of Marshall where it will be zoned as “General Industrial” which is compatible with electric power generation (i.e., the proposed Project).

No identified potential incompatibilities exist

- c. Identify measures incorporated into the proposed project to mitigate any potential incompatibility as discussed in Item 9b above.

No identified potential incompatibilities exist; therefore, no measures to mitigate are necessary.

10. Geology, soils and topography/land forms:

- a. Geology - Describe the geology underlying the project area and identify and map any susceptible geologic features such as sinkholes, shallow limestone formations, unconfined/shallow aquifers, or karst conditions. Discuss any limitations of these features for the project and any effects the project could have on these features. Identify any project designs or mitigation measures to address effects to geologic features.

There are no known geologic site hazards such as sinkholes, shallow limestone formations, or karst conditions on the proposed Project site. Soil borings will be completed as part of the project.

- b. Soils and topography - Describe the soils on the site, giving NRCS (SCS) classifications and descriptions, including limitations of soils. Describe topography, any special site conditions relating to erosion potential, soil stability or other soils limitations, such as steep slopes, highly permeable soils. Provide estimated volume and acreage of soil excavation and/or grading. Discuss impacts from project activities (distinguish between construction and operational activities) related to soils and topography. Identify measures during and after project construction to address soil limitations including stabilization, soil corrections or other measures.

Erosion/sedimentation control related to stormwater runoff should be addressed in response to Item 11.b.ii.

The top two feet of soil at the Project site consists of clay and drift to a depth of at least 30 feet.

Less than 1,000 cubic yards of soil are expected to be excavated and approximately 10 acres of soil will be graded.

The primary excavations at the facility site will be for the foundation/footings for the new power plant building. There are no highly erodible soils or steep slopes in the Project area. The Project contractor will use erosion prevention tools such as silt fences, anchored straw mulch, or other stabilization measures, along with temporary sediment traps to protect on-site sewer inlets.

NOTE: For silica sand projects, the EAW must include a hydrogeologic investigation assessing the potential groundwater and surface water effects and geologic conditions that could create an increased risk of potentially significant effects on groundwater and surface water. Descriptions of water resources and potential effects from the project in EAW Item 11 must be consistent with the geology, soils and topography/land forms and potential effects described in EAW Item 10.

11. Water resources:

- a. Describe surface water and groundwater features on or near the site in a.i. and a.ii. below.
 - i. Surface water - lakes, streams, wetlands, intermittent channels, and county/judicial ditches. Include any special designations such as public waters, trout stream/lake, wildlife lakes, migratory waterfowl feeding/resting lake, and outstanding resource value water. Include water quality impairments or special designations listed on the current MPCA 303d Impaired Waters List that are within 1 mile of the project. Include DNR Public Waters Inventory number(s), if any.

Surface water features identified within one mile of the proposed Project site include the Redwood River (RR - protected waters).

- ii. Groundwater – aquifers, springs, seeps. Include: 1) depth to groundwater; 2) if project is within a MDH wellhead protection area; 3) identification of any onsite and/or nearby wells, including unique numbers and well logs if available. If there are no wells known on site or nearby, explain the methodology used to determine this.

Two private wells were identified in close proximity to the proposed Project site. The unique well numbers are: 177020 and 795746. Well log reports for each are included in the Appendix.

- b. Describe effects from project activities on water resources and measures to minimize or mitigate the effects in Item b.i. through Item b.iv. below.
 - i. Wastewater - For each of the following, describe the sources, quantities and composition of all sanitary, municipal/domestic and industrial wastewater produced or treated at the site.

- 1) If the wastewater discharge is to a publicly owned treatment facility, identify any pretreatment measures and the ability of the facility to handle the added water and waste loadings, including any effects on, or required expansion of, municipal wastewater infrastructure.

The Project will include employee locker rooms and restrooms, which will generate sanitary wastewater. Industrial wastewater will not be generated or discharged by this facility and no pretreatment measures are proposed.

Limited wastewater discharge options exist near the Project site. The City of Marshall operates a pressurized wastewater piping nearby. An onsite leach field (drain field) is also a design option.

As the project design proceeds, the Proposer will select a wastewater discharge option.

- 2) If the wastewater discharge is to a subsurface sewage treatment systems (SSTS), describe the system used, the design flow, and suitability of site conditions for such a system.

Not applicable.

- 3) If the wastewater discharge is to surface water, identify the wastewater treatment methods and identify discharge points and proposed effluent limitations to mitigate impacts. Discuss any effects to surface or groundwater from wastewater discharges.

Not applicable.

- ii. Stormwater - Describe the quantity and quality of stormwater runoff at the site prior to and post construction. Include the routes and receiving water bodies for runoff from the site (major downstream water bodies as well as the immediate receiving waters). Discuss any environmental effects from stormwater discharges. Describe stormwater pollution prevention plans including temporary and permanent runoff controls and potential BMP site locations to manage or treat stormwater runoff. Identify specific erosion control, sedimentation control or stabilization measures to address soil limitations during and after project construction.

Because the construction of the Project will disturb greater than one acre of soil, MPCA requires a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater (CSW) permit. The Proposer must obtain a CSW permit from the MPCA, which requires the use of erosion prevention and sediment control BMPs such as silt fences, bale checks, and prompt revegetation to minimize sediment from leaving the construction site.

The construction of the new power plant building will create approximately 1.25 acres of new impervious surface on the site. Therefore, the CSW permit requires installation of permanent stormwater treatment controls to minimize impact to water quality of downstream receiving waters. The requirements for permanent stormwater treatment

focus on infiltration BMPs to mitigate the increased stormwater runoff from the new impervious surfaces created by the Project.

The Proposer will prepare a Stormwater Pollution Prevention Plan (SWPPP) detailing the BMPs implemented. The SWPPP will also address: vehicle tracking of sediment; BMP installation schedule; inspection of installed BMPs and design, installation and inspection of permanent stormwater treatment controls.

- iii. Water appropriation - Describe if the project proposes to appropriate surface or groundwater (including dewatering). Describe the source, quantity, duration, use and purpose of the water use and if a DNR water appropriation permit is required. Describe any well abandonment. If connecting to an existing municipal water supply, identify the wells to be used as a water source and any effects on, or required expansion of, municipal water infrastructure. Discuss environmental effects from water appropriation, including an assessment of the water resources available for appropriation. Identify any measures to avoid, minimize, or mitigate environmental effects from the water appropriation.

Due to the relatively insignificant amount of water expected to be consumed at the new power plant building, there are no anticipated effects on, or required expansion of, municipal water infrastructure.

There are no anticipated environmental effects from the proposed Project on water appropriation; and water resources should be adequate for appropriation.

- iv. Surface Waters

- a) Wetlands - Describe any anticipated physical effects or alterations to wetland features such as draining, filling, permanent inundation, dredging and vegetative removal. Discuss direct and indirect environmental effects from physical modification of wetlands, including the anticipated effects that any proposed wetland alterations may have to the host watershed. Identify measures to avoid (e.g., available alternatives that were considered), minimize, or mitigate environmental effects to wetlands. Discuss whether any required compensatory wetland mitigation for unavoidable wetland impacts will occur in the same minor or major watershed, and identify those probable locations.

The Project will not involve any physical modification to wetlands.

- b) Other surface waters- Describe any anticipated physical effects or alterations to surface water features (lakes, streams, ponds, intermittent channels, county/judicial ditches) such as draining, filling, permanent inundation, dredging, diking, stream diversion, impoundment, aquatic plant removal and riparian alteration. Discuss direct and indirect environmental effects from physical modification of water features. Identify measures to avoid, minimize, or mitigate environmental effects to surface water features, including in-water Best Management Practices that are proposed to avoid or minimize turbidity/sedimentation while physically altering the water features. Discuss how the project will change the number or type of watercraft on any water body, including current and projected watercraft usage.

The Project will not involve any physical modifications to surface waters.

12. Contamination/Hazardous Materials/Wastes:

- a. Pre-project site conditions - Describe existing contamination or potential environmental hazards on or in close proximity to the project site such as soil or ground water contamination, abandoned dumps, closed landfills, existing or abandoned storage tanks, and hazardous liquid or gas pipelines. Discuss any potential environmental effects from pre-project site conditions that would be caused or exacerbated by project construction and operation. Identify measures to avoid, minimize or mitigate adverse effects from existing contamination or potential environmental hazards. Include development of a Contingency Plan or Response Action Plan.

The Project will convert the site from row crop production to industrial use. The Proposer is not aware of any existing contamination or potential environmental hazards on or in close proximity to the Project site. A search of the MPCA's "What's in My Neighborhood" database showed no contamination or potential environmental hazards on or in close proximity to the Project site. The Proposer does not anticipate any potential environmental effects from pre-Project site conditions caused or exacerbated by Project construction and operation.

- b. Project related generation/storage of solid wastes - Describe solid wastes generated/stored during construction and/or operation of the project. Indicate method of disposal. Discuss potential environmental effects from solid waste handling, storage and disposal. Identify measures to avoid, minimize or mitigate adverse effects from the generation/storage of solid waste including source reduction and recycling.

Proposer estimates to generate 20 cubic yards per week of solid waste (e.g., concrete, packing materials, etc.) during Project construction that the Proposer will recycle, reuse, or dispose of at a licensed landfill.

Operation of the Project will generate an estimated 2 cubic yards of solid waste (e.g., office paper, packing materials, etc.) per week. Materials will be recycled, reused, or will be disposed at a licensed landfill by a licensed solid waste disposal company.

- c. Project related use/storage of hazardous materials - Describe chemicals/hazardous materials used/stored during construction and/or operation of the project including method of storage. Indicate the number, location and size of any above or below ground tanks to store petroleum or other materials. Discuss potential environmental effects from accidental spill or release of hazardous materials. Identify measures to avoid, minimize or mitigate adverse effects from the use/storage of chemicals/hazardous materials including source reduction and recycling. Include development of a spill prevention plan.

Table 12-1 lists all above ground storage tanks (ASTs) at the Project: two indoor ethylene glycol tanks and three indoor lubricating oil tanks. All ASTs will be designed, built, and operated according to the applicable requirements of Minn. R. 7151.

The new engine-generators (EQUI 001 through EQUI 005) will use ethylene glycol as a coolant. The proposed engine duty cycle should allow the coolant to be used for approximately six years before it needs to be replaced and recycled. Approximately 4,000 gallons of ethylene glycol will

be stored onsite in two onsite tanks, within the new power plant building. The Proposer will transport spent coolant to a licensed recycling facility.

Lubricating oil will also be used in each of the engines. Spent lubricating oil would be collected and transported to a licensed recycling facility.

All indoor ASTs will be located on concrete floors with a concrete secondary containment dike around the tanks to contain accidental leaks or releases. Additionally, the new power plant building will serve as tertiary containment. The Proposer will create a Spill Prevention Control and Countermeasure Plan to address storage and spill prevention issues.

Table 12-1 – Major Tanks

Tank	Description	Contents	Construction	Capacity (gallons)	Status
TK 001	Indoor, Single-Wall, Fixed Roof Tank	Ethylene glycol	Carbon Steel	4,000	Proposed
TK 002	Indoor, Single-Wall, Fixed Roof Tank	Ethylene glycol	Carbon Steel	4,000	Proposed
TK 003	Indoor, Single-Wall, Fixed Roof Tank	Lubricating oil	Carbon Steel	3,000	Proposed
TK 004	Indoor, Single-Wall, Fixed Roof Tank	Lubricating oil	Carbon Steel	2,000	Proposed
TK 005	Indoor, Single-Wall, Fixed Roof Tank	Lubricating oil	Carbon Steel	2,000	Proposed

- d. Project related generation/storage of hazardous wastes - Describe hazardous wastes generated/stored during construction and/or operation of the project. Indicate method of disposal. Discuss potential environmental effects from hazardous waste handling, storage, and disposal. Identify measures to avoid, minimize or mitigate adverse effects from the generation/storage of hazardous waste including source reduction and recycling.

The Project will generate electricity by combustion of natural gas. Combustion of natural gas does not generate hazardous waste. Therefore, the Project is not expected to generate any hazardous waste during construction or operation.

13. Fish, wildlife, plant communities, and sensitive ecological resources (rare features):

- a. Describe fish and wildlife resources as well as habitats and vegetation on or in near the site.

The Project site is currently cropland in an industrial park surrounded by industrial uses. No water resources such as streams, lakes, or wetlands exist on the Project site. The Project will utilize existing cropland. The Project will not affect fish resources and will only minimally affect wildlife resources.

- b. Describe rare features such as state-listed (endangered, threatened or special concern) species, native plant communities, Minnesota County Biological Survey Sites of Biodiversity Significance, and other sensitive ecological resources on or within close proximity to the site. Provide the license agreement number (LA-____) and/or correspondence number (ERDB 20140402) from which the data were obtained and attach the Natural Heritage letter from the DNR. Indicate if any additional habitat or species survey work has been conducted within the site and describe the results.

The MDNR was contacted on March 29, 2019 to determine if any state listed threatened or endangered species, rare plant communities, or other sensitive ecological resources exist in the Project area. We await a response from the MDNR.

- c. Discuss how the identified fish, wildlife, plant communities, rare features and ecosystems may be affected by the project. Include a discussion on introduction and spread of invasive species from the project construction and operation. Separately discuss effects to known threatened and endangered species.

None of the identified rare features exist on the Project site and there are no water resources on the Project. Construction activities are limited to the Project site, therefore it is not expected that the Project will negatively affect fish, wildlife, plant communities, rare features and ecosystems, or sensitive resources.

- d. Identify measures that will be taken to avoid, minimize, or mitigate adverse effects to fish, wildlife, plant communities, and sensitive ecological resources.

The Facility will be constructed on an area previously used for cropland. The Project is not expected to affect fish, wildlife, or sensitive resources, and efforts to avoid, minimize, or mitigate adverse effects are not required.

14. Historic properties:

Describe any historic structures, archeological sites, and/or traditional cultural properties on or in close proximity to the site. Include: 1) historic designations, 2) known artifact areas, and 3) architectural features. Attach letter received from the State Historic Preservation Office (SHPO). Discuss any anticipated effects to historic properties during project construction and operation. Identify measures that will be taken to avoid, minimize, or mitigate adverse effects to historic properties.

A request was sent to the State Historic Preservation Office (SHPO) to conduct a search of its historical structures and archaeological sites databases. This search did not identify any properties listed in the National or State Registers of Historic Places, and no known or suspected archaeological properties in the area that will be affected by this project.

An independent review indicates that no previous investigations have occurred within the direct project area, representing approximately 80 acres, and two previous cultural resource investigations have occurred within the indirect area of the project (one-mile radius center). The review further indicates that no previously recorded cultural resources are located within the direct area of potential effect and five previously recorded cultural resources are located within the indirect area of potential effect.

All of the cultural resources located within the indirect area of potential effect date to the historic period and primarily consist of architectural features. One of the cultural resources is previously recommended eligible for the National Register of Historical Places while the remaining resources are unevaluated for the NRHP.

Attachments 7 and 8 include correspondence with SHPO and the results of an independent review.

15. Visual:

Describe any scenic views or vistas on or near the project site. Describe any project related visual effects such as vapor plumes or glare from intense lights. Discuss the potential visual effects from the project. Identify any measures to avoid, minimize, or mitigate visual effects.

Scenic views or vistas have not been identified on or near the Project site. The Project will result in the construction of a new, decorative, precast concrete or steel building and five new engine-generator exhaust stacks. Each new stack will be approximately 130 feet tall.

Often no visible gases exhaust from the stacks. However, during certain weather and engine operating conditions, water condensation within the exhaust gases may be visible as a white or grey plume.

Security (site) lighting will be added to the exterior of the new building and around the property, but is not expected to cause a significant visual impact.

16. Air:

- a. Stationary source emissions - Describe the type, sources, quantities and compositions of any emissions from stationary sources such as boilers or exhaust stacks. Include any hazardous air pollutants, criteria pollutants, and any greenhouse gases. Discuss effects to air quality including any sensitive receptors, human health or applicable regulatory criteria. Include a discussion of any methods used assess the project's effect on air quality and the results of that assessment. Identify pollution control equipment and other measures that will be taken to avoid, minimize, or mitigate adverse effects from stationary source emissions.

The Project will generate air emissions from the operation of the engines and hot water boilers. Emissions from the combustion of natural gas include: carbon monoxide (CO), nitrogen oxides (NOx), particulate matter (PM), PM10 (PM less than 10 microns in diameter), PM2.5 (PM less than 2.5 microns in diameter), sulfur dioxide (SO₂), volatile organic compounds (VOCs), hazardous air pollutants (HAPs), greenhouse gases (GHG) including – carbon dioxide (CO₂),

methane (CH₄), and nitrous oxide (N₂O). The engines will be equipped with an oxidation catalyst which will reduce CO and a small amount of HAPs and VOCs.

Table 16-1, below, lists the facility's proposed air emissions sources, associated pollutants and control equipment.

Table 16-1 – Proposed New Air Emission Units, Pollutants, and Control Equipment

Emission Unit ID	Description	Pollutants	Control Equipment
EQUI 001	Engine No. 1 (spark ignition engine/generator set)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Oxidation Catalyst for CO/VOC control
EQUI 002	Engine No. 2 (spark ignition engine/generator set)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Oxidation Catalyst for CO/VOC control
EQUI 003	Engine No. 3 (spark ignition engine/generator set)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Oxidation Catalyst for CO/VOC control
EQUI 004	Engine No. 4 (spark ignition engine/generator set)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Oxidation Catalyst for CO/VOC control
EQUI 005	Engine No. 5 (spark ignition engine/generator set)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Oxidation Catalyst for CO/VOC control
EQUI 006	Boiler No. 1 (hot water)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Integral low NO _x burner
EQUI 007	Boiler No. 2 (hot water)	CO, NO _x , PM, PM ₁₀ , PM _{2.5} , SO ₂ , VOC, HAPs, CO ₂ , CH ₄ , and N ₂ O	Integral low NO _x burner

CH₄ = methane

CO = carbon monoxide

CO₂ = carbon dioxide

HAPs = hazardous air pollutants

N₂O = nitrous oxide

NO_x = nitrogen oxides

PM = particulate matter

PM₁₀ = particulate matter less than 10 µm in size

PM_{2.5} = particulate matter less than 2.5 µm in size

SO₂ = sulfur dioxide

VOC = volatile organic compound/chemical

Air Emission Permitting

Emission reductions will be achieved through permit conditions and limits. Several programs, discussed individually below, under the federal air permitting program apply to the Project. A major source air permit application will be submitted to the MPCA. The application will indicate that the Project will have federally enforceable limitations to restrict the new facility air emissions that will ensure the Project is below Prevention of Significant Deterioration (PSD)/New Source Review major source thresholds.

Title V

Title V of the 1990 Clean Air Act Amendments requires federally enforceable operating permits for major stationary sources of air emissions. The Project will be considered a major source under the permitting program because the NO_x emissions will exceed the Title V major source thresholds (i.e., 100 ton per year (TPY)). Therefore, a Title V air permit will be applied for and the Proposer is required to apply to the MPCA for reissuance of the permit every five years. The Title V permit will contain enforceable requirements to ensure that the Project complies fully with state and federal air program requirements, including limits on fuel usage and emission rates,

monitoring and recordkeeping requirements, and performance testing requirements. The MPCA will place the draft permit on public notice and will also send the draft permit to the U. S. Environmental Protection Agency (EPA) for a 45-day review. The MPCA will address all comments received from the public or EPA on the draft permit after these review periods and before permit issuance.

Prevention of Significant Deterioration (PSD)

The Project will not be a major air emissions source under the federal PSD program due to permit requirements that will limit Project emissions to less than the major source thresholds (i.e., 250 TPY). The MPCA considers the Project a synthetic minor source for PSD.

National Emission Standards for Hazardous Air Pollutants (NESHAPs)

NESHAPs are the standards set by the U.S. Environmental Protection Agency to regulate Hazardous Air Pollutants (HAPs) applicable to specific industries or sources. The standards include emission limits, testing, monitoring, and reporting requirements to ensure compliance. HAPs are a class of 188 different compounds regulated by the EPA which are not covered by the National Ambient Air Quality Standards (NAAQS).

The five new generators are subject to the NESHAP for Stationary Reciprocating Internal Combustion Engines and will require the installation of an oxidation catalyst on each engine, performance tests, and installation of monitors on the oxidation catalyst. The two boilers are also subject to the NESHAP for Industrial, Commercial, and Institutional Boilers, however, there are no requirements as the boilers are natural gas-fired only.

New Source Performance Standards (NSPS)

NSPSs are the standards published for specific industries or source categories and apply to new, modified and reconstructed affected facilities. Sources subject to an NSPS must demonstrate initial compliance through performance tests, followed by monitoring, recordkeeping, and reporting requirements.

Because it will be subject to the NSPS for Stationary Spark Ignition Internal Combustion Engines, the five natural gas-fired engines will have set emission limits for NOx and VOCs and require performance testing.

Table 16-2 summarizes the facility’s proposed permit limited emissions and applicable air regulations.

Table 16-2 – Total Limited Facility Air Emissions

Pollutant	Proposed Project Facility Limited Emissions¹ (TPY)	Title V Major Source Threshold (TPY)	Proposed Facility Title V Applicability	PSD/NESHAPs Major Source Threshold (TPY)	Proposed Facility PSD/NESHAPs Applicability
PM	15.78	100	Major ²	250	Minor
PM ₁₀	10.29	100	Major ²	250	Minor
PM _{2.5}	10.29	100	Major ²	250	Minor
CO	14.47	100	Major ²	250	Minor
NO _x	237.50	100	Major ²	250	Minor
VOCs	23.57	100	Major ²	250	Minor
SO ₂	0.42	100	Major ²	250	Minor
Total HAPs	17.84	25	Major ²	25	Minor

Individual HAP	9.76 (formaldehyde ³)	10	Major ²	10	Minor
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¹ These values represent the limited air emissions from the proposed units at the facility (i.e., EQUI 001 - 007)

² Because total limited emissions for NOx will be over the Title V major source threshold, the entire facility is considered major for the Title V program.

³ The individual HAP that EQUI 001 - 007 will emit in the largest quantity.

Greenhouse Gas Emissions (GHG)

The Project will emit GHG from the combustion of fuels. The five engines and two boilers will burn natural gas, which produces fewer GHG emissions compared to other solid fuels such as coal. The Project is projected to produce approximately 46,781 pounds of GHGs per hour (mass basis).

Table 16-3 lists the facility's permit limited greenhouse gas emissions.

Table 16-3 – Greenhouse Gas Potential Emissions (Proposed Permit)

Pollutant	Facility PTE (TPY)	CO ₂ e ¹ Conversion	CO ₂ e (TPY)
CO ₂	83,803.86	1	83,803.86
CH ₄	862.58	25	21,564.62
N ₂ O	0.20	298	60.88
SF ₆	0.00	22,800	0.00
HFCs	0.00	See 40 CFR 98 ²	0.00
PFCs	0.00	See 40 CFR 98 ²	0.00
		Facility CO ₂ e Total =	105,429.35

SF₆ = sulfur hexafluoride

HFCs = hydrofluorocarbon

PFCs = perfluorinated compounds

¹ CO₂e means carbon dioxide equivalent, which represents how much warming potential a pollutant has in relation to carbon dioxide. Each GHG pollutant is scaled to CO₂e, and then summed to represent a facility's total CO₂e.

² 40 CFR 98, means Title 40 of the Code of Federal Regulations Part 98 which can be found at www.ecfr.gov/. HFCs and PFCs represent groups containing many pollutants, which have different CO₂e conversion factors, listed in 40 CFR 98; therefore listing them all out is cumbersome since the facility is not an emitter of these pollutants.

Ambient Air Quality Impacts - Air Dispersion Modeling

The EPA established ambient air quality standards for certain pollutants, called National Ambient Air Quality Standards (NAAQS). The standards represent the allowable amount of pollution per volume of air and are set to protect public health and the environment. No facility may cause or contribute to violations of these standards. Often air dispersion modeling is done to predict a facility's compliance with the standards.

A Significant Impact Level (SIL) analysis was conducted using air dispersion modeling following an MPCA-approved modeling protocol. The EPA established the SILs for criteria pollutants with a NAAQS and typically four to six percent of NAAQS depending on the pollutant. SILs are a non-regulatory threshold and only used for evaluating the significance of an emission source or sources. AERMOD modeling software was used for the air dispersion modeling exercise. The EPA developed, validated, and approved AERMOD for air dispersion modeling. Applying worst-case hourly emissions allowed by the MPCA air permit to predict potential pollution levels in the air, pollutants with predicted levels below the EPA's SIL are "screened out" from further refined modeling as insignificant contributions. See Table 16-4 for the results of the modeling.

Table 16-4. Project Modeled Impacts**[This table will be amended upon completion of air dispersion modeling]**

Pollutant	Averaging Time	Max Modeled Concentration (µg/m3)	SIL (µg/m3)	Air Quality Standard (µg/m3)
NO2	1-hr		7.52	188
	Annual		1.00	100
CO	1-hr		2000	35000
	8-hr		500	10000
PM10	24-hr		5	150
	Annual		1	50
PM2.5	24-hr		1.2	35
	Annual		0.3	12
SO2	1-hr		7.8	197
	3-hr		25	915
	24-hr		5	365
	Annual		1	60

Table 16-5. Project and Nearby Sources Modeled Impacts**[This table will be amended upon completion of air dispersion modeling]**

Pollutant	Averaging Time	Max Modeled Concentration of Project, nearby sources and background (µg/m3)	Air Quality Standard (µg/m3)
PM2.5	24-hr		35
PM10	24-hr		150
NO2	1-hr		188

Air Emissions Risk Analysis (AERA) of Non-Criteria Pollutant Modeling (Air Toxics)

The MPCA developed the AERA process to estimate the cancer and non-cancer risks to human health from a project or facility. The AERA estimates risk quantitatively and includes qualitative information to provide context for risk estimates. The MPCA, in consultation with the MDH, and consistent with EPA guidelines, developed facility risk guidelines.

The guidelines for cancer-related risks established that the increased risk of a person getting cancer over the course of their lifetime due to exposure to the carcinogenic chemicals emitted from a given facility should not exceed 1 in 100,000 (1E-05). The non-cancer risks (called hazard quotients) are calculated by dividing the modeled air concentrations by the health benchmarks from the MDH, EPA, and the California EPA. The facility's hazard index results from sum of the hazard quotients from all pollutants. The Facility hazard index guideline for non-carcinogenic chemicals should not exceed 1.

If emissions from a facility result in estimated risks in excess of risk guidelines MPCA staff will evaluate whether to require modifications to the facility or stricter emissions limits. All quantitative risk estimates have uncertainty related to air emission estimates, air dispersion modeling, exposure assumptions, and toxicity information. The AERA process considers these uncertainties quantitatively and includes assumptions to minimize the potential for underestimating risks. More detailed information on the air risk analysis process is available at <http://www.pca.state.mn.us/air/aera.html>.

Air Toxics Modeling Results

Table 16.6 summarizes the potential health risks for the emissions of the pollutants shown below. Depending on the pollutant, calculated emission rates use the engine manufacturer's maximum emission factors or use EPA's documented emission factors in AP42 section 3.2-2 (online at <http://www.epa.gov/ttnchie1/ap42/ch03/final/c03s02.pdf>).

Table 16.6. Summary of total facility emission rates used in the AERA

[This table will be amended upon completion of the AERA]

Pollutant	Proposed (lb/hr)	Proposed (tons/yr)	Notes
Nitrogen Oxides (NOx)			1, 2
Acenaphthene*			3
Acetaldehyde			3
Acrolein			3
Benzene**			3
Benzo[b]fluoranthene*			3
Butadiene, 1,3			3
Carbon tetrachloride**			3
Chlorobenzene			3
Chloroform**			3
Chrysene			3
Dichloropropene, 1,3-			3
Ethyl benzene**			3
Ethyl chloride (Chloroethane)**			3
Ethylene dibromide			3
Ethylene dichloride (1,2-			3
Ethylidene dichloride (1,1-			3
Formaldehyde			3
Hexane			3
Methanol			3
Naphthalene			3
N-Nonane**			3
Pentane, n-			3
Phenanthrene*			3
Phenol			3
Polycyclic Aromatic Hydrocarbons			3
Propylene dichloride (1,2-			3
Styrene			3
Tetrachloroethane, 1,1,1,2-			3
Tetrachloroethane, 1,1,2,2-			3
Toluene			3
Trichloroethane, 1,1,2-			3
Trimethylbenzene, 1,2,3-			3
Trimethylbenzene, 1,2,4-			3
Vinyl chloride			3
Xylenes			3

Calculation Notes

¹ Worst case scenario based on 100% load plus a safety factor of 10%.

² Calculated with manufacturer guaranteed maximum factors.

³ Calculated with emissions factors documented in EPA's AP42 section 3.2-2.

* Persistent bioaccumulative pollutant (PBT).

** Developmental toxicant.

- b. Vehicle emissions - Describe the effect of the project's traffic generation on air emissions. Discuss the project's vehicle-related emissions effect on air quality. Identify measures (e.g. traffic operational improvements, diesel idling minimization plan) that will be taken to minimize or mitigate vehicle-related emissions.

Vehicle traffic to the facility site will increase temporarily during project construction. Upon Project completion, traffic levels are expected to increase by 3 to 5 cars arriving and leaving daily. Negligible impacts to air quality are expected from traffic related construction and operation of the facility.

- c. Dust and odors - Describe sources, characteristics, duration, quantities, and intensity of dust and odors generated during project construction and operation. (Fugitive dust may be discussed under item 16a). Discuss the effect of dust and odors in the vicinity of the project including nearby sensitive receptors and quality of life. Identify measures that will be taken to minimize or mitigate the effects of dust and odors.

The Project will generate dust during project construction, including site excavation, grading, and building construction. Best management practices will be implemented for dust management, such as wetting disturbed areas and reestablishing vegetation after completing construction. The generation of dust during operation is not anticipated due to use of gaseous fuels and all vehicle roadways will be paved.

Construction of the facility is not anticipated to generate any odors. Further, due to the use of natural gas, facility operation is not expected to generate odors.

17. Noise

Describe sources, characteristics, duration, quantities, and intensity of noise generated during project construction and operation. Discuss the effect of noise in the vicinity of the project including 1) existing noise levels/sources in the area, 2) nearby sensitive receptors, 3) conformance to state noise standards, and 4) quality of life. Identify measures that will be taken to minimize or mitigate the effects of noise.

Construction of the facility will generate temporary noise from typical construction activities (vehicles delivering materials, vehicles working on site preparation, and building and equipment erection). Construction is expected to last up to 24 months.

Operation of the facility will also create noise, primarily from the natural gas-fired engine/generator sets. The engine/generator sets will operate on an intermittent basis during any time of the day or night.

Table 17-1 lists the Minnesota noise standards (Minn. R. 7030.0040), based on statistical calculations that quantify noise levels over a one-hour monitoring period. The rule defines L_{10} as the noise the facility may exceed for 10% of the hour, or 6 minutes. The L_{50} is the noise level exceeded for 50% of the hour, or 30 minutes.

The allowable noise depends on the land use at the location of the person who hears the noise (called a receptor), which does not necessarily correspond with the zoning of an area. The stringency also depends on the time of day during which the noise occurs. The rule sets stricter nighttime noise standards than daytime standards.

For example, the noise from an industrial facility near a residential area must meet the residential standard if the receptor is on a residential property. This means that during a one-hour period of monitoring, daytime noise heard at a residence cannot exceed 65 decibels (dBA) for more than 10% (6 minutes) of the time or 60 dBA for more than 50% (30 minutes) of the time. See Table 17-1 for the noise standard.

Table 17-1. Minnesota Noise Standard

Land use	Daytime (dBA) (7AM – 10PM)		Nighttime (dBA) (10PM – 7AM)	
	L ₅₀	L ₁₀	L ₅₀	L ₁₀
1. Residential, Churches, Hospitals	60	65	50	55
2. Commercial Establishments, Terminals, Parks	65	70	65	70
3. Industrial Establishments, Manufacturing Plants, Agriculture	75	80	75	80

Existing Noise

This section will be amended upon completion of the noise survey report.

Predicted Project Noise

This section will be amended upon completion of the noise modeling report.

Mitigation of Noise

The Project will mitigate noise by installing sound muffling equipment at the inlet and exhaust of the engines as well as on the inlet and outlet of the building ventilation system.

A significant increase in noise levels in the vicinity is not expected as a result of the Project.

18. Transportation

- a. Describe traffic-related aspects of project construction and operation. Include: 1) existing and proposed additional parking spaces, 2) estimated total average daily traffic generated, 3) estimated maximum peak hour traffic generated and time of occurrence, 4) indicate source of trip generation rates used in the estimates, and 5) availability of transit and/or other alternative transportation modes.

Project construction will require onsite labor forces, with personal vehicles as their primary mode of transportation to the Project site.

- 1) Existing and proposed additional parking spaces:

There are no existing parking spaces. Five marked parking spaces are proposed.

2) Estimated total average daily traffic generated:

During daily construction, an average of 15 to 20 vehicles are expected, including construction-related traffic and facility employees. Post-construction, three to five vehicles per day traveling to the Project site is expected.

3) Estimated maximum peak hour traffic generated and time of occurrence:

Expected peak traffic is 30 vehicles, including construction-related traffic and facility employees, during specific points in the construction process. Peaks in traffic to the Project site are expected to occur Monday through Friday, between the hours of 6 – 8 a.m. (project site arrival), and 6 – 10 p.m. (project site departure). Occasionally, weekend construction may occur, but peak traffic levels are not expected on weekends.

4) Indicate source of trip generation rates used in the estimates:

The estimated trip generation rates have been determined based on the construction of the Fairmont Energy Station, Fairmont, Minnesota, conducted in 2012-2014 and Owatonna Energy Station, Owatonna, Minnesota, conducted in 2016-2018.

5) Availability of transit and/or other alternative transportation modes:

Several alternate transportation modes are available within Marshall, including mass transit, however it is not expected that these will be significantly utilized by construction-related traffic.

- b. Discuss the effect on traffic congestion on affected roads and describe any traffic improvements necessary. The analysis must discuss the project's impact on the regional transportation system. *If the peak hour traffic generated exceeds 250 vehicles or the total daily trips exceeds 2,500, a traffic impact study must be prepared as part of the EAW.* Use the format and procedures described in the Minnesota Department of Transportation's Access Management Manual, Chapter 5 (available at: <http://www.dot.state.mn.us/accessmanagement/resources.html>) or a similar local guidance.

Vehicle traffic to the Project site will increase temporarily during Project construction. Post-construction, the three to five cars of additional traffic per day is not expected to have a significant impact on the regional transportation system, and traffic improvements as a result of the Project are not expected.

- c. Identify measures that will be taken to minimize or mitigate project related transportation effects.

No traffic improvements or other mitigation measures are planned with this project.

19. Cumulative potential effects: (Preparers can leave this item blank if cumulative potential effects are addressed under the applicable EAW Items)

- a. Describe the geographic scales and timeframes of the project related environmental effects that could combine with other environmental effects resulting in cumulative potential effects.

Minn. R. 4410.0200 and 4410.1700 require that the MPCA consider the "cumulative potential effects of related or anticipated future projects" when determining the need for an environmental impact statement. Cumulative potential effects result when impacts associated with the Project superimposed on, or added to, impacts associated with past, present, or reasonably foreseeable future projects within the area affected by the Project. Analysis of cumulative potential effects accounts for the possibility that when added together, the minor impacts of many separate projects could result in significant effects. This cumulative potential effect analysis considers expected resources impacted by the Project and assesses past, present, and reasonably foreseeable projects to identify any geographic and temporal overlap in impacts.

The main potential cumulative environmental effects of the Project include an increase in air emissions associated with operation of the facility. Other potential environmental effects from the Project include minor impacts to stormwater and transportation. The environmentally relevant area for evaluating cumulative potential effects varies in size depending on the types of resources and potential impacts considered. The timeframe of potential impacts from the Project ranges from short-term temporary construction-related impacts (expected to last up to 24 months) on noise levels, stormwater, air quality and traffic, to Project life timeframe (expect to operate for 50 years) potential impacts to noise levels, stormwater, air quality and traffic.

Table 19.1. Table of timescale and geographic area of potential impacts

Resource/Impact	Timescale	Geographic area of impact	Nature/Extent of impacts
Construction Noise	Short term, temporary	Immediate Project vicinity and slightly beyond	Minor
Operational Noise	Long term, Project life	Immediate Project vicinity and slightly beyond	Minor; managed via implementation of noise control
Construction Stormwater	Short term, temporary	Immediate Project vicinity and slightly beyond	Minor; managed via implementation of BMPs
Operational Stormwater	Long term, Project life	Immediate Project vicinity and slightly beyond	Minor; managed via implementation of BMPs
Construction Air Quality	Short term, temporary	Immediate Project vicinity and slightly beyond	Minor; fugitive dust; managed via implementation of BMPs
Operational Air Quality	Long term, Project life	Immediate Project vicinity and beyond	Minor; managed via air permit conditions/limits
Construction Traffic	Short term, temporary	Immediate Project vicinity and slightly beyond	Minor
Operational Traffic	Long term, Project life	Immediate Project vicinity and slightly beyond	Minor

- b. Describe any reasonably foreseeable future projects (for which a basis of expectation has been laid) that may interact with environmental effects of the proposed project within the geographic scales and timeframes identified above.

In order to address the “cumulative potential effects of related or anticipated future projects” this review also includes other potential future projects. The Proposer will contact the community

development director from the City of Marshall to determine if any other entities have planned activities that could result in potential cumulative effects.

The Project lies within an industrial park, which means the occurrence of future industrial projects is likely. However, at this time, no reasonably foreseeable future projects exist. The Proposer does not plan to expand the Project, nor is the Project a subsequent phase of a previous project.

- c. Discuss the nature of the cumulative potential effects and summarize any other available information relevant to determining whether there is potential for significant environmental effects due to these cumulative effects.

There are no known past, present, or reasonably foreseeable future projects near the proposed project that would affect air, traffic, noise, groundwater, or natural resources near the proposed facility, or add significantly to any impacts on such resources. Emissions from the proposed project would primarily be those from the natural gas-fired engine/generator sets, and would not likely create a significant effect on air quality in the vicinity.

20. Other potential environmental effects: If the project may cause any additional environmental effects not addressed by items 1 to 19, describe the effects here, discuss the how the environment will be affected, and identify measures that will be taken to minimize and mitigate these effects.

Environmental effects, in addition to those addressed by items 1 to 19, are not expected.

RGU CERTIFICATION. *(The Environmental Quality Board will only accept **SIGNED** Environmental Assessment Worksheets for public notice in the EQB Monitor.)*

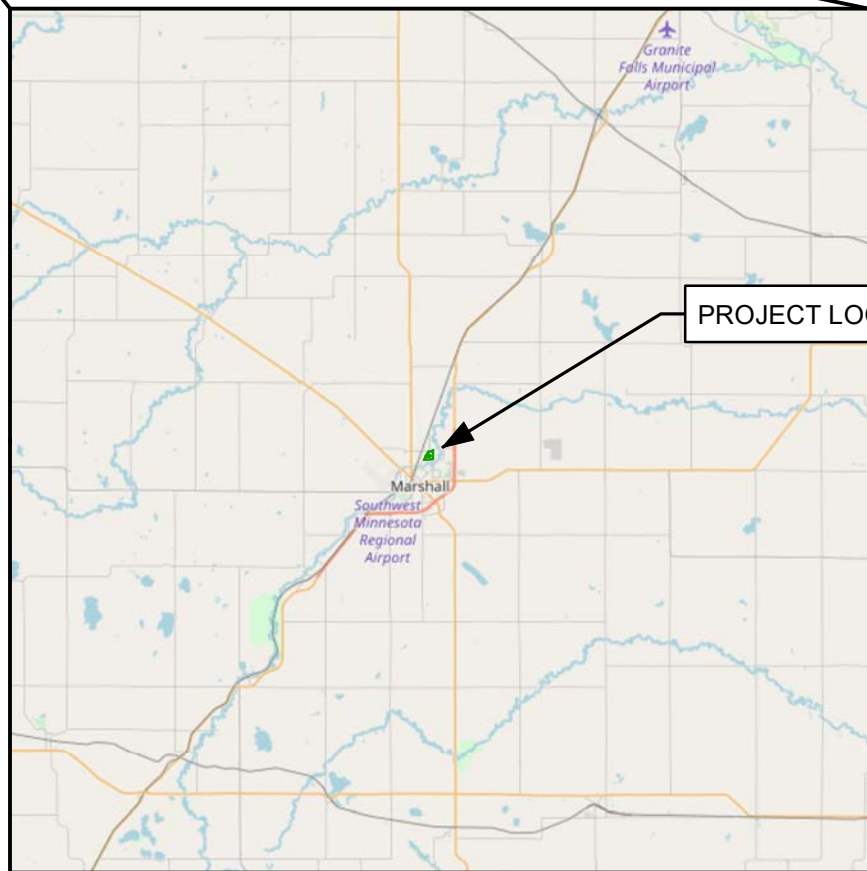
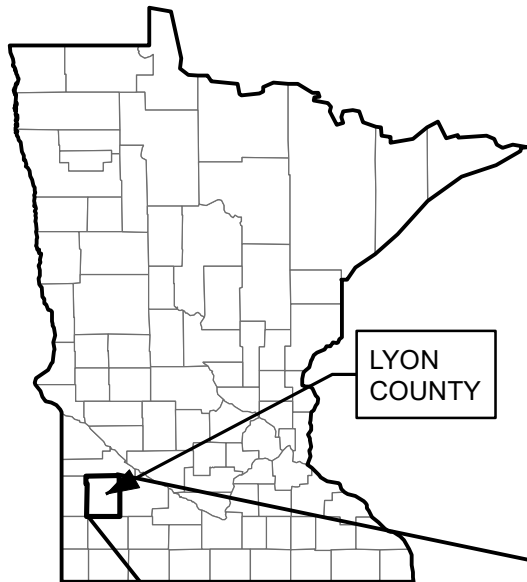
I hereby certify that:

- The information contained in this document is accurate and complete to the best of my knowledge.
- The EAW describes the complete project; there are no other projects, stages or components other than those described in this document, which are related to the project as connected actions or phased actions, as defined at Minnesota Rules, parts 4410.0200, subparts 9c and 60, respectively.
- Copies of this EAW are being sent to the entire EQB distribution list.

Signature _____

Date _____

Title _____



REV	DATE	DESCRIPTION

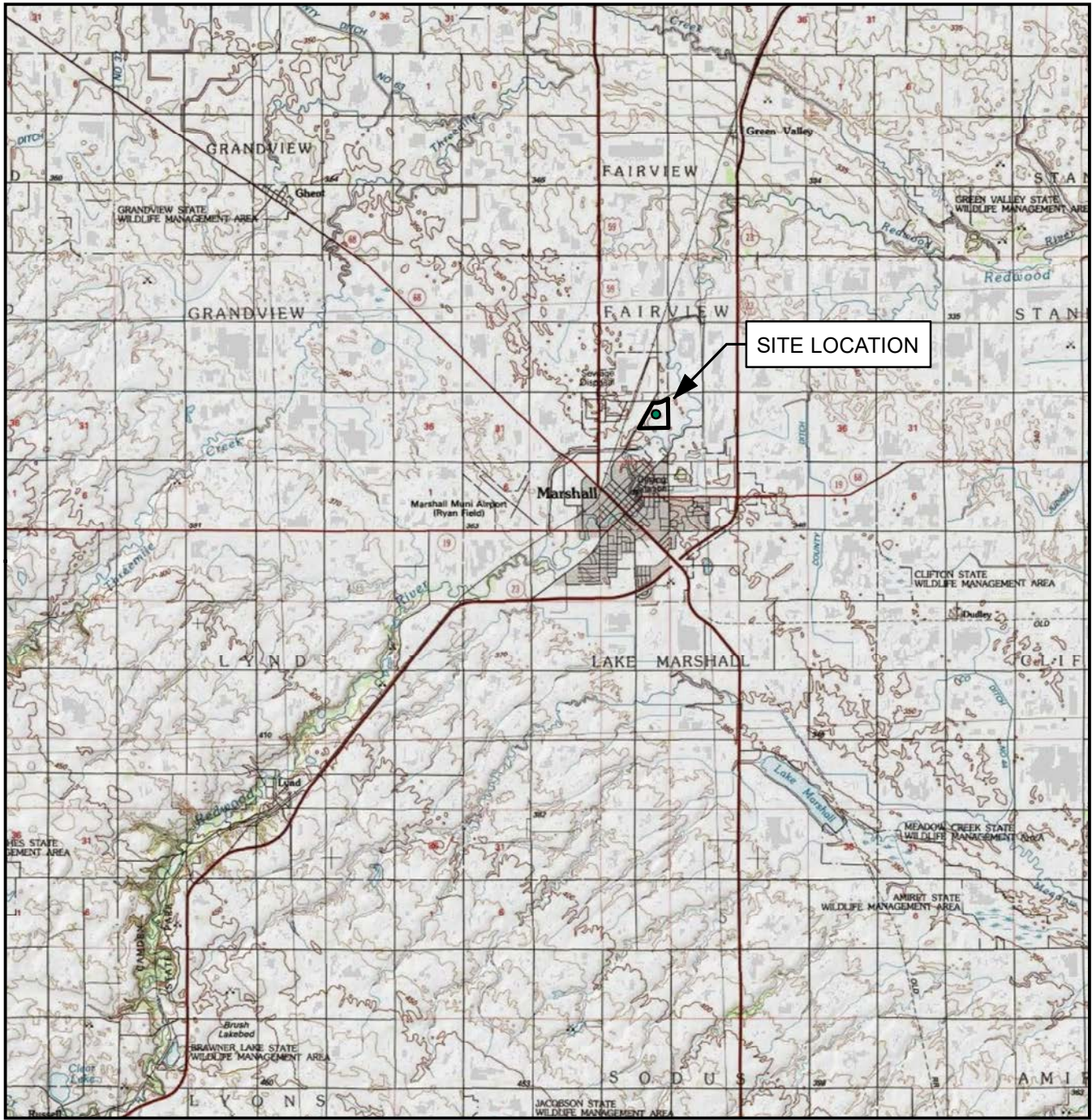


Project Manager: DJH
 Designer: TLZ
 Project Number: 418532
 Phone: (712) 472-2531



COUNTY LOCATION MAP
 MARSHALL GENERATION STATION
 MARSHALL, MN

F
I
G



REV	DATE	DESCRIPTION

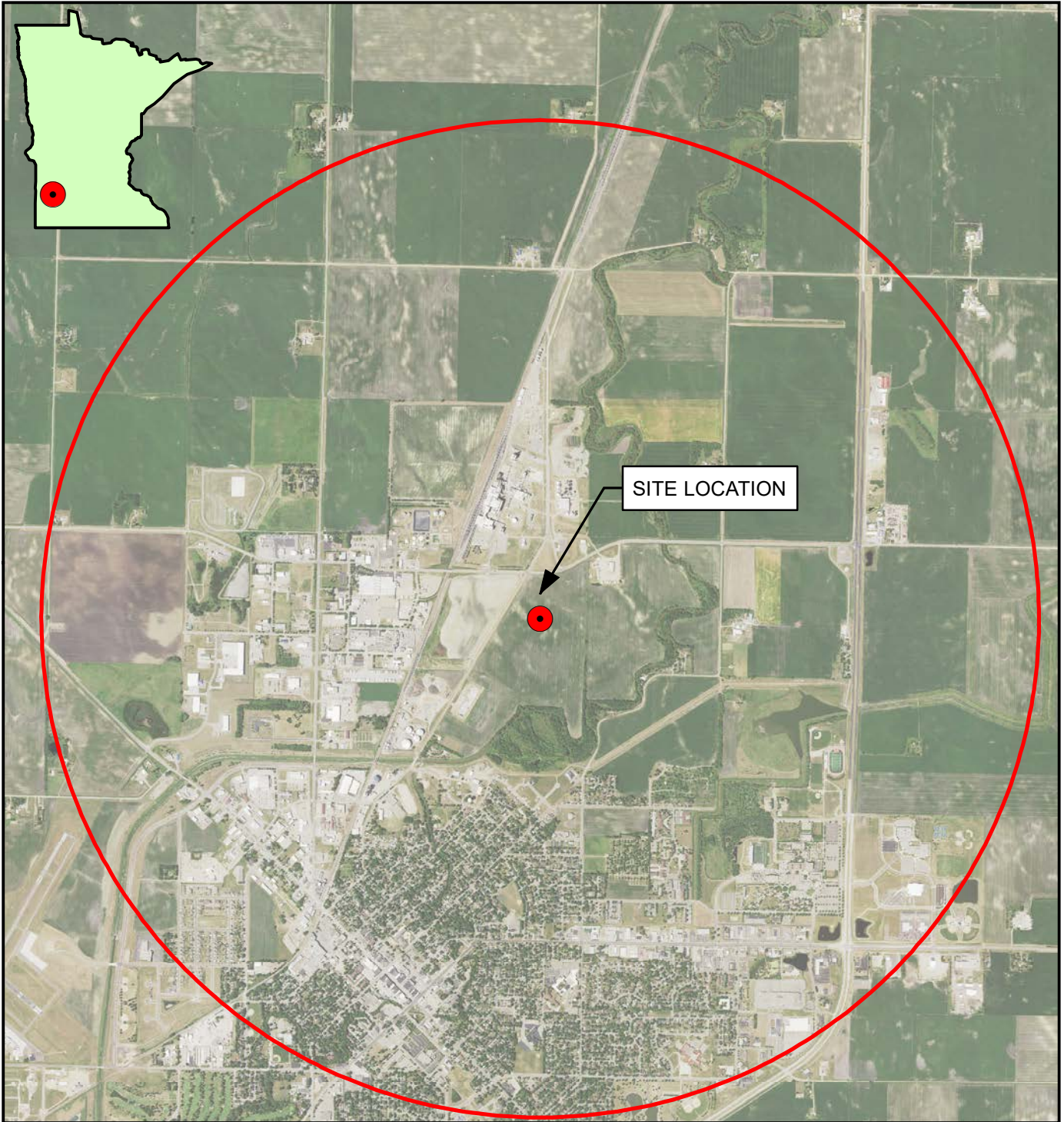


Project Manager: DJH
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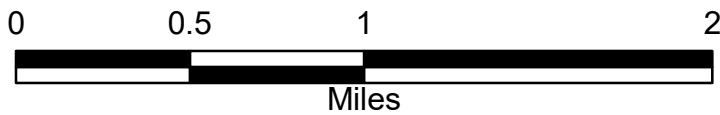


SITE TOPOGRAPHIC MAP
 MARSHALL GENERATION STATION
 MARSHALL, MN

F I G 2



NOTES: 3,000 METER RADIUS FROM CENTER OF SITE LOCATION SHOWN



REV	DATE	DESCRIPTION



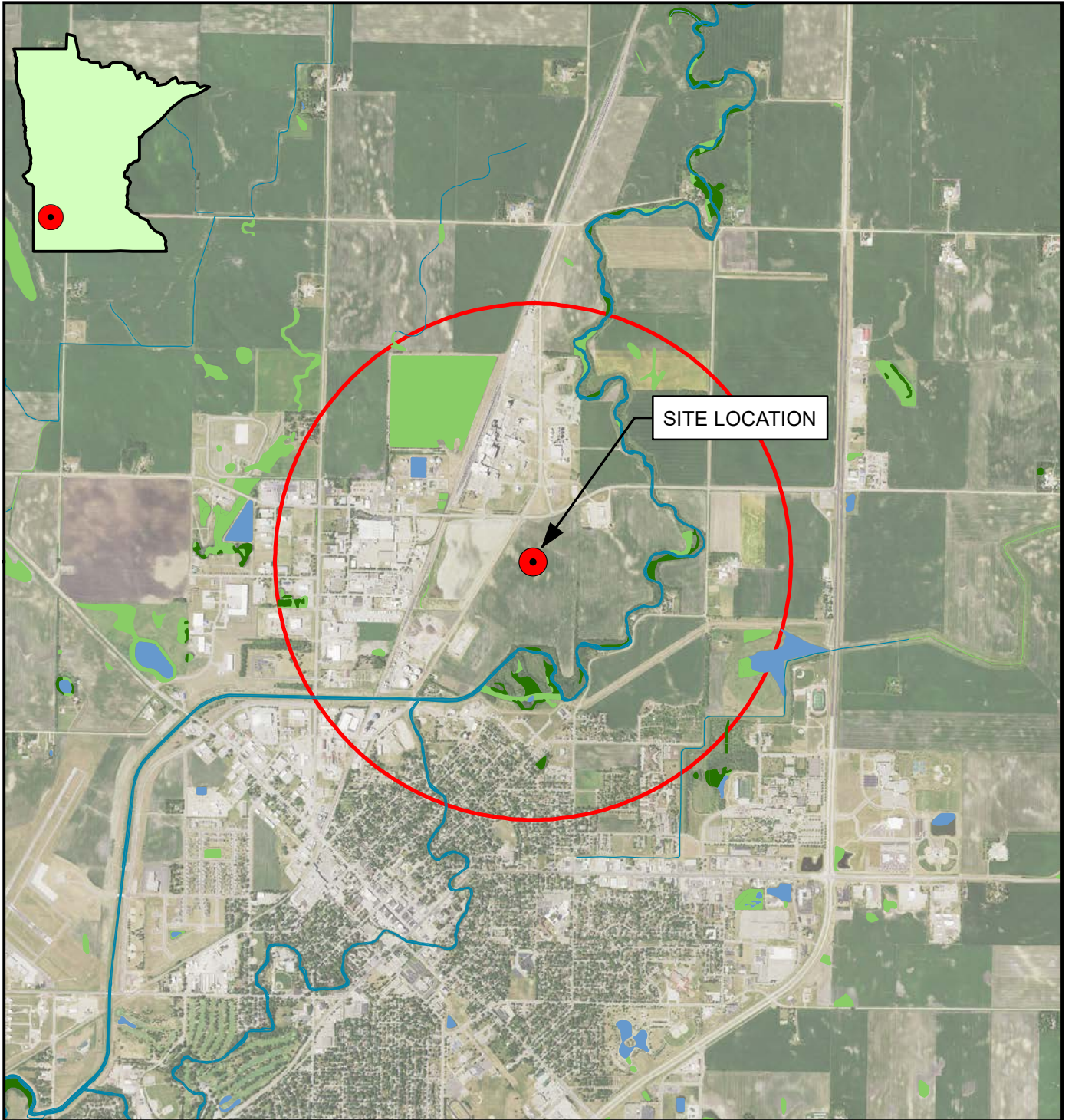
Project Manager: DJH
 Designer: TLZ
 Project Number: 418532
 Phone: (712) 472-2531



SITE LOCATION IN MARSHALL, MN
 MARSHALL GENERATION STATION
 MARSHALL, MN

F I G

3



SITE LOCATION

NOTES: 1 MILE RADIUS FROM CENTER OF SITE LOCATION SHOWN



Wetland Type

- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

REV	DATE	DESCRIPTION



Project Manager: DJH
 Designer: TLZ
 Project Number: 418532
 Phone: (712) 472-2531



PROTECTED WATERS AND WETLANDS
 MARSHALL GENERATION STATION
 MARSHALL, MN

F
I
G

4

177020

County Lyon
 Quad Marshall
 Quad ID 82A

MINNESOTA DEPARTMENT OF HEALTH
WELL AND BORING REPORT
 Minnesota Statutes Chapter 1031

Entry Date 07/01/1991
 Update Date 02/14/2014
 Received Date

Well Name STRIPLING,	Township 112	Range 41	Dir Section W 34	Subsection CBCABD	Well Depth 44 ft.	Depth Completed 44 ft.	Date Well Completed 10/20/1981
Elevation 1141	Elev. Method 7.5 minute topographic map (+/- 5 feet)				Drill Method Non-specified Rotary	Drill Fluid	
Address C/W RR 3 MARSHALL MN 56258					Use domestic		Status Active
Stratigraphy Information					Well Hydrofractured? Yes <input type="checkbox"/> No <input type="checkbox"/> From To		
Geological Material From To (ft.) Color Hardness					Casing Type Single casing Joint Threaded		
TOP SOIL 0 2 BLACK					Drive Shoe? Yes <input type="checkbox"/> No <input type="checkbox"/> Above/Below 0 ft.		
SAND 2 44 BROWN					Casing Diameter Weight 5 in. To 40 ft. lbs./ft.		
					Open Hole From ft. To ft.		
					Screen? <input checked="" type="checkbox"/> Type stainless Make JOHNSON 304		
					Diameter Slot/Gauze Length Set 4 in. 25 4 ft. 40 ft. 44 ft.		
					Static Water Level 7 ft. land surface Measure 10/20/1981		
					Pumping Level (below land surface) 20 ft. hrs. Pumping at 10 g.p.m.		
					Wellhead Completion Pitless adapter manufacturer Model <input type="checkbox"/> Casing Protection <input checked="" type="checkbox"/> 12 in. above grade <input type="checkbox"/> At-grade (Environmental Wells and Borings ONLY)		
					Grouting Information Well Grouted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Specified		
					Material Amount From To bentonite 0 0 ft. ft.		
					Nearest Known Source of Contamination 75 feet South Direction Septic tank/drain field Type Well disinfected upon completion? <input type="checkbox"/> Yes <input type="checkbox"/> No		
					Pump <input checked="" type="checkbox"/> Not Installed Date Installed Manufacturer's name Model Number HP 0 Volt Length of drop pipe ft Capacity g.p. Typ		
					Abandoned Does property have any not in use and not sealed well(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
					Variance Was a variance granted from the MDH for this well? <input type="checkbox"/> Yes <input type="checkbox"/> No		
					Miscellaneous First Bedrock Aquifer Quat. Water Last Strat sand-brown Depth to Bedrock ft Located by Minnesota Geological Survey Locate Method Digitized - scale 1:24,000 or larger (Digitizing Table) System UTM - NAD83, Zone 15, Meters X 279295 Y 4927014 Unique Number Verification Information from Input Date 01/01/1994		
					Angled Drill Hole		
					Well Contractor Ltp Enterprises 91353 BENTON, J Licensee Business Lic. or Reg. No. Name of Driller		
Remarks							

795746

County Lyon
 Quad Marshall
 Quad ID 82A

MINNESOTA DEPARTMENT OF HEALTH
WELL AND BORING REPORT
 Minnesota Statutes Chapter 1031

Entry Date 12/20/2013
 Update Date 10/14/2014
 Received Date 10/04/2013

Well Name EICKHOFF ENT	Township 112	Range 41	Dir Section W 34	Subsection BBBCCC	Well Depth 399 ft.	Depth Completed 399 ft.	Date Well Completed 09/05/2013
Elevation 1145.5	Elev. Method LiDAR 1m DEM (MNDNR)				Drill Method Non-specified Rotary	Drill Fluid Bentonite	
Address C/W 2603 33 CR MARSHALL MN 56258					Use industrial	Status Active	
Stratigraphy Information					Well Hydrofractured? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	From To	
Geological Material	From	To (ft.)	Color	Hardness	Casing Type Single casing	Joint	
TOP SOIL	0	1	BLACK	MEDIUM	Drive Shoe? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Above/Below	
CLAY	1	20	TAN	HARD	Casing Diameter	Weight	Hole Diameter
CLAY GUMMY	20	80	GRAY		5 in. To	360 ft. lbs./ft.	8.7 in. To 399 ft.
CLAY/ 2" STREAKS	80	180	GRAY		Open Hole		
CLAY GUMMY	180	235	GRAY		From	ft.	To
CLAY GUMMY	235	370	GRAY		Screen? <input checked="" type="checkbox"/>	Type plastic	Make JETSTREAM
SANDSTONE 12-20	370	390	WHITE		Diameter	Slot/Gauze	Length
DECOMPOSED	390	399	GREEN	HARD	5 in.	25	30 ft.
							360 ft. 390 ft.
					Static Water Level		
					-4 ft.	land surface	Measure 09/05/2013
					Pumping Level (below land surface)		
					Wellhead Completion		
					Pitless adapter manufacturer	MONITOR	Model
					<input type="checkbox"/> Casing Protection	<input type="checkbox"/> 12 in. above grade	
					<input type="checkbox"/> At-grade (Environmental Wells and Borings ONLY)		
					Grouting Information		
					Well Grouted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
					<input type="checkbox"/> Not Specified		
					Material	Amount	From
					pearock	16 Sacks	350 ft. 399 ft.
					neat cement	74 Sacks	ft. 350 ft.
					Nearest Known Source of Contamination		
					400 feet	East Direction	Septic tank/drain field Type
					Well disinfected upon completion? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
					Pump		
					<input type="checkbox"/> Not Installed	Date Installed	09/12/2013
					Manufacturer's name SCHAEFER		
					Model Number	15LD1554	HP 1.5
					Volt	230	
					Length of drop pipe	100 ft	Capacity 15 g.p.
					Typ	Submersible	
					Abandoned		
					Does property have any not in use and not sealed well(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
					Variance		
					Was a variance granted from the MDH for this well? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
					Miscellaneous		
					First Bedrock	Cretaceous undiff.	Aquifer Cretaceous,
					Last Strat	weathering residuum unc.	Depth to Bedrock 20 ft
					Located by Minnesota Geological Survey		
					Locate Method Digitization (Screen) - Map (1:12,000) (>15 meters)		
					System	UTM - NAD83, Zone 15, Meters	X 279189 Y 4927894
					Unique Number Verification	Info/GPS from data	Input Date 01/03/2014
					Angled Drill Hole		
					Well Contractor		
					Steffl Drilling and Pump, Inc.	1551	GJERDE, M.
					Licensee Business	Lic. or Reg. No.	Name of Driller
Remarks							
Minnesota Well Index Report					795746		
					Printed on 04/18/2019 HE-01205-15		

April 22, 2019

Mr. Nick Fanning
Missouri River Energy Services
3724 Avera Dr W
PO Box 88920
Sioux Falls, SD 57109-8920

RE: Construct Marshall Generation Station at intersection of 7th Street North and 290th Street
T112 R41 S33 NE
Fairview Twp., Lyon County
SHPO Number: 2019-1253

Dear Mr. Fanning:

Thank you for consulting with our office during the preparation of an Environmental Assessment Worksheet for the above referenced project.

Based on our review of the project information, we conclude that there are no properties listed in the National or State Registers of Historic Places, and no known or suspected archaeological properties in the area that will be affected by this project.

Please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. If this project is considered for federal financial assistance, or requires a federal permit or license, then review and consultation with our office will need to be initiated by the lead federal agency. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106.

Please contact our Environmental Review Program at (651) 201-3285 if you have any questions regarding our review of this project.

Sincerely,

Sarah J. Beimers

Sarah J. Beimers
Environmental Review Program Manager

RECEIVED
APR 25 2019
MISSOURI RIVER
ENERGY SERVICES



REPORT

Archaeological and Historic Record Review

Marshall Generation Station, Lyon County, Minnesota

Submitted to:

Minnesota State Historic Preservation Office

50 Sherburne Ave, Administration Building Suite 203, St. Paul, MN USA 55155

Submitted by:

Golder Associates Inc.

2247 Fox Heights Lane, Suite A Green Bay, Wisconsin, USA 54304

+1 920 491-2500

18114892

March 29, 2019

Distribution List

Minnesota State Historic Preservation Office

DGR Engineering

Golder Associates, Inc.

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FIGURES

- Figure 1 Topographic Map of Project Area with a One-Mile Radius
- Figure 2 Aerial Map of Project Area with a One-Mile Radius

1.0 OVERVIEW

Golder conducted an archaeological and historic record review on behalf of DGR Engineering as part of an environmental assessment for the proposed Marshall Generation Station in Lyon County, Minnesota. The facility will be located in the town of Marshall, Minnesota near the intersection of 290th Street and North 7th Street and will be owned by Western Minnesota Municipal Power Agency (WMMPA). Missouri River Energy Services (MRES) will operate the facility and act as an agent for WMMPA in all matters related to construction, operations, and maintenance. This project requests that WMMPA submit an Environmental Assessment Worksheet (EAW). The EAW requires that the applicant conduct this review and submit a request to the State Historic Preservation Office (SHPO) for comment.

2.0 PROJECT INFORMATION

WMMPA is proposing to construct a facility to house five internal combustion engines combusting natural gas driving <10 MWe (nominal) electric generators which will produce electricity for sale to the public utility grid. No additional significant emission units are proposed. The facility housing the electric generators will have an approximate footprint of 300 feet (ft.) x 120 ft.

3.0 AREA OF POTENTIAL EFFECT

The direct Area of Potential Effect (APE) consists of a cultivated field that is bordered by 290th Street to the north and North 7th Street to the west (Figure 1). The direct APE covers an area of approximately 80 acres and is located in NE ¼ of Section 33 in Township 112N, Range 41W (Figure 2). The indirect APE consists of a one-mile radius center on the direct APE. The indirect APE is composed of a mixture of agricultural, industrial, and residential development.

4.0 BACKGROUND REVIEW

Golder performed a background literature review to determine if the project area has been previously surveyed for cultural resources or if any known cultural resource sites are located within the project area. To conduct this review, a file search request was completed by Golder and processed by the Minnesota State Historic Preservation Office (SHPO) on March 5, 2019. A Golder archaeologist reviewed the file search results to determine if any sites or previous investigations were located within the proposed project area. Aerial photographs, the National Register of Historic Places (NRHP) database, General Land Office maps, and USGS topographic maps were also examined. These sources provided information on the nature and location of previously conducted archaeological surveys, previously recorded cultural resource sites, and the potential for undocumented cultural resources within the proposed project area.

5.0 RESULTS

The background literature review indicates that no previous investigations have occurred within the direct APE and two previous cultural resource investigations (LY-80-1H and LY-2009-1H) have occurred within the indirect APE. The review further indicates that no previously recorded cultural resources are located within the direct APE and five previously recorded cultural resources are located within the indirect APE (Table 1). All of the cultural resources located within the indirect APE date to the historic period and primarily consist of architectural features. One of the cultural resources (LY-MS-076) is previously recommended eligible for the NRHP while the remaining resources are unevaluated for the NRHP.

Table 1: Cultural Resources within a One-Mile Radius of the Project Area

MN SHPO ID	HISTORIC PROPERTY	LEGAL LOCATION	NRHP ELIGIBILITY	EFFECT
LY-MS-024	House, 423 N. 6 th St.	SE,NE,NW of Section 4, Township 111N, Range 41W	Unevaluated	No adverse effect, property is 4,905 ft. due south
LY-MS-058	House, 308 Walnut St.	NW,SW,NE of Section 4, Township 111N, Range 41W	Unevaluated	No adverse effect, property is 5,317 ft. due south
LY-MS-071	Bridge USTH 59, crosses Redwood River	Section 4, Township 111N, Range 41W	Unevaluated	No adverse effect, exact location within one-mile radius is unknown
LY-MS-076	BNSF (Great Northern) Railroad Corridor	Sections 4 & 5, Township 111N, R41W and Sections 28 & 33, Township 112N, Range 41W	Eligible	No adverse effect, property is 1,445 ft. due west
LY-MS-080	42003	SE,SE of Section 33, Township 112N, Range 41W	Unevaluated	No adverse effect, exact location within one-mile radius is unknown

6.0 RECOMMENDATIONS

Based on the information within this report, Golder recommends that no known cultural resources will be impacted within the direct APE of the proposed project. Furthermore, Golder recommends that no known cultural resources within a one-mile radius of the project area will be adversely impacted. Golder requests that the SHPO consider the information in this report and comment on the proposed project.

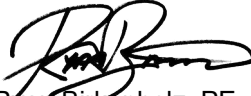
Signature Page

Golder is pleased to have had the opportunity to complete this Archaeological and Historical Records Review for DGR Engineering. Please feel free to contact the undersigned at 920-491-2500 if you have any questions.

Golder Associates Inc.



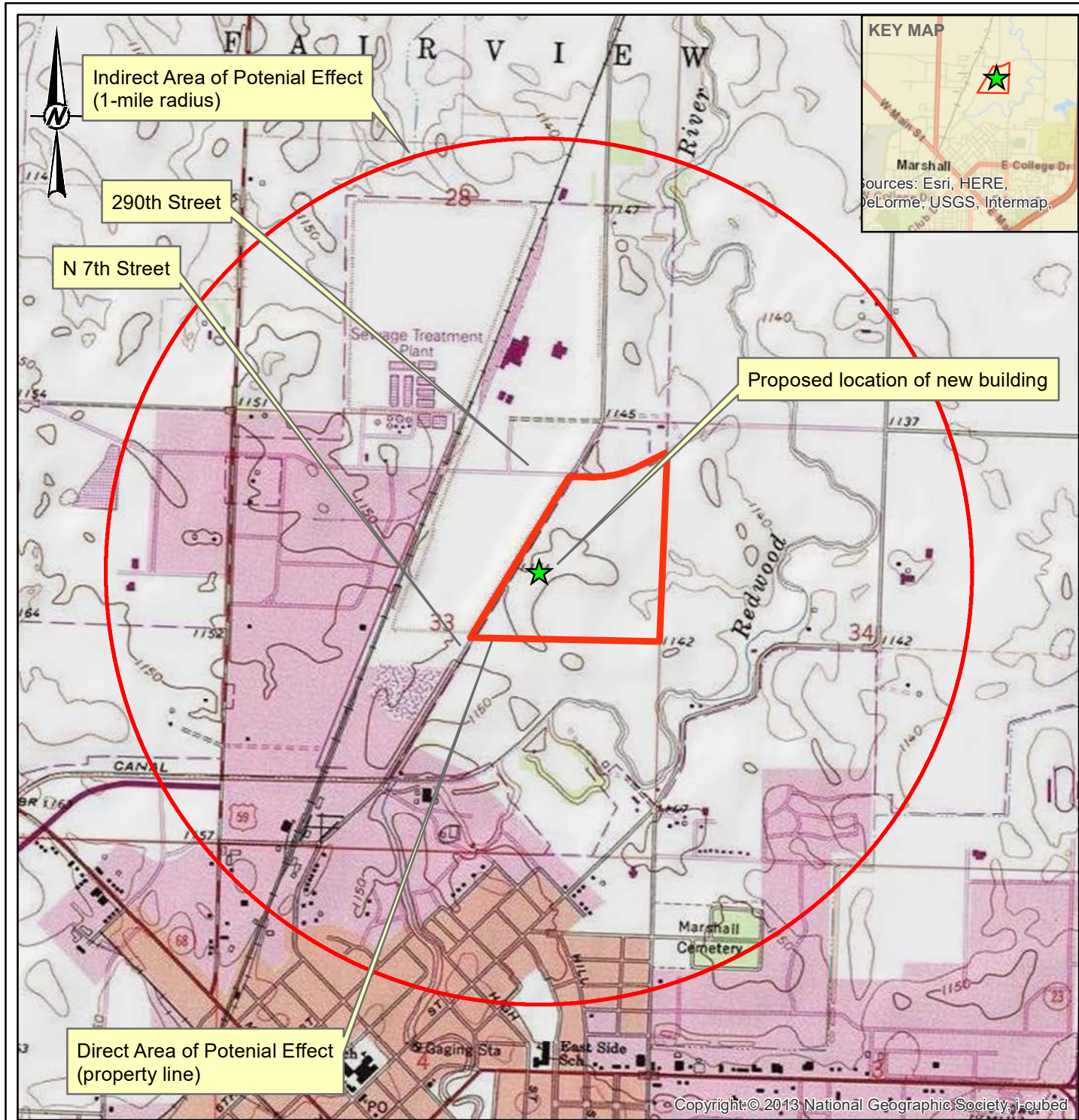
Chris Tinti, M.A. RPA
Staff Cultural Resource Scientist



Ryan Birkenholz, PE
Associate and Senior Consultant

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Figures



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NOTE(S)
PROJECT LOCATION PROVIDED BY DGR ENGINEERING

REFERENCE(S)

CLIENT
DGR ENGINEERING

PROJECT
PROPOSED WMMPA POWER PLANT

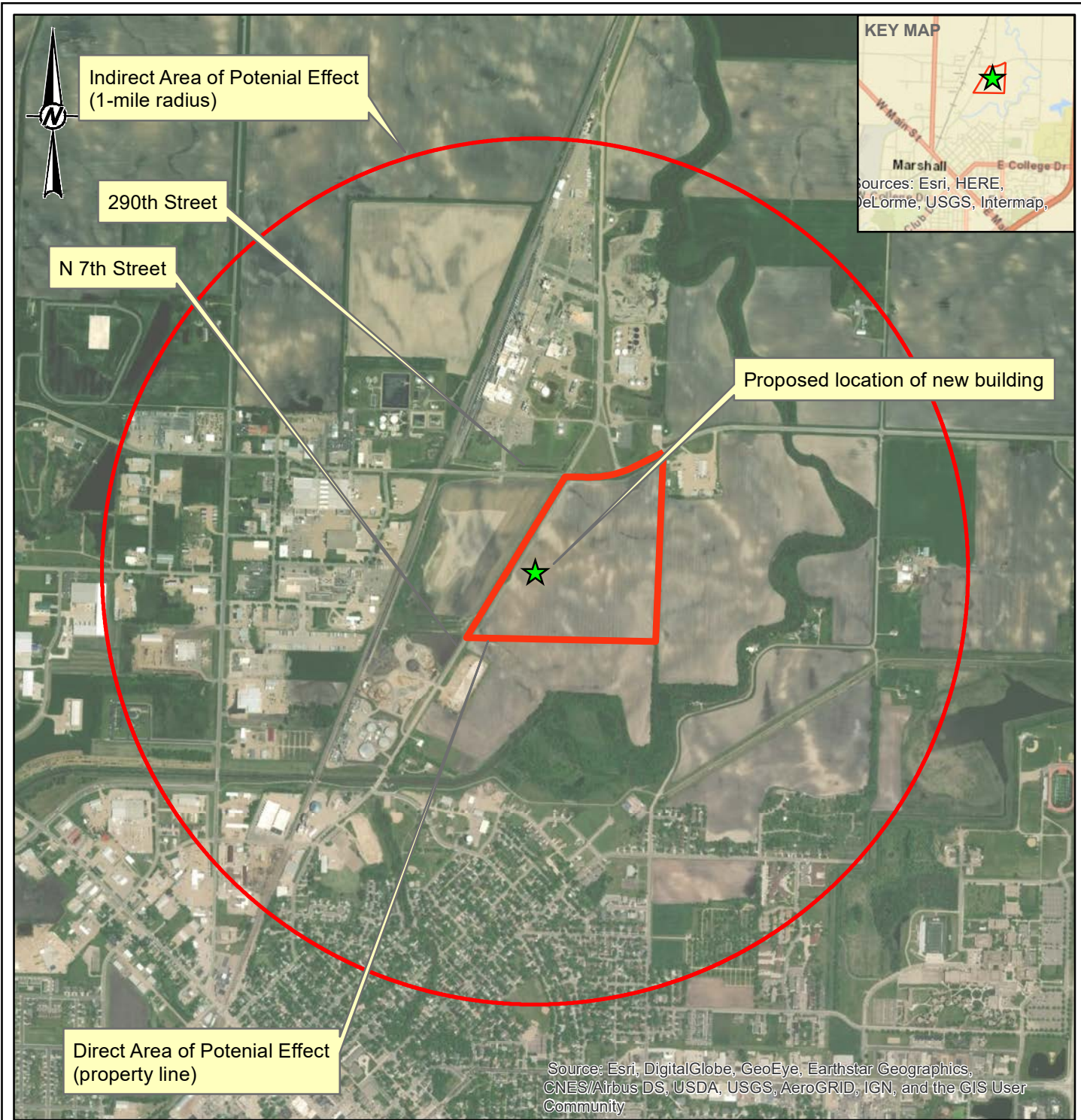
CONSULTANT
YYYY-MM-DD 2019-03-04



DESIGNED	RCB
PREPARED	RCB
REVIEWED	RCB
APPROVED	RCB

TITLE
**TOPOGRAPHIC MAP
1 MILE BUFFER FROM PROPOSED PROJECT LOCATION**

PROJECT NO. 18114892	CONTROL 00	REV. 00	55	FIGURE 01
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NOTE(S)
PROJECT LOCATION PROVIDED BY DGR ENGINEERING

REFERENCE(S)

CLIENT
DGR ENGINEERING

PROJECT
PROPOSED WMPA POWER PLANT

CONSULTANT	YYYY-MM-DD	2019-03-04
 GOLDER	DESIGNED	RCB
	PREPARED	RCB
	REVIEWED	RCB
	APPROVED	RCB

TITLE	PROJECT NO.	CONTROL	REV.	FIGURE
AERIAL MAP 1 MILE BUFFER FROM PROPOSED PROJECT LOCATION	18114892	00	00	56
				02

PATH: Z:\DGR_Engineering\18114892\MRES 50 MW Plant\NHPA Figure 1 - Aerial.mxd

IF THIS MEASUREMENT DOES NOT MATCH WHAT IS SHOWN, THE SHEET SIZE HAS BEEN MODIFIED FROM: ANSI/A 25mm

RESOLUTION OF THE

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Designation of a Different Responsible Governmental Unit for the Environmental Review of the Marshall Generation Station.

BE IT RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order; and

BE IT FURTHER RESOLVED, that Laura Bishop, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order. 2

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of the Request to Designate a
Different Responsible Governmental Unit
for the Environmental Review of the
Marshall Generation Station

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

FINDINGS OF FACT

1. Western Minnesota Municipal Power Agency (WMMPA), acting through its agent Missouri River Energy Services (MRES), is proposing to install five new natural gas fired electrical generating units in a new building ("the project").
2. The project will have a capacity of no more than 48.7 megawatts which includes five new 9,770 kilowatt natural gas fired electrical generating units in a new building. Production from the units will back up intermittent resources such as wind and solar power generation during peak demand periods to ensure reliability of the electric grid.
3. WMMPA proposes to locate the project in Lyon County, the City of Marshall and Fairview Township at the NE ¼ of Section 33 in Township 112N, Range 41W.
4. The project requires an Air Emission Permit and National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) Construction Stormwater General Permit (CSW) from the Minnesota Pollution Control Agency (MPCA), a Building Permit from the City of Marshall, A Natural Gas Pipeline Routing Permit from the Public Utilities Commission (PUC), a High Voltage Electric Transmission Line Routing Permit from the City of Marshall and/or Lyon County, a State Fire Protection Permit from the Minnesota Department of Public Safety, and a Highway Access Permit and Oversize and Overweight Permits from the Minnesota Department of Transportation (MNDOT).
5. The EQB finds that the proposed project requires a "governmental action" under Minnesota Rule 4410.0200, subpart 33.

Governmental action. "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.

6. The EQB finds that the proposed project is a "project" under Minnesota Rule 4410.0200, subpart. 65.

Project. "Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.

7. Minnesota Rule 4410.4300 establishes mandatory categories for the preparation of an environmental assessment worksheet (EAW). Subpart 3 reads:

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](#).

8.. The EQB finds that Minnesota Rules 4410.4300, subpart 3 requires that an EAW must be completed for the Marshall Generation Station project.

9. The EQB finds that Minnesota Rules 4410.4300, subpart 3 also designates the Environmental Quality Board (EQB) as the responsible governmental unit (RGU) for the EAW, relating to projects under 50 megawatts.

10. The project will have a limit of NOx emissions of 237.50 tons annually.

11. Minnesota Rule 4410.4300 establishes mandatory categories for the preparation of an environmental assessment worksheet (EAW). Subpart 15 reads:

Air pollution. Items A and B designate the RGU for the type of project listed.

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 B, after installation of air pollution control equipment, the PCA shall be the RGU.

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.

12. The EQB finds that Minnesota Rules 4410.4300, subpart 15 does not require an EAW for the project because the project will not generate more than 250 tons of any single air pollutant.

13. On April 30, 2019, EQB staff received a letter from Missouri River Energy Services requesting that the EQB designate a different RGU for the EAW for the proposed project.

14. The April 30, 2019 letter from MRES was also sent to the MPCA Environmental Review Program.

15. On May 2, 2019, the MPCA sent a letter to the EQB indicating MPCA staff had been in communication with EQB and MRES, and that the MPCA would be willing to serve as RGU for the project.

16. Minnesota Rule 4410.0500, subpart 6 reads:

Exception. Notwithstanding subparts 1 to 5, the EQB may designate, within five days of receipt of the completed data portions of the EAW, a different RGU for the project if the EQB determines the designee has greater expertise in analyzing the potential impacts of the project.

17. The EQB finds that in its history of applying Minnesota Rules 4410.0500, subpart 6, the designation of a different RGU has not been completed “within five day of receipt of the completed data portion of the EAW.”

18. The EQB finds that making a decision within the five days of the EAW data submittal is not practical for RGU or project proposers to plan for the environmental review.

19. The EQB believes that it was never the intent of the five day limitation to limit public planning or collaboration between the RGU and the project proposer before the EAW data submittal.

20. The EQB finds that to designate a different RGU other than the EQB under Minnesota Rules 4410.0500, subpart 6, that the EQB must determine that such a designee has greater expertise in analyzing the potential impacts of the proposed project.

21. The April 30, 2019 letter from St. Louis County also suggested that the MPCA is the more appropriate RGU for the proposed project because of MPCA’s expertise in air quality, including analysis, review, and permitting.

22. The EQB finds that the MPCA has more experience in analyzing the potential impacts associated with the project in connection to power generation air quality effects.

23. The EQB finds that the MPCA has greater expertise than the EQB in analyzing the potential for environmental impacts of projects involving power generation air quality and preparing EAWs and Environmental Impact Statements (EIS) for such projects.

Based on the foregoing Findings of Fact, the Minnesota Environmental Quality Board makes the following:

CONCLUSIONS OF LAW

1. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.
2. The EQB concludes that pursuant to Minnesota Statutes chapter 116D and Minnesota Rules 4410, the EQB has jurisdiction over RGU designation.
3. The EQB concludes that the proposed Marshall Generation Site requires environmental review pursuant to Minnesota Rules 4410.
4. The EQB concludes the request for the EQB to decide the question whether to designate a different RGU for the proposed project was properly brought to the EQB Board.
5. The EQB concludes that the Minnesota Pollution Control Agency has greater expertise in analyzing the potential for environmental impacts of the proposed Marshall Generation Station than the Environmental Quality Board, and is therefore better suited as RGU to conduct the environmental review for the project.

Based on the Findings of Fact, Conclusions and the entire record of this proceeding, the Minnesota Environmental Quality Board hereby makes the following:

ORDER

The Environmental Quality Board hereby orders and designates the Minnesota Pollution Control Agency as the responsible governmental unit for environmental review of the proposed Marshall Generation Site by the Missouri River Energy Services.

Approved and adopted this 15th day of May, 2019.

Laura Bishop, Chair
Minnesota Environmental Quality Board

May 2, 2019

Mr. Will Seuffert
Executive Director
Environmental Quality Board
520 Lafayette Road North
St. Paul, MN 55155

RE: Responsible Governmental Unit Designation for the Marshall Generation Station Project

Dear Mr. Seuffert:

Western Minnesota Municipal Power Agency (WMMPA), acting through its agent Missouri River Energy Services (MRES), is proposing to construct a new electric generation power plant in Marshall, Minnesota (Project). The Project consists of the installation of five new natural gas fired electrical generating units in a newly constructed building. An Environmental Assessment Worksheet (EAW) is required for the Project.

Pursuant to Minn. R. part 4410.0500, subpart 1, each of the mandatory categories in Minn. R. part 4410.4300, specify the responsible governmental unit (RGU) for completing an EAW. For Minn. R. part 4410.4300, subpart 3, which deals with electric generating facilities, the Environmental Quality Board (EQB) is designated as the RGU.

As per conversations with WMMPA, MRES, the EQB the Minnesota Pollution Control Agency (MPCA), MRES is requesting re-designation of the RGU for the EAW from the EQB to the MPCA as the MPCA has the expertise to evaluate, and is responsible for, the air permitting requirements of the Project. **The MPCA is willing to serve as the RGU for the Marshall Generation Station Project.**

Please feel free to contact me with any questions or comments. We look forward to the EQB's determination at your earliest convenience.

Sincerely,



Dan R. Card, P.E.
Supervisor
Environmental Review Unit
Resource Management and Assistance Division

DRC\KK:bt

Briefing Document: Mandatory Category Rulemaking

Why rules are changing?

- 2013, the Legislature directed EQB to conduct rulemaking for silica sand projects ([Laws of Minnesota 2013, Chapter 114, Article 4, Section 105](#)).
- 2015 Legislature directed EQB to update Environmental Review rules to allow certain trails to be built or designated without requiring Environmental Review (Part 4410.4300, subpart 37. Recreational trails).
- In 2015, the legislature directed EQB to streamline environmental review efficiency ([2015 Special Session Law, Chapter 4, Article 3, Section 2.](#))
- Recommendations identified in the 2013 Mandatory Environmental Review Categories Report (Report) to the Legislature.

What is included in the rulemaking?

- Amendments to rules relating to silica sand projects (Legislature 2013), including:
 - mining facilities,
 - transfer facilities,
 - processing facilities, and
 - storage facilities.
- Amendments to rules relating to recreational trails per Legislative directed language. (2015)
- Rules identified by the Office of the Revisor for improvements to the form,
- Changes included for consistency and/or clarity,
- Updates to the definitions; new and referencing other applicable regulatory definitions
- Mandatory EAW and EIS categories that were identified in the 2013 EQB Report,

Public engagement to-date (Silica Sand)

- As part of the earlier silica sand rulemaking project, the EQB conducted the following activities to engage and inform interested parties and to provide the opportunity to register for future GovDelivery notices regarding this rule.
 - EQB staff traveled to eighteen local governments around the State of Minnesota (every county with silica sand facilities) to interview local government staff on issues related to silica sand and the implementation of the potential rules.
 - EQB sent out a survey (<https://www.eqb.state.mn.us/sites/default/files/documents/Sand%20survey%20for%20LGU%27s%20April%2015%20EQB.pdf>). on preliminary silica sand rule concepts to counties, cities and townships in Minnesota via three organizations:
 - 1) Minnesota Association of Counties (18 Counties)
 - 2) Minnesota Association of Cities
 - 3) Minnesota Association of Townships (745 Townships)
 - A Silica Sand Rulemaking Advisory Panel (SSRAP) was created:
 - A 15-member advisory panel was established representing public and private statewide interests. Membership included citizens, industries and local government.
 - The advisory panel met 12 times between January 2014 and February 2015.

Public engagement for the rest of the rules:

- Notifications to the public and the entities identified in statute.

1. Briefing Document – 5/3/2019

- Three Request for Comments (prior to rule language being released) were published in the State Register.
 - July 22, 2013
 - November 9, 2015
 - October 24, 2016
- In 2016:
 - Three Informational meetings, open to the public, but specifically focused on implications to local units of government
 - March 18, 2016 - 9am-12pm
 - March 21, 2016 - 2pm-5pm
 - March 22, 2016 - 9am-10am
 - Released a preliminary draft of the proposed rule language and provided an informal comment period: June 20, 2016 - August 5, 2016
 - Hosted a Mandatory Categories Rulemaking Open House and Workshop: June 28, 2016
- In 2018/2019:
 - **August 15, 2018**, EQB staff presented preliminary rule language to the EQB Board.
 - **September 19, 2018**, EQB staff presented draft rules and Statement of Need and Reasonableness. Staff requested the Board to adopt a resolution to being formal rulemaking and notice the rulemaking in the State Register
 - **November 13, 2018**, the EQB published the Notice of Intent to Adopt Rules (Dual Notice)
 - **December 31, 2018**, the EQB published an AMENDED Notice of Intent to Adopt Rules
 - **February 4, 2019**, 4:30pm, the comment period closed.
 - **February 25, 2019**, the EQB published a Notice of Hearing in the State Register

Next Steps (hearings):

- **Pre-Hearing Comment Period:**
(*pre-hearing comment period May 20, 2019 – June 21, 2019 4:30pm*)
1. **Friday, May 31, 2019 1:30pm** in Room 100, Minnesota Pollution Control Agency, [520 Lafayette Road, St. Paul, MN 55155](#).
The hearing (via a two-way-video-conference connection) will also be available at (anyone wishing to give testimony to the Judge can do so via the two-way-video-conference connection):
 - Brainerd MPCA Office, [7678 College Road, Suite 105, Baxter, MN 56425](#)
 - Detroit Lakes MPCA Office, [714 Lake Ave., Suite 220, Detroit Lakes, MN 56501](#)
 - Duluth MPCA Office, [525 Lake Ave. S., Suite 400, Duluth, MN 55802](#)
 - Marshall MPCA Office, [504 Fairgrounds Rd., Suite 200, Marshall, MN 56258](#)
 - Rochester MPCA Office, [18 Wood Lake Drive SE, Rochester, MN 55904](#)
 2. **June 26, 2019 5:30pm-8:30pm hearing** at the Great River Regional Library, 1300 W. St. Germain St., St. Cloud, MN 56301
-

Board Decision Items:

The recommended revisions are as follows:

- Withdraw the proposed rule amendments from this rulemaking:
 - Minnesota Rules Part 4410.4300 subp. 7. Pipelines;
 - Minnesota Rules Part 4410.4400 subp. 8. Metallic Mineral Mining.
- Revise the proposed rule language for the category 4410.4300 subp. 27. Wetlands.
- No change to all other current proposed rule language amendments to Minnesota Rules Parts 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600.

Process:

RULEMAKING PROCESS

Public Comment: ★



1. Briefing Document – 5/3/2019

During the comment period, EQB received 190 comments on the proposed rules and 176 hearing requests.

Most comments during the comment period were focused on these rule subparts:

- Part 4410.0500, subpart 6. Exception RGU selection procedures
- Part 4410.4300, subpart 4. Petroleum refineries Mandatory EAW Category.
- Part 4410.4300, subp. 7. Pipeline Mandatory EAW Category.
- Part 4410.4300, subp. 27. Wetland Mandatory EAW Category.
- Part 4410.4300, subpart 37. Recreational trails.
- Part 4410.4400, subp. 8. Metallic mineral mining and processing.
- Part 4410.4400, subpart 20. Wetlands and public waters.

The EQB received comments in support of proposed changes to these subparts:

- Part 4410.0200, subpart 5a. Auxiliary lane.
- Part 4410.0200, subpart 93. Wetland.
- Part 4410.4300, subpart 8. Transfer facilities.
- Part 4410.4300, subpart 22. Highway Projects.

During the comment period, EQB received no comments on the proposed changes to these subparts:

- Part 4410.0200, subpart 1b. Acute hazardous waste.
- Part 4410.0200, subpart 9b. Compost facility.
- Part 4410.0200, subpart 36a. Hazardous material.
- Part 4410.0200, subpart 40b. Institutional facility.
- Part 4410.0200, subpart 43. Local governmental unit.
- Part 4410.0200, subpart 52a. Mixed municipal solid waste land disposal facility.
- Part 4410.0200, subpart 59a. Petroleum refinery.
- Part 4410.0200, subpart 71a. Refuse-derived fuel.
- Part 4410.0200, subpart 82a. Silica sand.
- Part 4410.0200, subpart 82b. Silica sand project.
- Part 4410.0500, subpart. 4. RGU for EAW by order of EQB.
- Part 4410.4300, subpart 2. Nuclear fuels and nuclear waste.
- Part 4410.4300, subpart 6. Transmission lines.
- Part 4410.4300, subpart 10. Storage facilities.
- Part 4410.4300, subpart 12. Nonmetallic mineral mining.
- Part 4410.4300, subpart 14. Industrial, commercial, and institutional.
- Part 4410.4300, subpart 16. Hazardous waste.
- Part 4410.4300, subpart 18. Wastewater system.
- Part 4410.4300, subpart 20. Campgrounds and RV parks.
- Part 4410.4300, subpart 20a. Resorts, campgrounds, and RV parks in shorelands
- Part 4410.4300, subpart 21. Airport projects.
- Part 4410.4300, subpart 25. Marinas.
- Part 4410.4300, subpart 26. Stream diversion.
- Part 4410.4300, subpart 28. Forestry.
- Part 4410.4300, subpart 30. Natural areas.
- Part 4410.4300, subpart 31. Historical places.
- Part 4410.4300, subpart 36. Land use conversion, including golf courses.
- Part 4410.4300, subpart 36a. Land conversions in shoreland.
- Part 4410.4400, subpart 2. Nuclear fuels and nuclear waste.
- Part 4410.4400, subpart 3. Electric-generating facilities.
- Part 4410.4400, subpart 4. Petroleum refineries.

1. Briefing Document – 5/3/2019

- Part 4410.4400, subpart 5. Fuel conversion facilities.
- Part 4410.4400, subpart 6. Transmission lines.
- Part 4410.4400, subpart 9. Nonmetallic mineral mining.
- Part 4410.4400, subpart 11. Industrial, commercial, and institutional facilities.
- Part 4410.4400, subpart 12. Hazardous waste.
- Part 4410.4400, subpart 13. Solid waste.
- Part 4410.4400, subpart 15. Airport runway projects.
- Part 4410.4400, subpart 16 Highway projects.
- Part 4410.4400 subpart. 19. Marinas.
- Part 4410.4400, subpart 25. Incineration of wastes containing PCBs.
- Part 4410.4600, subpart 10. Industrial, commercial, and institutional facilities.
- Part 4410.4600, subpart 12. Residential development.
- Part 4410.4600, subpart 14. Highway projects.
- Part 4410.4600, subpart 18. Agriculture and forestry.
- Part 4410.5200, subpart 1. Required notices.
- Part 4410.7904, Licensing of Explorers.
- Part 4410.7906, subpart 2. Content of an application for drilling permit.
- Part 4410.7926. Abandonment of Exploratory Borings.

The EQB received comments on proposed changes to these subparts from one commenter:

- Part 4410.4300, subpart 3. Electric-generating facilities.
- Part 4410.4300, subpart 5. Fuel conversion facilities.
- Part 4410.4300, subpart 17. Solid waste.
- Part 4410.4600, subpart 27. Recreational trails.

The EQB received numerous comments asking to make changes broader than the scope of this rulemaking outlined in the Statement of Need and Reasonableness (SONAR)

The EQB received several comments objecting to all proposed rules

Proposed Change to Rule Amendments as Published	Action
<p>Pipelines. <u>Items A to D designate the RGU for the type of project listed:</u></p> <p>A. <u>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.</u></p> <p>B. <u>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:</u></p> <p style="padding-left: 40px;">(1) <u>five miles if the pipeline will occupy streets, highways, and other public property; or</u></p> <p style="padding-left: 40px;">(2) <u>0.75 miles if the pipeline will occupy private property; the EQB or the municipality is the RGU.</u></p> <p>C. <u>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:</u></p> <p style="padding-left: 40px;">(1) <u>five miles if the pipeline will be constructed and operated within an existing right-of-way; or</u></p> <p style="padding-left: 40px;">(2) <u>0.75 miles if construction or operation will require new temporary or permanent right-of-way;</u></p> <p><u>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.</u></p> <p>D. <u>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.</u></p> <p><u>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.</u></p> <p><u>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.</u></p>	<p>Withdraw proposed change.</p>

<p>Environmental review must be conducted according to Minnesota Rules, chapter 7852 and Minnesota Statutes, chapter 216G.</p>	
<p>Part 4410.4400, subpart 8. Metallic mineral mining and processing.</p> <p>Metallic mineral mining and processing. Items A to C and B designate the RGU for the type of project listed:</p> <p><u>A.</u> 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 is the RGU.</p> <p><u>B.</u> 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><u>C.</u> For construction of a new metallic mineral processing facility, the DNR shall be is the RGU</p>	<p>Withdraw proposed change.</p>
<p>Part 4410.4300, subpart 27. Wetlands and public waters.</p> <p>Wetlands and Public waters, public water wetlands and wetlands. Items A and B designate the RGU for the type of project listed:</p> <p><u>A.</u> 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 pursuant to Minnesota Statutes, chapter 103G, <u>DNR or the local governmental</u> unit shall be is the RGU.</p> <p><u>B.</u> 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 <u>cause an impact, as defined in part 8420.0111, subpart 32, to a total of one acre or more of wetlands,</u> excluding public waters wetlands, if any part of the wetland is within a shoreland area, a delineated flood plain floodplain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local governmental unit shall be is the RGU. <u>Item B does not apply to projects exempted by part 4410.4600, subpart 14.</u></p>	<p>Insert "Item B does not apply to projects exempted by part 4410.4600, subpart 14".</p>

**RESOLUTION OF THE
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

Authorizing Rulemaking to Adopt Amendments to the Environmental Review Rules, Minn. Rules, Part 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600. Authorizing EQB Staff to Proceed with Recommended Changes to the Proposed Rules Associated with Minnesota Revisor of Statutes File Numbers: RD-04157, With Any Modifications Approved By the Board.

WHEREAS, the Environmental Policy Act, Minnesota Statutes sections 116D.04 and 116D.045 authorize the Environmental Quality Board to adopt rules governing the Environmental Review Program; and

WHEREAS, The Board's statutory authority to adopt the rule amendments is given in the Minnesota Environmental Policy Act, [Minn. Stat. 116D.04, subdivisions 2a\(a\), 4a and 5a](#) and [116D.045, subdivision 1](#); and

WHEREAS, In the 2015 Minnesota legislative session, [Laws of Minnesota 2015, Chapter 4, Article 5, Section 33](#), the Minnesota Legislature directed the Environmental Quality Board to amend environmental Review thresholds applicable to motorized trails; and

WHEREAS, In the 2013 Minnesota legislative session, [Laws of Minnesota 2013, chapter 114, article 4, section 105](#), the Minnesota Legislature directed the Environmental Quality Board to amend the rules for environmental review for silica sand mining and processing; and

WHEREAS, In the 2017 Minnesota legislative session, [Laws of Minnesota 2017, Chapter 93, article 1, Section 105](#), the Minnesota Legislature authorized the Environmental Quality Board to amend the rules for environmental review for silica sand mining and processing; and

WHEREAS, Minnesota Rules, part 4410.0400, subpart 1 directs the Environmental Quality Board (EQB) to take appropriate measures to improve the effectiveness of the Environmental Review Program rules; and

WHEREAS, the EQB published a Request for Comments on the proposed rule amendments to Minnesota Rules 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200,

4410.7904, 4410.7906, 4410.7926, and 4410.4600 (Revisor Number ID: RD-04157) in the State Register, on:

- July 22, 2013 - The Request for Comments closed on August 23, 2013 at 4:30pm.
- November 9, 2015 - The Request for Comments closed on December 31, 2015 at 4:30pm.
- October 24, 2016 - The Request for Comments closed on November 28, 2016 at 4:30pm; and

WHEREAS, the EQB presented a preliminary draft of the proposed rule language and justification for the proposed changes at the August 15, 2018 public Board meeting; and

WHEREAS, the EQB staff developed draft rule amendments and an associated draft Statement of Need and Reasonableness, September 19, 2018; and

WHEREAS, the EQB convened at a regularly scheduled public meeting Board meeting on September 19, 2018, and adopted the resolution to proceed with Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received (“Dual Notice”) in Minnesota Revisor of Statutes File Numbers: RD-04157, With Any Modifications Approved By the Board; and

WHEREAS, the EQB published, in the *State Register* on November 13, 2018, a Dual Notice, opening the official comment period on the proposed rules ; and

WHEREAS, the EQB published, in the *State Register* on December 31, 2018, an Amended Dual Notice, which extended the comment period until February 4, 2019 4:20pm; and

WHEREAS, the EQB completed the additional notice plan approved by the Administrative Law Judge Laura Sue Schlatter; and

WHEREAS, the comment period closed on February 4, 2019 at 4:30pm; and

WHEREAS, the EQB published, in the *State Register* on February 25, 2019 a Notice of Hearing and emailed and mailed all commenters regarding the Notice of Hearing, locations and time; and

WHEREAS, a hearing is scheduled for May 31, 2019 at 1:30pm in Room 100, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155 and will also be available at:

- Brainerd MPCA Office, 7678 College Road, Suite 105, Baxter, MN 56425
- Detroit Lakes MPCA Office, 714 Lake Ave., Suite 220, Detroit Lakes, MN 56501
- Duluth MPCA Office, 525 Lake Ave. S., Suite 400, Duluth, MN 55802
- Marshall MPCA Office, 504 Fairgrounds Rd., Suite 200, Marshall, MN 56258
- Rochester MPCA Office, 18 Wood Lake Drive SE, Rochester, MN 55904

WHEREAS, the EQB published, in the *State Register* on May 13, 2019 a Notice of Additional Hearing and emailed and mailed all commenters regarding the Notice of Additional Hearing, locations and time; and

WHEREAS, an additional hearing is scheduled for June 26, 2019 at 5:30pm at the St Cloud Great River Regional Library, 1300 W. St. Germain St., St. Cloud, MN 56301; and

WHEREAS, the EQB staff received comments on the proposed rules, reviewed the comments and is recommending revisions to the proposed rules to be presented at the May 31, 2019 and June 26, 2019 formal rulemaking hearings; and

WHEREAS, the recommended revisions to the proposed rules are necessary and reasonable.

NOW THEREFORE BE IT RESOLVED, that Laura Bishop, Chair of the Board, is hereby granted the authority and directed to sign and to give the Notice of the Board's intent to present revisions to the proposed rule language at the May 31, 2019 and June 26, 2019 formal rulemaking hearings with Administrative Law Judge Laura Sue Schlatter.

AND BE IT FURTHER RESOLVED, that William Seuffert, the Executive Director of the Environmental Quality Board, is hereby granted the authority and directed to utilize EQB staff to act as the Board's representative at the hearings and to perform any and all act incidental thereto.

Laura Bishop, Chair
Minnesota Environmental Quality Board

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of Adopting the order Authorizing EQB Staff to Proceed with Recommended Changes to the Proposed Rules Amendments to the Environmental Review Rules, Minn. Rules, Part 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600, Revisor Number: RD-04157; With Any Modifications Approved By the Board.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

The above-captioned matter came before the Minnesota Environmental Quality Board (EQB) at a regular meeting on May 15, 2019.

Based upon all of the proceedings herein and the entire record, the Minnesota Environmental Quality Board makes the following:

FINDINGS OF FACT:

1. The Environmental Policy Act, Minnesota Statutes sections 116D.04 and 116D.045 authorize the Environmental Quality Board to adopt rules governing the Environmental Review Program; and
2. The 2015 Minnesota legislative session, [Laws of Minnesota 2015, Chapter 4, Article 5, Section 33](#), the Minnesota Legislature passed legislation changing the EAW thresholds applicable to motorized trails; and
3. In the 2013 Minnesota legislative session, [Laws of Minnesota 2013, chapter 114, article 4, section 105](#), the Minnesota Legislature directed the Environmental Quality Board to amend the rules for environmental review for silica sand mining and processing; and
4. The 2017 Minnesota legislative session, [Laws of Minnesota 2017, Chapter 93, article 1, Section 105](#), the Minnesota Legislature authorized the Environmental Quality Board to amend the rules for environmental review for silica sand mining and processing; and
5. The rulemaking is proposed under mandatory categories rulemaking (Revisor's ID Number R-04157) and includes amendments to rules relating to environmental

- review. Specifically, mandatory categories for environmental assessment worksheets (EAW) and environmental impact statements (EIS), definitions to support those categories, responsible governmental unit (RGU) selection process, categories of exemptions from environmental review, required notices, licensing of explorers, content of an application for drilling permit and, abandonment of exploratory borings; and
6. The proposed rulemaking will also include the amendments to rules relating to silica sand projects. This includes the mandatory categories related to mining facilities, transfer and processing facilities and storage facilities related to silica sand projects. The purpose of these amendments is to adopt the threshold levels for silica sand projects established by the Minnesota Legislature through Laws of Minnesota 2013, Chapter 114, Article 4, Section 91. In 2014, the EQB began rulemaking for silica sand projects under Revisor’s ID Number RD-4305; and
 7. Additionally, the proposed mandatory categories rulemaking will also include the proposed amendments to rules relating to Recreational trails. This includes thresholds for different types of recreational trails that require preparation of an EAW. In the 2015 Minnesota legislative session, Laws of Minnesota 2015, Chapter 4, Article 5, Section 33, the Minnesota Legislature passed legislation changing the EAW thresholds applicable to motorized trails. In 2015, the EQB began rulemaking for recreational trails projects under Revisor’s ID Number RD-4381; and
 8. The EQB published a Request for Comments on the proposed rule amendments to Minnesota Rules 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600 (Revisor Number ID: RD-04157) in the State Register, on:
 - July 22, 2013 - The Request for Comments closed on August 23, 2013 at 4:30pm.
 - November 9, 2015 - The Request for Comments closed on December 31, 2015 at 4:30pm.
 - October 24, 2016 - The Request for Comments closed on November 28, 2016 at 4:30pm; and
 9. The EQB presented a preliminary draft of the proposed rule language and justification for the proposed changes at the August 15, 2018 public Board meeting; and
 10. The EQB staff developed draft rule amendments and an associated draft Statement of Need and Reasonableness, September 19, 2018; and
 11. The EQB convened at a regularly scheduled public meeting Board meeting on September 19, 2018, and adopted the resolution to proceed with Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received in Minnesota

Revisor of Statutes File Numbers: RD-04157, With Any Modifications Approved By the Board; and

12. The EQB published, in the *State Register* on November 13, 2018, a Notice of Intent to Adopt Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received, opening the official comment period on the proposed rules ; and
13. The EQB published, in the *State Register* on December 31, 2018, an Amended Notice of Intent to Adopt Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received, which extended the comment period until February 4, 2019 4:20pm; and
14. The EQB completed the additional notice plan approved by the Administrative Law Judge Laura Sue Schlatter; and
15. The comment period closed on February 4, 2019 at 4:30pm; and
16. The EQB published, in the *State Register* on February 25, 2019 a Notice of Hearing and emailed and mailed all commenters regarding the Notice of Hearing, locations and time; and
17. The hearing is scheduled for May 31, 2019 at 1:30pm in Room 100, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155 and will also be available at:
 - Brainerd MPCA Office, 7678 College Road, Suite 105, Baxter, MN 56425
 - Detroit Lakes MPCA Office, 714 Lake Ave., Suite 220, Detroit Lakes, MN 56501
 - Duluth MPCA Office, 525 Lake Ave. S., Suite 400, Duluth, MN 55802
 - Marshall MPCA Office, 504 Fairgrounds Rd., Suite 200, Marshall, MN 56258
 - Rochester MPCA Office, 18 Wood Lake Drive SE, Rochester, MN 55904
18. The EQB published, in the *State Register* on May 13, 2019 a Notice of Additional Hearing and emailed and mailed all commenters regarding the Notice of Additional Hearing, locations and time; and
19. The additional hearing is scheduled for June 26, 2019 at 5:30pm at the St Cloud Great River Regional Library, 1300 W. St. Germain St., St. Cloud, MN 56301; and
20. The EQB staff received comments on the proposed rules, reviewed the comments and is recommending revisions to the proposed rules to be presented at the May 31, 2019 and June 26, 2019 formal rulemaking hearings; and
21. The recommended revisions to the proposed rules are necessary and reasonable.

22. The EQB staff developed draft rule amendments and an associated draft Statement of Need and Reasonableness, dated September 19, 2018; and

Based on the foregoing Findings of Fact, the Minnesota Environmental Quality Board makes the following:

CONCLUSIONS OF LAW

- 1) Any of the foregoing Findings more properly designated as Conclusions are hereby adopted as such.
- 2) The proposed rulemaking is necessary and reasonable.

Based on the Findings of Fact, Conclusions of Law and the entire record of this proceeding, the Minnesota Environmental Quality Board hereby makes the following:

ORDER

The EQB hereby authorizes the EQB Staff to Proceed with Recommended Changes to the Proposed Rules Amendments to the Environmental Review Rules, 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600 (Revisor Number ID: RD-04157). With Any Modifications Approved By the Board.

Approved and adopted this 15th day of May 2019.

Laura Bishop, Chair
Environmental Quality Board



OFFICE OF THE REVISOR OF STATUTES

Minnesota Legislature

Cindy K. Maxwell, Assistant Deputy Revisor

September 5, 2018

Erik Dahl
Environmental Quality Board
520 Lafayette Road North
St. Paul, MN 55155-4194

RE: File No. 4157

Dear Erik:

I am enclosing four copies of your rules, approved as to form. Submit the revisor file number from the upper right corner of this document to the State Register for publication. Copies of the rules approved as to form do not need to be submitted to the State Register.

If you have any questions, please call me.

Please use the revisor file number on all rulemaking documents and all communications with the governor's office.

Sincerely,

A handwritten signature in cursive that reads "Cindy K. Maxwell".

Cindy K. Maxwell
(651) 296-0955
cindy.maxwell@revisor.mn.gov

Office of the Revisor of Statutes Administrative Rules



TITLE: Proposed Permanent Rules Relating to Environmental Review: Mandatory Categories

AGENCY: Environmental Quality Board

REVISOR ID: R-4157

MINNESOTA RULES: Chapter 4410

The attached rules are approved for
publication in the State Register

Cindy K. Maxwell

Cindy K. Maxwell
Assistant Deputy Revisor

1.1 **Environmental Quality Board**

1.2 **Proposed Permanent Rules Relating to Environmental Review: Mandatory Categories**

1.3 **4410.0200 DEFINITIONS AND ABBREVIATIONS.**

1.4 *[For text of subps 1 and 1a, see M.R.]*

1.5 Subp. 1b. **Acute hazardous waste.** "Acute hazardous waste" has the meaning given
1.6 in part 7045.0020.

1.7 *[For text of subps 2 to 5, see M.R.]*

1.8 Subp. 5a. **Auxiliary lane.** "Auxiliary lane" means the portion of the roadway that:

1.9 A. **adjoins the through lanes for purposes such as speed change, turning, storage**
1.10 for turning, weaving, or truck climbing; and

1.11 B. **supplements through-traffic movement.**

1.12 *[For text of subps 6 to 9a, see M.R.]*

1.13 Subp. 9b. **Compost facility.** "Compost facility" means a facility used to compost or
1.14 eo-compost solid waste, including; has the meaning given in part 7035.0300.

1.15 A. **structures and processing equipment used to control drainage or collect and**
1.16 treat leachate; and

1.17 B. **storage areas for incoming waste, the final product, and residuals resulting**
1.18 from the composting process.

1.19 *[For text of subps 10 to 36, see M.R.]*

1.20 Subp. 36a. **Hazardous material.** "Hazardous material" has the meaning given in
1.21 Code of Federal Regulations, title 49, section 171.8.

1.22 *[For text of subps 37 to 40a, see M.R.]*

2.1 Subp. 40b. Institutional facility. "Institutional facility" means a land-based facility
2.2 owned or operated by an organization having a governmental, educational, civic, or religious
2.3 purpose such as a school, hospital, prison, military installation, church, or other similar
2.4 establishment or facility.

2.5 [For text of subps 41 to 42a, see M.R.]

2.6 Subp. 43. Local governmental unit. "Local governmental unit" means any unit of
2.7 government other than the state or a state agency or the federal government or a federal
2.8 agency. It Local governmental unit includes watershed districts established pursuant
2.9 according to Minnesota Statutes, chapter 103D, soil and water conservation districts,
2.10 watershed management organizations, counties, towns, cities, port authorities, housing
2.11 authorities, and the Metropolitan Council. It Local governmental unit does not include
2.12 courts, school districts, and regional development commissions.

2.13 [For text of subps 44 to 52, see M.R.]

2.14 Subp. 52a. Mixed municipal solid waste land disposal facility. "Mixed municipal
2.15 solid waste land disposal facility" has the meaning given in part 7035.0300.

2.16 [For text of subps 53 to 59, see M.R.]

2.17 Subp. 59a. Petroleum refinery. "Petroleum refinery" has the meaning given in
2.18 Minnesota Statutes, section 115C.02, subdivision 10a.

2.19 [For text of subps 60 to 71, see M.R.]

2.20 Subp. 71a. Refuse-derived fuel. "Refuse-derived fuel" means the product resulting
2.21 from techniques or processes used to prepare solid waste by shredding, sorting, or compacting
2.22 for use as an energy source has the meaning given in Minnesota Statutes, section 115A.03,
2.23 subdivision 25d.

2.24 [For text of subps 71b to 82, see M.R.]

3.1 Subp. 82a. Silica sand. "Silica sand" has the meaning given in Minnesota Statutes,
3.2 section 116C.99, subdivision 1.

3.3 Subp. 82b. Silica sand project. "Silica sand project" has the meaning given in
3.4 Minnesota Statutes, section 116C.99, subdivision 1.

3.5 [For text of subps 83 to 92c, see M.R.]

3.6 Subp. 93. **Wetland.** "Wetland" has the meaning given wetlands in U.S. Fish and
3.7 ~~Wildlife Service Circular No. 39 (1971 edition)~~ Minnesota Statutes, section 103G.005,
3.8 subdivision 19.

3.9 [For text of subps 94 to 96, see M.R.]

3.10 **4410.0500 RGU SELECTION PROCEDURES.**

3.11 [For text of subps 1 to 3, see M.R.]

3.12 Subp. 4. **RGU for EAW by order of EQB.** If the ~~QB~~ EQB orders an EAW pursuant
3.13 to part 4410.1000, subpart 3, item C, the EQB shall, at the same time, designate the RGU
3.14 for that EAW.

3.15 [For text of subp 5, see M.R.]

3.16 Subp. 6. **Exception.** Notwithstanding subparts 1 to 5, the EQB or EQB chair may
3.17 designate, ~~within five days of receipt of the completed data portions of the EAW,~~ a different
3.18 RGU for the project if ~~the EQB~~ determines the designee has greater expertise in analyzing
3.19 the potential impacts of the project.

3.20 **4410.4300 MANDATORY EAW CATEGORIES.**

3.21 [For text of subp 1, see M.R.]

3.22 Subp. 2. **Nuclear fuels and nuclear waste.** Items A to F designate the RGU for the
3.23 type of project listed:

4.1 A. For construction or expansion of a facility for the storage of high level nuclear
4.2 waste, other than an independent spent-fuel storage installation, the EQB ~~shall be~~ is the
4.3 RGU.

4.4 *[For text of items B to F, see M.R.]*

4.5 Subp. 3. **Electric-generating facilities.** Items A to D designate the RGU for the type
4.6 of project listed:

4.7 A. For construction of an electric power generating plant and associated facilities
4.8 designed for or capable of operating at a capacity of ~~between 25 megawatts and 50~~
4.9 ~~megawatts, the EQB shall be the RGU~~ or more but less than 50 megawatts and for which
4.10 an air permit from the PCA is required, the PCA is the RGU.

4.11 B. For construction of an electric power generating ~~plants~~ plant and associated
4.12 facilities designed for and capable of operating at a capacity of 25 megawatts or more but
4.13 less than 50 megawatts or more, environmental review shall be conducted according to parts
4.14 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600 and for which an air permit from the
4.15 PCA is not required, the local governmental unit is the RGU.

4.16 C. For construction of an electric power generating plant and associated facilities
4.17 designed for and capable of operating at a capacity of 50 megawatts or more, the PUC is
4.18 the RGU, and environmental review must be conducted according to parts 7849.1000 to
4.19 7849.2100 and chapter 7850.

4.20 D. For construction of a wind energy conversion system, as defined in Minnesota
4.21 Statutes, section 216F.01, designed for and capable of operating at a capacity of 25 megawatts
4.22 or more, the PUC is the RGU, and environmental review must be conducted according to
4.23 chapter 7854.

5.1 Subp. 4. **Petroleum refineries.** For expansion of an existing petroleum refinery facility
5.2 that increases ~~its~~ the refinery's capacity by 10,000 ~~or more~~ barrels per day or more, the PCA
5.3 ~~shall be~~ is the RGU.

5.4 Subp. 5. **Fuel conversion facilities.**

5.5 ~~Items A and B~~ Subitems (1) and (2) designate the RGU for the type of project
5.6 listed:

5.7 ~~A.~~ (1) For construction of a new fuel conversion facility for the conversion of
5.8 coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity
5.9 to utilize 25,000 dry tons or more per year of input, the PCA ~~shall be~~ is the RGU.

5.10 ~~B.~~ (2) For construction ~~or expansion~~ of a new fuel conversion facility for the
5.11 production of alcohol fuels ~~which that~~ would have ~~or would increase its~~ the capacity ~~by to~~
5.12 produce 5,000,000 or more gallons or more per year of alcohol ~~produced~~, the PCA ~~shall be~~
5.13 is the RGU.

5.14 B. A mandatory EAW is not required for the projects described in Minnesota
5.15 Statutes, section 116D.04, subdivision 2a, paragraph (b).

5.16 Subp. 6. **Transmission lines.** For construction of a transmission line at a new location
5.17 ~~with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles~~
5.18 ~~of its length in Minnesota, the EQB shall be the RGU.~~ For construction of a high-voltage
5.19 transmission lines line and associated facilities ~~designed for and capable of operating at a~~
5.20 nominal voltage of 100 kilovolts or more, as defined in part 7850.1000, the PUC is the
5.21 RGU. Environmental review ~~shall~~ must be conducted according to parts 7849.1000 to
5.22 7849.2100 and 7850.1000 to 7850.5600.

5.23 Subp. 7. **Pipelines.** ~~Items A to D~~ designate the RGU for the type of project listed: For
5.24 construction, as defined in Minnesota Statutes, section 216G.01, subdivision 2, of a pipeline,
5.25 as defined in Minnesota Statutes, section 216G.01, subdivision 3, or 216G.02, subdivision

6.1 1, the PUC is the RGU. Environmental review must be conducted according to chapter 7852
 6.2 and Minnesota Statutes, chapter 216G.

6.3 A. ~~For routing of a pipeline, greater than six inches in diameter and having more~~
 6.4 ~~than 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum~~
 6.5 ~~fuels, or oil or their derivatives, the EQB shall be the RGU.~~

6.6 B. ~~For the construction of a pipeline for distribution of natural or synthetic gas~~
 6.7 ~~under a license, permit, right, or franchise that has been granted by the municipality under~~
 6.8 ~~authority of Minnesota Statutes, section 216B.36, designed to operate at pressures in excess~~
 6.9 ~~of 275 pounds per square inch (gauge) with a length greater than:~~

6.10 (1) ~~five miles if the pipeline will occupy streets, highways, and other public~~
 6.11 ~~property; or~~

6.12 (2) ~~0.75 miles if the pipeline will occupy private property;~~

6.13 ~~the EQB or the municipality is the RGU.~~

6.14 C. ~~For construction of a pipeline to transport natural or synthetic gas subject to~~
 6.15 ~~regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et.~~
 6.16 ~~seq., designed to operate at pressures in excess of 275 pounds per square inch (gauge) with~~
 6.17 ~~a length greater than:~~

6.18 (1) ~~five miles if the pipeline will be constructed and operated within an~~
 6.19 ~~existing right-of-way; or~~

6.20 (2) ~~0.75 miles if construction or operation will require new temporary or~~
 6.21 ~~permanent right-of-way;~~

6.22 ~~the EQB is the RGU. This item shall not apply to the extent that the application is expressly~~
 6.23 ~~preempted by federal law, or under specific circumstances when an actual conflict exists~~
 6.24 ~~with applicable federal law.~~

7.1 ~~D. For construction of a pipeline to convey natural or synthetic gas that is not~~
7.2 ~~subject to regulation under the federal Natural Gas Act, United States Code, title 15, section~~
7.3 ~~717, et seq.; or to a license, permit, right, or franchise that has been granted by a municipality~~
7.4 ~~under authority of Minnesota Statutes, section 216B.36; designed to operate at pressures in~~
7.5 ~~excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the~~
7.6 ~~EQB is the RGU.~~

7.7 ~~Items A to D do not apply to repair or replacement of an existing pipeline within an~~
7.8 ~~existing right-of-way or to a pipeline located entirely within a refining, storage, or~~
7.9 ~~manufacturing facility.~~

7.10 **Subp. 8. Transfer facilities.** Items A ~~and B~~ to C designate the RGU for the type of
7.11 project listed:

7.12 A. For construction of a new facility designed for or capable of transferring 300
7.13 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from
7.14 one mode of transportation to a similar or different mode of transportation; or the expansion
7.15 of an existing facility by these respective amounts, the PCA ~~shall be~~ is the RGU.

7.16 B. For construction of a new facility or the expansion by 50 percent or more of
7.17 an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000
7.18 or more gallons per transfer, if the facility is located in a shoreland area, a delineated flood
7.19 plain floodplain, a state or federally designated wild and scenic rivers district, the Minnesota
7.20 River Project Riverbend area, or the Mississippi headwaters area, the PCA ~~shall be~~ is the
7.21 RGU.

7.22 C. The PCA is the RGU for a silica sand project that:

7.23 (1) is designed to store or is capable of storing more than 7,500 tons of silica
7.24 sand; or

7.25 (2) has an annual throughput of more than 200,000 tons of silica sand.

8.1

[For text of subp 9, see M.R.]

8.2

Subp. 10. **Storage facilities.** Items A to ~~C~~H designate the RGU for the type of project

8.3

listed:

8.4

A. For construction of a new 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~~ is the RGU.

8.5

8.6

8.7

~~B. For construction of a new major facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials, as defined in part 7151.1200, that results in a designed storage capacity of 1,000,000 gallons or more of hazardous materials, the PCA shall be~~ is the RGU.

8.8

8.9

8.10

8.11

C. For expansion of an existing major facility, as defined in part 7151.1200, 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.

8.12

8.13

8.14

8.15

D. 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.

8.16

8.17

8.18

8.19

~~E.~~ E. For construction of a 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 PUC is the RGU, except as provided in item G.

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9.1 F. For construction of a new facility designed for or capable of storing on a single
 9.2 site 100,000 gallons or more of anhydrous ammonia, the MDA is the RGU, except as
 9.3 provided in item G.

9.4 G. For construction of a new facility designed for or capable of storing on a single
 9.5 site 100,000 gallons or more of a combination of liquefied natural gas, as defined in
 9.6 Minnesota Statutes, section 299F.56, subdivision 14; synthetic gas, as defined in Minnesota
 9.7 Statutes, section 216B.02, subdivision 6b; or anhydrous ammonia, the PUC is the RGU.

9.8 H. The PCA is the RGU for a silica sand project that:

9.9 (1) is designed to store or is capable of storing more than 7,500 tons of silica
 9.10 sand; or

9.11 (2) has an annual throughput of more than 200,000 tons of silica sand.

9.12 [For text of subp 11, see M.R.]

9.13 **Subp. 12. Nonmetallic mineral mining.** Items A to ~~C~~ D designate the RGU for the
 9.14 type of project listed:

9.15 [For text of item A, see M.R.]

9.16 B. For development of a facility for the extraction or mining of sand, gravel, stone,
 9.17 or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land
 9.18 to a mean depth of ten feet or more during its existence, the local ~~government~~ governmental
 9.19 ~~unit shall be~~ is the RGU.

9.20 [For text of item C, see M.R.]

9.21 D. For development of a silica sand project that excavates 20 or more acres of
 9.22 land to a mean depth of ten feet or more during the project's existence, the local governmental
 9.23 unit is the RGU.

9.24 [For text of subp 13, see M.R.]

10.1 Subp. 14. **Industrial, commercial, and institutional facilities.** Items A and B
10.2 designate the RGU for the type of project listed, except as provided in items C and D:

10.3 A. For construction of a new or expansion of an existing warehousing or light
10.4 industrial facility equal to or in excess of the following thresholds, expressed as gross floor
10.5 space, the local governmental unit ~~shall be~~ is the RGU:

- 10.6 (1) unincorporated area, 150,000 square feet;
- 10.7 (2) third or fourth class city, 300,000 square feet;
- 10.8 (3) second class city, 450,000 square feet; and
- 10.9 (4) first class city, 600,000 square feet.

10.10 B. For construction of a new or expansion of an existing industrial, commercial,
10.11 or institutional facility, other than a warehousing or light industrial facility, equal to or in
10.12 excess of the following thresholds, expressed as gross floor space, the local ~~government~~
10.13 governmental unit ~~shall be~~ is the RGU:

10.14 [For text of subitems (1) and (2), see M.R.]

- 10.15 (3) second class city, 300,000 square feet; and
- 10.16 (4) first class city, 400,000 square feet.

10.17 [For text of items C and D, see M.R.]

10.18 [For text of subp 15, see M.R.]

10.19 Subp. 16. **Hazardous waste.** Items A to D designate the RGU for the type of project
10.20 listed:

10.21 A. For construction of a new or expansion of a an existing hazardous waste disposal
10.22 facility, the PCA ~~shall be~~ is the RGU.

11.1 B. For construction of a new facility for hazardous waste processing facility with
 11.2 a capacity of 1,000 or more kilograms per month storage or treatment that is generating or
 11.3 receiving 1,000 kilograms or more per month of hazardous waste or one kilogram or more
 11.4 per month of acute hazardous waste, the PCA shall be is the RGU.

11.5 C. For expansion of a an existing facility for hazardous waste processing facility
 11.6 storage or treatment that increases its the facility's capacity by ten percent or more, the PCA
 11.7 shall be is the RGU.

11.8 *[For text of item D, see M.R.]*

11.9 Subp. 17. **Solid waste.** Items A to G designate the RGU for the type of project listed:

11.10 A. For construction of a mixed municipal solid waste land disposal facility for up
 11.11 to 100,000 cubic yards of waste fill per year, the PCA is the RGU.

11.12 B. For expansion by 25 percent or more of ~~previous~~ previously permitted capacity
 11.13 of a mixed municipal solid waste land disposal facility for up to 100,000 cubic yards of
 11.14 waste fill per year, the PCA is the RGU.

11.15 *[For text of item C, see M.R.]*

11.16 D. For construction or expansion of a mixed municipal solid waste energy recovery
 11.17 facility or incinerator, ~~or the utilization~~ use of an existing facility for the combustion of
 11.18 mixed municipal solid waste or refuse-derived fuel, with a permitted capacity of 30 tons or
 11.19 more ~~tons~~ per day of input, the PCA is the RGU.

11.20 E. For construction or expansion of a mixed municipal solid waste compost facility
 11.21 or a refuse-derived fuel production facility with a permitted capacity of 50 tons or more
 11.22 ~~tons~~ per day of input, the PCA is the RGU.

12.1 F. For expansion by at least ten percent but less than 25 percent of ~~previous~~
12.2 previously permitted capacity of a mixed municipal solid waste land disposal facility for
12.3 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

12.4 [For text of item G, see M.R.]

12.5 Subp. 18. **Wastewater systems.** Items A to ~~C~~ F designate the RGU for the type of
12.6 project listed:

12.7 A. For expansion, modification, or replacement of a municipal sewage collection
12.8 system resulting in an increase in design average daily flow of any part of that system by
12.9 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with
12.10 a capacity less than 20,000,000 gallons per day ~~or for expansion, modification, or replacement~~
12.11 ~~of a municipal sewage collection system resulting in an increase in design average daily~~
12.12 ~~flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to~~
12.13 ~~a wastewater treatment facility with the capacity of 20,000,000 gallons or greater, the PCA~~
12.14 ~~shall be~~ is the RGU.

12.15 B. For expansion, modification, or replacement of a municipal sewage collection
12.16 system resulting in an increase in design average daily flow of any part of that system by
12.17 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with
12.18 the capacity of 20,000,000 gallons or greater, the PCA is the RGU.

12.19 ~~B. C.~~ C. For expansion or ~~reconstruction~~ modification of an existing municipal or
12.20 domestic wastewater treatment facility ~~which that~~ that results in an increase by 50 percent or
12.21 more and by at least 200,000 gallons per day of ~~its~~ the facility's average wet weather design
12.22 flow capacity, ~~or~~ the PCA is the RGU.

12.23 D. For construction of a new municipal or domestic wastewater treatment facility
12.24 with an average wet weather design flow capacity of 200,000 gallons per day or more, the
12.25 PCA ~~shall be~~ is the RGU.

13.1 ~~C.~~ E. For expansion or ~~reconstruction~~ modification of an existing industrial process
 13.2 wastewater treatment facility ~~which~~ that increases ~~its~~ the facility's design flow capacity by
 13.3 50 percent or more and by at least 200,000 gallons per day or more, ~~or~~ the PCA is the RGU.

13.4 F. For construction of a new industrial process wastewater treatment facility with
 13.5 a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or
 13.6 more, or 20,000,000 gallons per year or more, the PCA ~~shall be~~ is the RGU. This category
 13.7 does not apply to industrial process wastewater treatment facilities that discharge to a
 13.8 ~~publicly-owned~~ publicly owned treatment works or to a tailings basin reviewed ~~pursuant~~
 13.9 according to subpart 11, item B.

13.10 *[For text of subps 19 and 19a, see M.R.]*

13.11 **Subp. 20. Campgrounds and RV parks.** For construction of a seasonal or permanent
 13.12 recreational development, accessible by vehicle, consisting of 50 or more sites, or the
 13.13 expansion of such a facility by 50 or more sites, the local ~~government~~ governmental unit
 13.14 ~~shall be~~ is the RGU.

13.15 **Subp. 20a. Resorts, campgrounds, and RV parks in shorelands.** The local
 13.16 ~~government~~ governmental unit is the RGU for construction or expansion of a resort or other
 13.17 seasonal or permanent recreational development located wholly or partially in shoreland,
 13.18 accessible by vehicle, of a type listed in item A or B:

13.19 *[For text of items A and B, see M.R.]*

13.20 **Subp. 21. Airport projects.** Items A and B designate the RGU for the type of project
 13.21 listed:

13.22 A. For construction of a paved, new airport runway, the DOT, local governmental
 13.23 unit, or the Metropolitan Airports Commission ~~shall be~~ is the RGU.

13.24 B. For construction of a runway extension that would upgrade an existing airport
 13.25 runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder

14.1 than aircraft currently using the runway, the DOT, local ~~government~~ governmental unit, or
 14.2 the Metropolitan Airports Commission ~~shall be~~ is the RGU. The RGU ~~shall be~~ is selected
 14.3 according to part 4410.0500, subpart 5.

14.4 Subp. 22. **Highway projects.** Items A to C designate the RGU for the type of project
 14.5 listed:

14.6 A. For construction of a road on a new location over one mile in length that will
 14.7 function as a collector roadway, the DOT or local ~~government~~ governmental unit ~~shall be~~
 14.8 is the RGU.

14.9 B. For construction of additional ~~travel~~ through lanes or passing lanes on an
 14.10 existing road for a length of ~~one~~ two or more miles, exclusive of auxiliary lanes, the DOT
 14.11 or local ~~government~~ governmental unit ~~shall be~~ is the RGU.

14.12 C. For the addition of one or more new interchanges to a completed limited access
 14.13 highway, the DOT or local ~~government~~ governmental unit ~~shall be~~ is the RGU.

14.14 *[For text of subps 23 and 24, see M.R.]*

14.15 Subp. 25. **Marinas.** For construction or expansion of a marina or harbor that results
 14.16 in a 20,000 or more square foot total or a 20,000 or more square foot increase of water
 14.17 surface area used temporarily or permanently for docks, docking, or maneuvering of
 14.18 watercraft, the local ~~government~~ governmental unit ~~shall be~~ is the RGU.

14.19 Subp. 26. **Stream diversion.** For a diversion, realignment, or channelization of any
 14.20 designated trout stream, or affecting greater than 500 feet of natural watercourse with a total
 14.21 drainage area of ten or more square miles unless exempted by part 4410.4600, subpart 14,
 14.22 item E, or 17, the DNR or local ~~government~~ governmental unit ~~shall be~~ is the RGU.

14.23 Subp. 27. **Wetlands and Public waters, public waters wetlands, and wetlands.** Items
 14.24 A and B designate the RGU for the type of project listed:

15.1 A. For projects that will change or diminish the course, current, or cross-section
 15.2 of one acre or more of any public water or public waters wetland except for those to be
 15.3 drained without a permit ~~pursuant~~ according to Minnesota Statutes, chapter 103G, the DNR
 15.4 or local government governmental unit ~~shall be~~ is the RGU.

15.5 B. For projects that will ~~change or diminish the course, current, or cross-section~~
 15.6 ~~of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or~~
 15.7 ~~more~~ cause an impact, as defined in part 8420.0111, to a total of one acre or more of wetlands,
 15.8 excluding public waters wetlands, if any part of the wetland is within a shoreland area, a
 15.9 ~~delineated flood plain~~ floodplain, a state or federally designated wild and scenic rivers
 15.10 district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area,
 15.11 the local government governmental unit ~~shall be~~ is the RGU.

15.12 Subp. 28. **Forestry.** Items A and B designate the RGU for the type of project listed:

15.13 A. For harvesting ~~of~~ timber for commercial purposes on public lands within a
 15.14 state park, a historical area, a wilderness area, a scientific and natural area, a wild and scenic
 15.15 rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area,
 15.16 or a critical area that does not have an approved plan under Minnesota Statutes, section
 15.17 86A.09 or 116G.07, the DNR ~~shall be~~ is the RGU.

15.18 B. For a clearcutting of 80 or more contiguous acres of forest, any part of which
 15.19 is located within a shoreland area and within 100 feet of the ordinary high water mark of
 15.20 the lake or river, the DNR ~~shall be~~ is the RGU.

15.21 *[For text of subp 29, see M.R.]*

15.22 Subp. 30. **Natural areas.** For projects resulting in ~~the~~ permanent physical encroachment
 15.23 on lands within a national park, a state park, a wilderness area, state lands and waters within
 15.24 the boundaries of the Boundary Waters Canoe Area, or a scientific and natural area, ~~or state~~
 15.25 ~~trail corridor~~ when the encroachment is inconsistent with laws applicable to or the

16.1 management plan prepared for the recreational unit, the DNR or local ~~government~~
 16.2 governmental unit shall be is the RGU.

16.3 Subp. 31. **Historical places.** For the destruction, in whole or part, or the moving of
 16.4 a property that is listed on the National Register of Historic Places or State Register of
 16.5 Historic Places, the permitting state agency or local governmental unit of government shall
 16.6 be is the RGU, except this does not apply to projects reviewed under section 106 of the
 16.7 National Historic Preservation Act of 1966, United States Code, title ~~16~~ 54, section 470
 16.8 306108, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites
 16.9 pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage
 16.10 preservation commission certified by the State Historic Preservation Office pursuant to
 16.11 Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply
 16.12 to a property located within a designated historic district if the property is listed as
 16.13 "noncontributing" in the official district designation or if the State Historic Preservation
 16.14 Office issues a determination that the property is noncontributing.

16.15 *[For text of subps 32 to 35, see M.R.]*

16.16 Subp. 36. **Land use conversion, including golf courses.** Items A and B designate
 16.17 the RGU for the type of project listed:

16.18 A. For golf courses, residential development where the lot size is less than five
 16.19 acres, and other projects resulting in the permanent conversion of 80 or more acres of
 16.20 agricultural, native prairie, forest, or naturally vegetated land, the local ~~government~~
 16.21 governmental unit shall be is the RGU, except that this subpart does not apply to agricultural
 16.22 land inside the boundary of the Metropolitan Urban Service Area established by the
 16.23 Metropolitan Council.

16.24 B. For projects resulting in the conversion of 640 or more acres of forest or
 16.25 naturally vegetated land to a different open space land use, the local ~~government~~
 16.26 governmental unit shall be is the RGU.

17.1 Subp. 36a. **Land conversions in shoreland.**

17.2 A. For a project proposing a permanent conversion that alters 800 feet or more
17.3 of the shoreline in a sensitive shoreland area or 1,320 feet or more of shoreline in a
17.4 nonsensitive shoreland area, the local governmental unit is the RGU.

17.5 B. For a project proposing a permanent conversion that alters more than 50 percent
17.6 of the shore impact zone if the alteration measures at least 5,000 square feet, the local
17.7 governmental unit is the RGU.

17.8 [For text of item C, see M.R.]

17.9 Subp. 37. **Recreational trails.** If a project listed in items A to F will be built on
17.10 state-owned land or funded, in whole or part, by grant-in-aid funds administered by the
17.11 DNR, the DNR is the RGU. For other projects, if a governmental unit is sponsoring the
17.12 project, in whole or in part, that governmental unit is the RGU. If the project is not sponsored
17.13 by a unit of government, the RGU is the local governmental unit. For purposes of this
17.14 subpart, "existing trail" means an established corridor in current legal use.

17.15 A. Constructing a trail at least ~~ten~~ 25 miles long on forested or other naturally
17.16 vegetated land for a recreational use ~~other than snowmobiling or cross-country skiing~~, unless
17.17 exempted by part 4410.4600, subpart 14, item D, ~~or constructing a trail at least 20 miles~~
17.18 ~~long on forested or other naturally vegetated land exclusively for snowmobiling or~~
17.19 ~~cross-country skiing.~~

17.20 B. Designating at least 25 miles of an existing trail for a new motorized recreational
17.21 use other than snowmobiling. When designating an existing motorized trail or existing
17.22 corridor in current legal use by motor vehicles, the designation does not contribute to the
17.23 25-mile threshold under this item. When adding a new recreational use or seasonal
17.24 recreational use to an existing motorized recreational trail, the addition does not contribute
17.25 to the 25-mile threshold if the treadway width is not expanded as a result of the added use.

18.1 In applying items A and B, if a proposed trail will contain segments of newly constructed
 18.2 trail and segments that will follow an existing trail but be designated for a new motorized
 18.3 use, an EAW must be prepared if the ~~sum~~ total length of the ~~quotients obtained by dividing~~
 18.4 ~~the length of the new construction by ten miles and the length of the existing but newly~~
 18.5 ~~constructed and newly designated trail by 25 miles, equals or exceeds one~~ segments is at
 18.6 least 25 miles.

18.7 *[For text of items C to F, see M.R.]*

18.8 **4410.4400 MANDATORY EIS CATEGORIES.**

18.9 *[For text of subp 1, see M.R.]*

18.10 Subp. 2. **Nuclear fuels and nuclear waste.** Items A to ~~D~~ E designate the RGU for
 18.11 the type of project listed:

18.12 A. For the construction or expansion of a nuclear fuel or nuclear waste processing
 18.13 facility, including fuel fabrication facilities, reprocessing plants, and uranium mills, the
 18.14 DNR ~~shall be~~ is the RGU for uranium mills; otherwise, the PCA ~~shall be~~ is the RGU.

18.15 B. For construction of a high level nuclear waste disposal site, the EQB ~~shall be~~
 18.16 is the RGU.

18.17 C. For construction or expansion of an independent spent-fuel storage installation,
 18.18 the Department of Commerce is the RGU.

18.19 ~~€~~ D. For construction of an away-from-reactor facility for temporary storage of
 18.20 spent nuclear fuel, the ~~Public Utilities Commission shall be~~ PUC is the RGU.

18.21 ~~Đ~~ E. For construction of a low level nuclear waste disposal site, the MDH ~~shall~~
 18.22 be is the RGU.

18.23 Subp. 3. **Electric-generating facilities.** For construction of a large electric power
 18.24 generating plant, as defined in Minnesota Statutes, section 216E.01, subdivision 5, the PUC

19.1 is the RGU. Environmental review ~~shall~~ must be conducted according to parts 7849.1000
19.2 to 7849.2100 and 7850.1000 to 7850.5600.

19.3 Subp. 4. **Petroleum refineries.** For construction of a new petroleum refinery facility,
19.4 the PCA ~~shall be~~ is the RGU.

19.5 Subp. 5. **Fuel conversion facilities.** Items A and B designate the RGU for the type
19.6 of project listed:

19.7 A. For construction of a new fuel conversion facility for ~~the conversion of~~
19.8 converting coal, peat, or biomass sources to gaseous, liquid, or solid fuels if ~~that~~ the facility
19.9 has the capacity to ~~utilize~~ use 250,000 dry tons or more per year of input, the PCA ~~shall be~~
19.10 is the RGU.

19.11 B. For construction of a new or expansion of a an existing fuel conversion facility
19.12 for the production of alcohol fuels ~~which that~~ would have or would increase ~~its~~ the facility's
19.13 capacity by 50,000,000 or more gallons per year of alcohol produced if the facility will be
19.14 in the seven-county Twin Cities metropolitan area or by 125,000,000 or more gallons per
19.15 year of alcohol produced if the facility will be outside the seven-county Twin Cities
19.16 metropolitan area, the PCA ~~shall be~~ is the RGU.

19.17 C. A mandatory EIS is not required for projects described in Minnesota Statutes,
19.18 section 116D.04, subdivision 2a, paragraph (c).

19.19 Subp. 6. **Transmission lines.** For construction of a high-voltage transmission line
19.20 and associated facilities, as defined in part 7850.1000, the PUC is the RGU. Environmental
19.21 review ~~shall~~ must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000
19.22 to 7850.5600.

19.23 [For text of subp 7, see M.R.]

19.24 Subp. 8. **Metallic mineral mining and processing.** Items A ~~to C~~ and B designate the
19.25 RGU for the type of project listed:

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

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

20.6 C. ~~B.~~ For construction of a new metallic mineral processing facility, the DNR
 20.7 ~~shall be~~ is the RGU.

20.8 Subp. 9. **Nonmetallic mineral mining.** Items A to C designate the RGU for the type
 20.9 of project listed:

20.10 A. For development of a facility for the extraction or mining of peat which will
 20.11 utilize 320 acres of land or more during its existence, the DNR ~~shall be~~ is the RGU.

20.12 B. For development of a facility for the extraction or mining of sand, gravel, stone,
 20.13 or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or
 20.14 more to a mean depth of ten feet or more during its existence, the local ~~government~~
 20.15 governmental unit ~~shall be~~ is the RGU.

20.16 *[For text of item C, see M.R.]*

20.17 *[For text of subp 10, see M.R.]*

20.18 Subp. 11. **Industrial, commercial, and institutional facilities.** Items A and B
 20.19 designate the RGU for the type of project listed, except as provided in items C and D:

20.20 A. For construction of a new or expansion of an existing warehousing or light
 20.21 industrial facility equal to or in excess of the following thresholds, expressed as gross floor
 20.22 space, the local governmental unit is the RGU:

20.23 (1) unincorporated area, 375,000 square feet;

20.24 (2) third or fourth class city, 750,000 square feet;

21.1 (3) second class city, 1,000,000 square feet; and

21.2 (4) first class city, 1,500,000 square feet.

21.3 B. For construction of a new or expansion of an existing industrial, commercial,
21.4 or institutional facility, other than a warehousing or light industrial facility, equal to or in
21.5 excess of the following thresholds, expressed as gross floor space, the local ~~government~~
21.6 governmental unit shall be is the RGU:

21.7 *[For text of subitems (1) and (2), see M.R.]*

21.8 (3) second class city, 750,000 square feet; and

21.9 (4) first class city, 1,000,000 square feet.

21.10 *[For text of items C and D, see M.R.]*

21.11 Subp. 12. **Hazardous waste.** Items A to C designate the RGU for the type of project
21.12 listed:

21.13 *[For text of items A and B, see M.R.]*

21.14 C. For construction or expansion of a facility for hazardous waste processing
21.15 facility storage or treatment, if the facility is located in a water-related land use management
21.16 district; or in an area characterized by soluble bedrock, the PCA ~~shall be~~ is the RGU.

21.17 Subp. 13. **Solid waste.** Items A to E designate the RGU for the type of project listed:

21.18 A. For construction of a mixed municipal solid waste land disposal facility for
21.19 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

21.20 B. For construction or expansion of a mixed municipal solid waste land disposal
21.21 facility in a water-related land use management district; or in an area characterized by soluble
21.22 bedrock, the PCA is the RGU.

22.1 C. For construction or expansion of a mixed municipal solid waste energy recovery
 22.2 facility or incinerator; or ~~the utilization use~~ of an existing facility for the combustion of
 22.3 mixed municipal solid waste or refuse-derived fuel; with a permitted capacity of 250 ~~or~~
 22.4 ~~more tons~~ or more per day of input, the PCA is the RGU.

22.5 D. For construction or expansion of a mixed municipal solid waste compost facility
 22.6 or a refuse-derived fuel production facility when the construction or expansion results in a
 22.7 facility with a permitted capacity of 500 tons or more ~~tons~~ per day of input, the PCA is the
 22.8 RGU.

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

22.12 *[For text of subps 14 and 14a, see M.R.]*

22.13 Subp. 15. **Airport runway projects.** For construction of a paved and lighted airport
 22.14 runway of 5,000 feet of length or greater, the DOT or local ~~government~~ governmental unit
 22.15 ~~shall be~~ is the RGU.

22.16 Subp. 16. **Highway projects.** For construction of a road on a new location which is
 22.17 four or more lanes in width and two or more miles in length, the DOT or local ~~government~~
 22.18 governmental unit ~~shall be~~ is the RGU.

22.19 *[For text of subps 17 and 18, see M.R.]*

22.20 Subp. 19. **Marinas.** For construction of a new or expansion of an existing marina,
 22.21 harbor, or mooring project on a state or federally designated wild and scenic river, the local
 22.22 ~~government~~ governmental unit ~~shall be~~ is the RGU.

22.23 Subp. 20. **~~Wetlands and Public waters~~ and public water wetlands.** For projects
 22.24 that will eliminate a public water or public waters wetland, the DNR or the local ~~government~~
 22.25 governmental unit ~~shall be~~ is the RGU.

23.1 [For text of subps 21 to 24, see M.R.]

23.2 Subp. 25. ~~Incineration of Incinerating~~ **Incineration of Incinerating wastes containing PCBs.** For the incineration
23.3 of incinerating wastes containing ~~PCB's~~ PCBs for which an EIS is required by Minnesota
23.4 Statutes, section 116.38, subdivision 2, the PCA ~~shall be~~ is the RGU.

23.5 [For text of subps 26 to 28, see M.R.]

23.6 **4410.4600 EXEMPTIONS.**

23.7 [For text of subps 1 to 9, see M.R.]

23.8 Subp. 10. **Industrial, commercial, and institutional facilities.** The following projects
23.9 are exempt:

23.10 [For text of item A, see M.R.]

23.11 B. ~~The~~ Construction of a warehousing, light industrial, commercial, or institutional
23.12 facility with less than 4,000 square feet of gross floor space, and with associated parking
23.13 facilities designed for 20 vehicles or less, ~~is exempt~~ fewer.

23.14 C. Construction of a new parking facility for less fewer than 100 vehicles if the
23.15 facility is not located in a shoreland area, ~~a delineated flood plain~~ floodplain, ~~a~~ state or
23.16 federally designated wild and scenic rivers district, the Minnesota River Project Riverbend
23.17 area, or the Mississippi headwaters area ~~is exempt~~.

23.18 [For text of subp 11, see M.R.]

23.19 Subp. 12. **Residential development.** The following projects are exempt:

23.20 A. Construction of a sewered residential development, of:

23.21 (1) ~~less~~ fewer than ten units in an unincorporated area;₂

23.22 (2) ~~less~~ fewer than 20 units in a third or fourth class city;₂

23.23 (3) ~~less~~ fewer than 40 units in a second class city;₂ or

24.1 (4) ~~less fewer~~ than 80 units in a first class city, no part of which is within a
 24.2 shoreland area, ~~a delineated flood plain~~ floodplain, a state or federally designated wild and
 24.3 scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi
 24.4 headwaters area, ~~is exempt.~~

24.5 *[For text of item B, see M.R.]*

24.6 C. Construction of a single residence or multiple residence with four dwelling
 24.7 units or ~~less fewer~~ and accessory appurtenant structures and utilities ~~is exempt.~~

24.8 *[For text of subp 13, see M.R.]*

24.9 Subp. 14. **Highway projects.** The following projects are exempt:

24.10 A. Highway safety improvement projects ~~are exempt.~~

24.11 B. Installation of traffic control devices, individual noise barriers, bus shelters
 24.12 and bays, loading zones, and access and egress lanes for transit and paratransit vehicles ~~is~~
 24.13 ~~exempt.~~

24.14 C. Modernization of an existing roadway or bridge by resurfacing, restoration, or
 24.15 rehabilitation that may involve ~~the acquisition of~~ acquiring minimal amounts of right-of-way
 24.16 ~~is exempt.~~

24.17 D. Roadway landscaping, ~~or~~ or construction of bicycle and pedestrian lanes, paths,
 24.18 and facilities within an existing right-of-way ~~are exempt.~~

24.19 E. Any stream diversion, realignment, or channelization within the right-of-way
 24.20 of an existing public roadway associated with bridge or culvert replacement ~~is exempt.~~

24.21 F. Reconstruction or modification of an existing bridge structure on essentially
 24.22 the same alignment or location that may involve ~~the acquisition of~~ acquiring minimal
 24.23 amounts of right-of-way ~~is exempt.~~

24.24 *[For text of subps 15 to 17, see M.R.]*

25.1 Subp. 18. **Agriculture and forestry.** The following projects are exempt:

25.2 A. Harvesting of timber for maintenance purposes is ~~exempt~~.

25.3 B. Public and private forest management practices, other than clearcutting or the
25.4 application of applying pesticides, that involve less than 20 acres of land, ~~are exempt~~.

25.5 *[For text of subps 19 to 26, see M.R.]*

25.6 Subp. 27. **Recreational trails.** The projects listed in items A to ~~F~~ H are exempt. For
25.7 purposes of this subpart, "existing trail" means an established corridor in current legal use.

25.8 *[For text of items A to F, see M.R.]*

25.9 G. Paving a trail located on an abandoned railroad grade retired in accordance
25.10 with Code of Federal Regulations, title 49, part 1152.

25.11 H. Adding a new motorized use to an existing motorized trail or trail segment
25.12 where the trail is located only on an abandoned railroad grade retired in accordance with
25.13 Code of Federal Regulations, title 49, part 1152.

25.14 **4410.5200 EQB MONITOR; PUBLICATION REQUIREMENTS.**

25.15 Subpart 1. **Required notices.** Governmental units are required to publish notice of
25.16 the items listed in items A to R in the EQB Monitor, except that this part constitutes a request
25.17 and not a requirement with respect to federal agencies.

25.18 A. When a project has been noticed ~~pursuant~~ according to item D, separate notice
25.19 of individual permits required by that project need not be made unless changes in the project
25.20 are proposed that will involve new and potentially significant environmental effects not
25.21 considered previously. No decision granting a permit application for which notice is required
25.22 to be published by this part ~~shall be~~ is effective until 30 days following publication of the
25.23 notice.

25.24 *[For text of subitem (1), see M.R.]*

26.1 (2) For notice of public sales of permits for or leases to mine iron ore,
 26.2 copper-nickel, or other minerals on state-owned or administered mineral rights, Minnesota
 26.3 Statutes, sections 93.16, and 93.335, ~~and 93.351~~, and part 6125.0500, the DNR is the
 26.4 permitting authority.

26.5 *[For text of subitems (3) and (4), see M.R.]*

26.6 *[For text of items B to R, see M.R.]*

26.7 *[For text of subps 2 and 3, see M.R.]*

26.8 **4410.7904 LICENSING OF EXPLORERS.**

26.9 An applicant ~~shall~~ must comply with Minnesota Statutes, section ~~156A.071~~ 103I.601,
 26.10 subdivision 2, and parts 4727.0400 to ~~4727.0900~~ 4727.0860, relating to the regulation of
 26.11 exploratory boring.

26.12 **4410.7906 PROCEDURE FOR THE ISSUANCE OF A ISSUING DRILLING**
 26.13 **PERMIT.**

26.14 *[For text of subp 1, see M.R.]*

26.15 Subp. 2. **Content of an application for drilling permit.** An application for a drilling
 26.16 permit ~~shall~~ must be filed by the applicant with the ~~board~~ EQB and ~~shall~~ must include:

26.17 *[For text of items A and B, see M.R.]*

26.18 C. the applicant's explorer's license, issued under Minnesota Statutes, section
 26.19 ~~156A.071~~ 103I.601, subdivision 2, and parts 4727.0400 to ~~4727.0900~~ 4727.0860;

26.20 *[For text of items D to J, see M.R.]*

26.21 *[For text of subps 3 and 4, see M.R.]*

27.1 **4410.7926 ~~ABANDONMENT OF~~ ABANDONING EXPLORATORY BORINGS.**

27.2 ~~Pursuant~~ According to Minnesota Statutes, section 116C.724, subdivision 2, clause
27.3 (1), any abandonment, whether temporary or permanent, ~~shall~~ must comply with the state
27.4 drilling and drill hole abandonment and restoration rules governing exploratory boring under
27.5 Minnesota Statutes, chapter ~~156A~~ 103I, and parts 4727.1000 to ~~4727.1300~~ 4727.1250.

27.6 **TERM CHANGE.** The term "shall be the RGU" is changed to "is the RGU" wherever it
27.7 appears in Minnesota Rules, chapter 4410.

Environmental Quality Board

STATEMENT OF NEED AND REASONABLENESS

In the Matter of Proposed Revisions of Minnesota Rule Chapters
4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904,
4410.7906, 4410.7926, and 4410.4600

Revisor Number ID: RD-04157

The *State Register* notice, this Statement of Need and Reasonableness (SONAR) and the proposed rule will be available during the public comment period at the Environmental Quality Board (EQB) website <http://www.eqb.state.mn.us>

Alternative Format:

Upon request, this document can be made available in an alternative format.

To make a request, contact Erik Cedarleaf Dahl at the Environmental Quality Board, 520 Lafayette Road North, St. Paul, MN 55155; telephone 651-757-2364; or e-mail erik.dahl@state.mn.us

Notice Regarding the Excerpted Language in this SONAR:

The EQB has excerpted language from the draft rules and included those excerpts in this SONAR at the point that the reasonableness of each provision of the rules is discussed. This was done to assist the reader in connecting the rule language with its justification. However, there may be slight discrepancies between the excerpted language and the rule amendments as they are proposed. The EQB intends that the rule language published in the *State Register* at the time the rules are formally proposed is the rule language that is justified in this SONAR.

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Acronyms or abbreviations

Administrative Procedures Act	APA
Administrative Law Judge	ALJ
Chapter	ch.
Code of Federal Regulations	CFR
Department of Agriculture	MDA
Department of Natural Resources	DNR
Department of Transportation	MnDOT
Environmental Assessment Worksheet	EAW
Environmental Impact Statement	EIS
Environmental Quality Board	EQB or Board
Local Governmental Unit	LGU
Minnesota Environmental Policy Act	MEPA
Minnesota Rules	Minn. Rules
Minnesota Statutes	Minn. Stat.
Minnesota Management and Budget	MMB
Minnesota	MN
Minnesota Association of Townships	MAT
National Environmental Policy Act	NEPA
Office of Administrative Hearings	OAH
Pollution Control Agency	PCA
Public Utilities Commission	PUC
Responsible Governmental Unit	RGU
Section	§
Statement of Need and Reasonableness	SONAR
Soil and Water Conservation District(s)	SWCD
Watershed Management Organization(s)	WMO
Wetland Conservation Act	WCA

I. Introduction and background

A. Introduction

The Environmental Quality Board (EQB or Board) is proposing amendments to rules relating to environmental review. This rulemaking will amend rules governing mandatory categories for environmental assessment worksheets (EAW) and environmental impact statements (EIS), definitions to support those categories, responsible governmental unit (RGU) determinations, and categories of exemptions from environmental review. (Revisor's ID Number R-04157)

In this rulemaking the EQB is also addressing two previously initiated rulemaking efforts.

- Rules relating to silica sand projects. These amendments include the mandatory categories related to mining facilities, transfer facilities, processing facilities and storage facilities related to silica sand projects. These amendments will adopt the threshold levels for silica sand projects established by the Minnesota Legislature through [Laws of Minnesota 2013, Chapter 114, Article 4, Section 92](#). In 2014, the EQB began rulemaking to address silica sand projects (Revisor's ID Number RD-4305).
- Rules relating to Recreational trails. These amendments include thresholds for different types of recreational trails that require preparation of an EAW. In the 2015 Minnesota legislative session, [Laws of Minnesota 2015, Chapter 4, Article 5, Section 33](#), the Minnesota Legislature passed legislation changing the EAW thresholds applicable to motorized trails. In 2015, the EQB began rulemaking to address Recreational trails projects. (Revisor's ID Number RD-4381).

This Statement of Need and Reasonableness (SONAR) explains the need for and reasonableness of proposed amendments to the environmental review rules, specifically Minnesota Rules (Minn. R.) part(s) [4410.0200, 4410.0500, 4410.4300, 4410.4400, and 4410.4600](#) and satisfies the requirements of Minnesota Statutes (Minn. Stat.) section (§) 14.131 and Minn. R. part 1400.2070.

B. Background

In 1969, the United States Congress enacted the National Environmental Policy Act, creating a program for assessing the environmental impacts of Federal actions. In 1973, Minnesota followed suit and passed the Minnesota Environmental Policy Act (MEPA). MEPA established the State's Environmental Review program and created the Environmental Quality Board to govern and implement its requirements. The Environmental Quality Board consists of a Governor's representative acting as chair, nine state agency heads, and eight citizen members (one citizen member from each congressional district).

EQB Member Agencies:

- Board of Water and Soil Resources
- Department of Administration
- Department of Agriculture
- Department of Commerce
- Department of Employment and Economic Development
- Department of Health
- Department of Natural Resources
- Department of Transportation
- Pollution Control Agency

The MEPA environmental review process was designed to investigate public or private projects that have the potential to significantly impact the environment. The process is intended to disclose information to

project proposers, decision-makers and the public through a systematic process and works in conjunction with permits and other approvals.

Environmental review is mandatory for projects that meet certain thresholds. Each mandatory category assigns a responsible governmental unit (RGU) to conduct environmental review and uses a standard form. Mandatory review can either be in the form of an Environmental Assessment Worksheet (EAW) or an Environmental Impact Statement (EIS). The types of projects subject to these environmental review requirements are generally referred to as the mandatory EAW categories (441.4300) and mandatory EIS categories (4410.4400). The lists of projects that are exempt for these requirements are referred to as "exemptions categories" or sometimes just "exemptions."

Mandatory categories rulemaking

In 2012, the Minnesota Legislature, under the [Laws of Minnesota for 2012, Chapter 150, Article 2, Section 3](#), directed the EQB, the Pollution Control Agency (PCA), the Department of Natural Resources (DNR), and the Department of Transportation (DOT) to review mandatory categories. Part of the review included an analysis of whether the mandatory category should be modified, eliminated, or unchanged based on its relationship to existing permits or other federal, state, or local laws or ordinances. This review resulted in the [Mandatory Environmental Review Categories Report](#) (Report: Exhibit #1); finalized by the EQB, PCA, DNR, and the DOT on February 13, 2013.

Additionally, [2015 Special Session Law, Chapter 4, Article 3, Section 2](#) direct the EQB to work on activities that streamline the environmental review process. The changes proposed in the mandatory categories rulemaking include amendments to the mandatory EAW, EIS and exemption categories, and their supporting definitions. The amendments are based on the Report while focusing on streamlining environmental review by balancing regulatory efficiency and environmental protection.

Silica sand projects rulemaking

In 2013, the Minnesota Legislature set new, temporary, thresholds for when environmental review of silica sand projects must occur. The interim mandatory categories for silica sand projects are listed under [Minn. Stat. § 116C.991](#) and were established in accordance with [Laws of Minnesota 2013, chapter 114, article 4, section 105](#).

In the same section of the 2013 laws, the Legislature directed the EQB to amend its environmental review rules adopted under Minn. Stat. 116D to address silica sand projects. The legislation allowed the EQB, through its rulemaking process, to determine "whether the requirements should be different for different geographic areas of the state." The rulemaking was exempted from Minn. Stat. section 14.125; however, the interim thresholds for silica sand projects would remain in place until July 1, 2015.

The EQB initiated the silica sand project rulemaking (R-04157) in 2014 with the formation of the Silica Sand Advisory Panel. The public engagement and technical input generated by this group is identified in the Public Participation section II. of this SONAR.

In 2015, the Minnesota Legislature updated Minn. Stat. 116.991 [Laws of Minnesota 2015, Chapter 4, Article 4, Section 121](#), by removing the July 1, 2015 deadline and instead requiring environmental review until rules are adopted.

116C.991 ENVIRONMENTAL REVIEW; SILICA SAND PROJECTS.

(a) ~~Until July 1, 2015~~ a final rule is adopted pursuant to Laws 2013, chapter 114, article 4, section 105, paragraph (d), an environmental assessment worksheet must be prepared for any silica sand project that meets or exceeds the following thresholds,.....

The EQB determined that it would conduct rulemaking (R-04157) to adopt the original 2013 thresholds for environmental review of silica sand projects, as set by the Legislature. In 2017, [Laws of Minnesota 2017, Chapter 93, article 1, Section 105](#) the Legislature made silica sand rulemaking optional. The EQB determined that because there is a continuing potential for significant environmental effects from silica sand projects in Minnesota it is needed and reasonable to have the mandatory category thresholds for silica sand project within the environmental review Mandatory Category rules.

Sec. 105.

RULES; SILICA SAND.

- (a) *The commissioner of the Pollution Control Agency shall ~~shall~~ may adopt rules pertaining to the control of particulate emissions from silica sand projects. The rulemaking is exempt from Minnesota Statutes, section 14.125.*
- (b) *The commissioner of natural resources shall adopt rules pertaining to the reclamation of silica sand mines. The rulemaking is exempt from Minnesota Statutes, section 14.125.*
- (c) *By January 1, 2014, the Department of Health shall adopt an air quality health-based value for silica sand.*
- (d) *The Environmental Quality Board shall ~~shall~~ may amend its rules for environmental review, adopted under Minnesota Statutes, chapter 116D, for silica sand mining and processing to take into account the increased activity in the state and concerns over the size of specific operations. The Environmental Quality Board shall consider whether the requirements of Minnesota Statutes, section 116C.991, should remain part of the environmental review requirements for silica sand and whether the requirements should be different for different geographic areas of the state. The rulemaking is exempt from Minnesota Statutes, section 14.125.*

Recreational trails projects rulemaking

To conform to the 2015 legislative directive (below), the EQB is amending Minn. R. 4410.4300, subpart 37. The legislation directing the specific environmental review threshold and authorizing the changes to the EAW thresholds for motorized trails reads:

Minn. Laws 2015, ch. 4, section 33. RULEMAKING; MOTORIZED TRAIL ENVIRONMENTAL REVIEW.

- a. The Environmental Quality Board shall amend Minnesota Rules, chapter 4410, to allow the following without preparing a mandatory environmental assessment worksheet:
 - 1. constructing a Recreational trails less than 25 miles long on forested or other naturally vegetated land for a recreational use;
 - 2. adding a new motorized recreational use or a seasonal motorized recreational use to an existing motorized Recreational trails if the treadway width is not expanded as a result of the added use; and
 - 3. designating an existing, legally constructed route, such as a logging road, for motorized Recreational trails use.
- b. The board may use the good cause exemption rulemaking procedure under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

A summary of the good-cause rulemaking for the recreational trails category as well as the two judge's orders is available in **Exhibit #3**.

II. Public participation and stakeholder involvement

The EQB took the following steps to develop the draft rules, notify interested parties about the draft rules, and to solicit their input on rule language:

The EQB provided the statutorily required notifications to the public.

- A. Three Request for Comments were published in the *State Register*:
 - July 22, 2013
 - November 9, 2015
 - October 24, 2016
- B. The EQB has a self-subscribing rule-specific mailing list at: <https://www.eqb.state.mn.us/contact> which EQB used to send rule-related information to interested and affected parties.
- C. The EQB sent a GovDelivery notice and a notice the *EQB Monitor* encouraging interested and affected parties to register to receive rulemaking information via the self-subscribing rule-specific mailing list.
- D. The EQB established a rule-specific webpage: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>, which was used to disseminate rule-related information to interested and affected parties. (Prior to combining the silica sand projects rulemaking and the Recreational trails projects rulemaking with the mandatory categories rulemaking, each rulemaking had a rule-specific webpage. After the rulemakings were combined, all webpages directed viewers to the mandatory categories webpage for rulemaking information.)
- E. As part of the earlier silica sand rulemaking project, the EQB conducted the following activities to engage and inform interested parties and to provide the opportunity to register for future GovDelivery notices regarding this rule.
 - EQB staff traveled to eighteen local governments around the State of Minnesota (every county with silica sand facilities) to interview local government staff on issues related to silica sand and the implementation of the potential rules.
 - EQB sent out a survey (<https://www.eqb.state.mn.us/sites/default/files/documents/Sand%20survey%20for%20LGU%27s%20April%2015%20EQB.pdf>) on preliminary silica sand rule concepts to counties, cities and townships in Minnesota via three organizations:
 - 1) Minnesota Association of Counties (18 Counties)
 - 2) Minnesota Association of Cities
 - 3) Minnesota Association of Townships (745 Townships)

The survey was utilized to receive feedback on and refine rule concepts, designated RGUs, and to develop the discussion of need and reasonable in the SONAR.

- EQB released a preliminary draft of the proposed silica sand rule language on September 5, 2014 and presented the preliminary draft of the proposed rules to the Board at the public board meeting on September 17, 2014. This was an opportunity to provide an informal comment on the EQB rules.

- EQB staff presented an updated preliminary draft of the proposed rules to the EQB Board on November 18, 2015. This was another opportunity to provide an informal comment on the EQB rules and process.
- A Silica Sand Rulemaking Advisory Panel (SSRAP) was created:
 - An application process selected SSRAP members. A November 2013 request for interest in a silica sand rule advisory panel (advisory panel) was released by PCA and DNR.
 - The focus of the advisory panel was to provide feedback and advise PCA, DNR and EQB on issues related to rule language, economic and environmental impacts and administrative elements of rules.
 - A 15-member advisory panel was established representing public and private statewide interests. Membership included citizens, industries and local government.

Local government representatives
Keith Fossen, Hay Creek Township
Allen Frechette, Scott County
Kristi Gross, Goodhue County and Minnesota Association of County Planning and Zoning Administrators
Beth Proctor, Lime Township
Lynn Schoen, City of Wabasha
Citizen representatives
Jill Bathke, resident of Hennepin County
Katie Himanga, resident of Lake City
Jim McIlrath, resident of Goodhue County
Vince Ready, resident of Winona County
Kelley Stange, resident of Houston County
Industry representatives
Doug Losee, Unimin Corp.
Tom Rowekamp, IT Sands LLC
Aaron Scott, Fairmount Minerals
Brett Skilbred, Jordan Sands and Industrial Sand Council
Tara Wetzel, Mathy Construction and Aggregate and Ready Mix Association

- On January 13, 2014, PCA produced a media release announcing the membership of the advisory panel. Examples of media coverage include:
 - CBS Local, January 13, 2014: Minn. names member of Silica Sand Advisory Panel.
 - St. Paul, Pioneer Press, January 13, 2014: Minnesota: Silica sand advisory panel appointed.
 - Mankato Free Press, January 13, 2014: Three from area named to silica rulemaking panel.
- On January 28, 2014, DNR announced, via GovDelivery to 727 subscribers, the date of the first SSRAP meeting.
- The advisory panel met 12 times between January 2014 and February 2015.
 - Staff from Management Analysis & Development facilitated these meetings.
 - SSRAP meetings were open to the public.
 - All but the first meeting was held in Oronoco, MN, a central location for members of the panel and potentially affected persons.
 - All but the first meeting was recorded via WebEx, which allowed the public to remotely observe SSRAP meetings.

- WebEx recordings of each meeting were posted viewing on the Environmental Quality Board's website: (<https://www.eqb.state.mn.us/content/silica-sand-rule-advisory-panel>). Meeting handouts and presentation slides are also available on this web page.
- F. The EQB hosted informational meetings regarding the mandatory categories rulemaking, open to the public, but specifically focused on implications to LGUs. These meetings were held on March 18, 21, and 22, 2016, at the EQB offices in St. Paul, MN and via WebEx (which offers audio and visual interactions with participants from any location with internet access).
 - EQB staff have presented information regarding the rulemaking to groups that have made the request:
 - The Association of Minnesota Counties Annual Meeting on June 3, 2016.
 - The Board of Water and Soil Resources: Drainage Work Group on July 14, 2016.
 - The EQB released a preliminary draft of the proposed rule language on June 20, 2016 and provided an informal comment period through August 5, 2016. EQB sent a GovDelivery notice to interested parties as well as posted preliminary language on the EQB rulemaking web page and sought informal comment. Informal comments were reviewed.
 - On June 28, 2016, the EQB hosted a Mandatory Categories Rulemaking Open House and Workshop at the EQB offices in St. Paul, MN and via WebEx (which offers audio and visual interactions with participants from any location with internet access).
 - EQB staff presented preliminary rule concepts to the Environmental Rules Advisory Panel (ERAP) in June 2017.
- G. EQB staff presented a preliminary draft of the proposed rule language at the August 15, 2018 public EQB meeting. The minutes from the Board meeting are available at EQB's website here: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>
- H. EQB staff presented the draft proposed rules language at the September 19, 2018 public EQB meeting. The minutes from the Board meeting are available at EQB's website here: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>
- I. The notifications required under Minn. Stat. ch. 14 will be provided at the time the amendments are proposed. The EQB intends to publish a dual notice for the proposed amendments in the *State Register* and to provide additional notice of its activities to all parties who have registered their interest in receiving such notice. Details of this notice plan are provided in section VII of this SONAR.

III. Statutory authority

The Board's statutory authority to adopt the rule amendments is given in the Minnesota Environmental Policy Act, [Minn. Stat. 116D.04, subdivisions 2a\(b\) and 5a \(Exhibit #4\)](#) and [Minn. Stat. 116C.04](#) (Exhibit #4). Under these provisions, the Board has the necessary statutory authority to adopt the proposed rules amendments. In particular, [Minn. Stat. 116D.04, subdivision 2a\(b\)](#) (Exhibit #4) directs the Board to establish mandatory categories for EAWs, EISs and exemptions by rule.

This rulemaking will also include the adoption of Silica sand project thresholds in accordance with the authority provided in [Laws of Minnesota 2013, Chapter 114, Article 4, Section 91](#). The Board's authority to establish thresholds for different types of Recreational trails that require preparation of an EAW is established in the 2015 legislative session, [Laws of Minnesota 2015, Chapter 4, Article 5, Section 33](#).

IV. Statement of general need

Minn. Stat. ch. 14 requires the EQB to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the EQB must not be arbitrary or capricious in proposing rules. However, to the extent that need and reasonableness are separate, “need” has come to mean that a problem exists that requires administrative attention, and “reasonableness” means that the solution proposed by the EQB is appropriate. The basis of the need for this rule is described here; reasonableness, both general and specific, is addressed in the Reasonableness section below.

The proposed amendments to Minn. R. ch. 4410 are needed to:

- A. Fulfill the recommendations found in the 2013 Mandatory Environmental Review Categories Report (Report) (Exhibit #1).
- B. Streamline environmental review through both technical and housekeeping changes.
- C. Adopt thresholds specific to Silica sand projects and to amend thresholds specific to Recreational trails as directed by the Minnesota Legislature in 2013 and 2015.

The desired outcome is to make environmental review more efficient by adding clarity and specificity and thereby reducing ambiguous or confusing application of the environmental review rules. The proposed changes are needed, both to increase certainty for project proposers, RGUs and the public, and to assure that certain proposed projects are receiving environmental review.

Need to fulfill the recommendations of the interagency 2013 Report. The Report proposed changes to the mandatory EAW, EIS and exemption categories, and their supporting definitions. These proposed changes came from those state agencies and LGUs that have extensive experience in the day-to-day application of the rule.

Need to streamline environmental review. Many of the proposed rule amendments are technical and housekeeping changes to the existing rules, which reflect the changes to corresponding Minnesota rules and statutes. The proposed rule amendments include updates to the thresholds in EAW and EIS categories to reflect the EQB’s experience in applying the process. These changes are needed because the majority of the EAW and EIS categories were established in the 1980’s and 1990’s and do not reflect the modern regulatory system or project types. Rule updates are needed to keep the rules relevant and more easily understood by project proposers, RGUs and citizens.

The need for these amendments is further supported by the 2015 Minnesota Legislature which set aside funding for EQB to “streamline the environmental review.” There is a need to provide consistency with other state rules and statutes to reduce delay and confusion for project proposers, RGUs and the public by clearly establishing whether the environmental review rules must be applied.

Furthermore, the proposed changes need to address updates to the definitions and project specific terminology to better reflect changes in the corresponding regulatory programs. These definitions and terms are used by project proposers, RGUs and the public while working on environmental review. The proposed amendments are needed to provide clear and consistent rules that will clarify the environmental review process.

Need to adopt thresholds for silica sand projects and recreational trails. The substantive amendments include, as directed by the Minnesota Legislature in 2013 and 2015, establishing new thresholds specific to silica sand projects and amending existing thresholds specific to Recreational trails. Silica sand thresholds are needed to address the potential for significant environmental effects from silica sand projects in Minnesota. The amendments to the Recreational trail thresholds are needed to fulfill threshold language directed by the Legislature.

V. Reasonableness of the amendments

A. General reasonableness

Minn. Stat. ch. 14 requires the EQB to explain the facts establishing the reasonableness of the proposed rule amendments. “Reasonableness” means that there is a rational basis for the proposed action.

Legislative directive. These amendments are generally reasonable because in three separate instances the MN legislature has requested that these changes be made.

In 2013, the EQB, along with other state agencies, completed the Mandatory Environmental Review Categories Report (Report), directed by the 2012 Minnesota legislature (Laws of Minnesota for 2012, Chapter 150, Article 2, Section 3). The Report provided an analysis of whether the mandatory categories should be modified, eliminated, or unchanged, based on their relationship to existing permits or other federal, state, or local laws or ordinances.

- Pursuant to a legislative charge to support environmental review efficiency and streamline the environmental review process, (2015 Special Session Law, Chapter 4, Article 3, Section 2), the EQB is updating MN Rules ch. 4410 in this rulemaking. Specifically, the proposed amendments focus on streamlining:
 - mandatory EAW and EIS categories that were identified in the 2013 Report; and
 - categories identified by the public during rulemaking comment periods.
- The proposed amendments also include legislatively directed changes, as follows:
 - changes to the recreational trails mandatory categories include specific, required language, and
 - changes to categories related to silica sand were the result of recommendations from a stakeholder engagement initiative and Legislative thresholds.

The proposed amendments are generally reasonable to draw clear lines as to when environmental review is necessary – by adding specificity to the definitions, the project types and thresholds in order to provide clarity to the stakeholders as to whether environmental review is required.

Non-substantive changes. The proposed technical and housekeeping changes to the EAW and EIS categories, which reflect the changes to corresponding Minnesota rules and statutes, are reasonable to update outdated aspects of the rules. Other changes to EAW and EIS categories’ thresholds are reasonably based on the many years of rule application and experience from the practitioners.

B. Specific reasonableness

Throughout this section, to distinguish the rule amendments from the justification, the rules are indented. Amendments to the existing rules are shown by ~~strike~~ for deletion and underlining for new language. The rules are presented in the order that the existing rules now appear in chapter 4410.

1. Part 4410.0200, subpart 1b. Acute hazardous waste.

Acute hazardous waste. "Acute hazardous waste" has the meaning given in part 7045.0020.

Justification.

Currently, Minn. Rules ch. 4410 does not define acute hazardous waste. Providing a definition is reasonable to determine if environmental review is required for a proposed project. The proposed definition is consistent with the definition of the term in other rules ([Minn. Rules 7045.0020](#)) and helps the public with review when environmental review documents and permits are co-noticed.

2. Part 4410.0200, subpart 5a. Auxiliary lane.

Auxiliary lane. "Auxiliary lane" means the portion of the roadway that:

- A. adjoins the through lanes for purposes such as speed change, turning, storage for turning, weaving, and truck climbing; and
- B. supplements through-traffic movement.

Justification.

Auxiliary lane is a new definition. The term is not currently defined in chapter 4410, but is now used in the mandatory EAW categories for highway projects (4410.4300 subpart 22). The addition of this definition helps RGUs identify the types of roads that are not included in the threshold calculation.

The proposed definition of "auxiliary lane" is generally consistent with the [MnDOT Road Design Manual \(Section 4-3.02\)](#) and the 2011 American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets. (Chapter 1076). This AASHTO publication is known in the industry as the "Green Book." Minnesota standards and policies adhere closely to policies established by AASHTO. Numerous AASHTO publications provide background on accepted highway design practices and provide guides on details not covered in the DOT manual and provide further in-depth explanation of road design concepts. (Section 18.01)

Both the MnDOT Manual and the AASHTO Green Book include the phrase "and other purposes" in the definition of "auxiliary lane." This phrase has been excluded from the definition of auxiliary lane proposed for part 4410.0200, subpart 5a because it is vague. Because a reasonable reader will not know what "other purposes" refers to, it is reasonably omitted from the proposed rule. The proposed definition of auxiliary lane is limited to just the lanes listed in the definition; i.e., speed change, turning, storage for turning, weaving, and truck climbing. The change is reasonable to clarify the types of auxiliary lanes that would be included in the exclusion for ease of administration and interpretation.

The term "passing lanes," a type of auxiliary lane identified in the definition used by MnDOT and the AASHTO Green Book, is not included in the proposed amendment to the definition of auxiliary lane. Passing lanes are not considered "auxiliary lanes," and are included as lanes in the two-mile threshold because passing lanes can be considered and constructed as one project. Passing lanes can continue for

several miles in length when the lanes are staggered, a situation that occurs particularly in the rural areas of Minnesota. As provided in the definition, auxiliary lanes serve specific purposes for shorter distances and are typically constructed within the existing right-of-way in urban settings.

3. Part 4410.0200, subpart 9b. Compost facility.

~~Compost facility. "Compost facility" has the meaning given in part 7035.0300, means a facility use to compost or co-compost solid waste, including:~~

- ~~a) Structures and processing equipment used to control drainage or collect and treat leachate; and~~
- ~~b) Storage areas for incoming waste, the final product, and residuals resulting from the composting process.~~

Justification.

Replacing the current definition with a reference to an existing definition provides greater clarity and consistency in determining if environmental review is required for a proposed project. Referencing other applicable State regulatory requirements ([Minn. Rule 7035.0300](#)) in the definition ensures that Minn. Rules ch. 4410 will stay current when other applicable State regulatory requirements are updated. Using the same terms as other applicable regulatory requirements helps the public with review when environmental review documents and permits are co-noticed.

The current definition of compost facility in Minn. rule 7035.0300 is: "*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.

4. Part 4410.0200, subpart 36a. Hazardous material.

Hazardous material. "Hazardous material" has the meaning given in Code of Federal Regulations, title 49, section 171.8.

Justification.

Minn. Rules ch. 4410 does not define hazardous material. The reference to the federal definition provides greater clarity in determining if environmental review is required for a proposed project. Referencing other applicable State regulatory requirements in the definition ([Code of Federal Regulations, title 49, section 171.8](#)) ensures that Minn. Rules ch. 4410 will stay current when other applicable State regulatory requirements are updated. Using the same terms as other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed

The current definition of hazardous waste in the Code of Federal Regulations, title 49, section 171.8, is: *Hazardous waste, for the purposes of this chapter, means any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR part 262.*

5. Part 4410.0200, subpart 40b. Institutional facility.

Institutional facility. “Institutional facility” means a land-based facility owned or operated by an organization having a governmental, educational, civic, or religious purpose such as a school, hospital, prison, military installation, church, or other similar establishment or facility.

Justification.

The term “institutional facility” is not defined in Minn. Rules ch. 4410, nor Minnesota law. The proposed definition is the same as Code of Federal Regulations CFR 60.3078 and is reasonable for consistency with how the term is currently used in other applicable regulatory requirements. This definition is used in the mandatory EAW and EIS categories for Industrial, commercial, and institutional facilities 4410.4300 subpart 14 (EAW) and 4410.4400 subpart 11 (EIS).

In addition to being consistent with the federal definition, the proposed definition reflects the common understanding and use of the term. The change reasonably provides greater specificity in Minnesota Rule 4410.0200, and ensures consistent application of the terms across federal and Minnesota state rules.

6. Part 4410.0200, subpart 43. Local governmental unit.

Local governmental unit. “Local governmental unit” means any unit of government other than the state or a state agency of the federal government or a federal agency. ~~‡~~ Local governmental unit includes watershed districts established pursuant according to Minnesota Statutes, chapter 103 D, soil and water conservation districts, watershed management organizations, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council. ~~‡~~ Local governmental unit does not include courts, school districts, and regional development commissions.

Justification.

The term local governmental unit is used throughout Minn. Rules ch. 4410. The term is most often used to determine which units of government are authorized to prepare and approve environmental review documents. It was unclear whether soil and water conservations districts and watershed management organizations could be considered responsible governmental units, with the authority to prepare and approve environmental documents required under Minn. Rules ch. 4410. The addition of soil and water conservation districts and watershed management organizations to this subpart does not make this subpart a comprehensive list of local governmental units. The change implements the common understanding of the terms and eliminates any confusion.

7. Part 4410.0200, subpart 52a. Mixed municipal solid waste land disposal facility.

Mixed municipal solid waste land disposal facility. “Mixed municipal solid waste land disposal facility” has the meaning given in part 7035.0300.

Justification.

Minn. Rules ch. 4410 does not define “mixed municipal solid waste land disposal facility.” The proposed definition provides greater clarity in determining if environmental review is required for a proposed project. Referencing an existing definition ([Minn. Rule 7035.0300](#)) ensures that Minn. Rules ch. 4410 will

stay current when other applicable State regulatory requirements are updated. Using similar terminology with other applicable regulatory requirements helps the public with review when environmental review documents and permits are co-noticed.

The current definition of mixed municipal solid waste land disposal facility in [Minn. Rule 7035.0300](#) is: *"Mixed municipal solid waste land disposal facility" means a site used for the disposal of mixed municipal solid waste in or on the land.*

8. Part 4410.0200, subpart 59a. Petroleum refinery.

Petroleum refinery. "Petroleum refinery" has the meaning given in Minnesota Statutes, section 115C.02, subpart 10a.

Justification.

Minn. Rules ch. 4410 does not define Petroleum refinery. The definition provides greater clarity in determining if environmental review is required for a proposed project. Referencing other applicable State regulatory requirements in the definition ([Minn. Stat., section 115C.02, subpart 10a](#)) ensures that Minn. Rules ch. 4410 will stay current, when other applicable State regulatory requirements are updated. Using similar terminology with other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed.

The current definition of petroleum refinery in Minn. Stat., section 115C.02, subpart 10a is: *"Petroleum refinery" means a facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oil, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" includes fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers, fuel gas combustion devices, and indirect heating equipment associated with the refinery.*

9. Part 4410.0200, subpart 71a. Refuse-derived fuel.

Refuse-derived fuel. "Refuse-derived fuel" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 25d.

~~**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.~~

Justification.

Replacing the current definition with the statutory definition ([Minn. Stat. section 115A.03, subdivision 25d](#)) from the Waste Management Act provides greater clarity in determining if environmental review is required for a proposed project. Using similar terminology with other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed.

The current definition of refuse derived fuel in Minnesota Statutes, section 115A.03, subdivision 25d is: *"Refuse-derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of*

waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel-fired boilers.

10. Part 4410.0200, subpart 82a. Silica sand.

Silica sand. "Silica sand" has the meaning given in Minnesota Statutes, section 116C.99, subdivision 1.

Justification.

This change reflects statutory language in 116C.99, which defines silica sand. By incorporating the definition and reference into Minn. Rules 4410.0200. The addition of Minn. Rule 4410.0200, subpart 82a. Silica sand, is established to incorporate the definition found at [Minn. Stat. 116C.99, subdivision 1, paragraph \(d\)](#) which states:

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

11. Part 4410.0200, subpart 82b. Silica sand project.

Silica sand project. "Silica sand project" has the meaning given in Minnesota Statutes, section 116C.99, subdivision 1.

Justification.

This change reflects statutory language in 116C.99, which defines silica sand project. The addition of Minn. Rule 4410.0200, subpart 82b. Silica sand project; is established to incorporate the definition found at [Minn. Stat. 116C.99, subdivision 1, paragraph \(e\)](#) which states:

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

12. Part 4410.0200, subpart 93. Wetland.

Wetland. "Wetland" has the meaning given ~~wetlands in U.S. Fish and Wildlife Service Circular No. 39 (1971 edition)~~ Minnesota Statutes, section 103G.005, subdivision 19

Justification.

The proposed change to the definition ([Minn. Stat. section 103G.005, subdivision 19](#)) aligns the current usage and understanding of the terms. The current definition for "wetlands" in Minn. Rule 4410.0200 was written in 1982 and does not reflect state rule or statutes that were specifically written for wetlands. Referencing other applicable State regulatory requirements in the definition ensures that Minn. Rules ch. 4410 will stay current,

when other applicable State regulatory requirements are updated. Using similar terminology with other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed.

The current definition of wetland in [Minn. Stat. section 103G.005, subdivision 19](#) is: (a) "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

(1) have a predominance of hydric soils;

(2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) under normal circumstances support a prevalence of such vegetation.

(b) For the purposes of regulation under this chapter, the term wetlands does not include public waters wetlands as defined in subdivision 15a.

13. Part 4410.0500, subpart. 4. RGU for EAW by order of EQB.

If the EQB orders an EAW pursuant to part 4410.1000, subpart 3, item C, the EQB shall, at the same time, designate the RGU for that EAW.

Justification.

The amendment to this subpart is reasonable to correct a spelling error. The letter "E" was inadvertently left off "EQB" when originally published.

14. Part 4410.0500, subpart 6. Exception.

Exception. Notwithstanding subparts 1 to 5, the EQB, or EQB chair, may designate ~~within five days of receipt of the completed data portions of the EAW,~~ a different RGU for the project if the EQB determines the designee has greater expertise in analyzing the potential impacts of the project.

Justification.

The requirement for "within five days of receipt of the completed data portions of the EAW" is removed because project proposers often work with the RGU to determine what type of information is needed. Removing the requirement to have a complete data submittal before the RGU designation process is complete, will ensure that parties are identified early in the process and work together in the EAW development process. The EQB, or EQB chair, will identify what information is required. Additionally, it is reasonable to eliminate the five day time limit because it is inconsistent with the operation of the EQB Board. The EQB uses its regularly scheduled monthly Board meeting to process requests to designate a different RGU. The process under the current rule can take as long as 45-days to complete; therefore, it is not possible for the EQB to meet the timeline designated in the current rule.

The addition of extending the ability to designate a different RGU to the EQB chair is reasonable because it allows the request to be processed more efficiently. This change will allow flexibility for making non-controversial decisions, and does not prevent anyone from making a request for the full Board to consider the decision. All requests to designate a different RGU will be published in the EQB Monitor for one week prior to approval, which will give any Board member on behalf of the public, an opportunity to request a full review by the Board.

15. 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:

- A. For construction or expansion of a facility of the storage of high level nuclear waste, other than an independent spent-fuel storage installation, the EQB ~~shall be~~ is the RGU.

Justification.

For the nuclear fuels and nuclear waste mandatory EAW category, the proposed change includes the addition of the words “other than an independent spent-fuel storage installation” This amendment removes these types of projects from the mandatory requirement to prepare an EAW. Independent spent-fuel storage installations are statutorily required to prepare a mandatory EIS [Minn. Stat. 116C.83, subdivision 6, paragraph \(b\)](#)

“An environmental impact statement is required under chapter 116D for a proposal to construct and operate a new or expanded independent spent-fuel storage installation. The commissioner of the Department of Commerce shall be the responsible governmental unit for the environmental impact statement.”

The addition of “other than an independent spent-fuel storage installation” to item A clarifies the fact that independent spent-fuel storage installation projects are not subject to the mandatory requirement to prepare an EAW but are in fact subject to the requirement for an EIS. In this rulemaking the EQB is proposing to amend Minn. Rule ch. 4410.4400, subpart 2, which governs nuclear fuels, is to reflect the statutory requirement for independent spent-fuel storage installations to prepare an EIS.

The addition of “other than independent spent-fuel storage installation” is reasonable to make this rule consistent with [Minn. Stat. 116C.83, subdivision 6](#). The EQB retains RGU status for preparation of an EAW for non-independent spent-fuel storage installation high-level nuclear waste storage facilities.

16. Part 4410.4300, subpart 3. Electric-generating facilities.

Electric-generating facilities.

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

- A. 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.
- B. 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.
- C. 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.

- D. 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.

Justification.

This subpart has been divided into 3 sections to clarify and expand on the existing requirements. The proposed amendment to item A changes the RGU from the EQB to the PCA for certain types of electric-generating facilities, (those that are a certain size and that require a PCA air permit). This is a reasonable change because the PCA, through the permitting process, will have more knowledge of the facility and more experience with the types of processes and pollutants involved.

The proposed amendment to item B changes the RGU from the EQB to the LGU for certain types of electric-generating facilities, (those that are a certain size and that do not require a PCA air permit). This is reasonable change because such facilities typically utilize a renewable resource in a non-combustion process (e.g., solar panels). These plants are well suited to be evaluated by LGUs because LGUs have more permitting authority over the project as a whole.

The amendments to item C clarify the existing requirement in the last sentence of subpart 3. The current rule does not specifically identify the PUC as having the responsibility for environmental review for facilities over 50 megawatts but, through application of the cited rules, MN rules parts 7849.1000 to 7849.2100 and chapter 7850 it is the RGU. It is reasonable to make that clarification in new item C. Item D is added to designate the PUC as the RGU for construction of wind energy conversion systems designed for and capable of operating at a capacity of 25 megawatts or more. These types of systems were not previously addressed in this rule and the PUC is reasonably assigned as the RGU based on their approval authority over the project as a whole and their expertise for evaluating these project types

These changes to the RGU for specific types of facilities are consistent with Minn. R. 4410.0500, RGU Selection Procedures.

17. Part 4410.4300, subpart 4. Petroleum refineries.

For expansion of an existing petroleum refinery facility that increases ~~its~~ the refinery's capacity by 10,000 ~~or more~~ barrels per day or more, the PCA ~~shall be~~ is the RGU

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

18. Part 4410.4300, subpart 5. Fuel conversion facilities.

Fuel conversion facilities.

A. Subitems (1) and (2) ~~Items A and B~~ designate the RGU for the type of project listed:

- (1) ~~A.~~ For construction of a new fuel conversion 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~~ is the RGU.
- (2) ~~B.~~ For construction ~~or expansion~~ of a new fuel conversion facility for the production of alcohol fuels ~~which that~~ would have the capacity ~~or would increase its capacity by to produce 5,000,000 or more gallons or more~~ per year of alcohol ~~produced~~, the PCA ~~shall be~~ is the RGU.

B. A mandatory EAW is not required for projects described in Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (b).

Justification.

The addition of the phrase “new fuel conversion” to subitems (1) and (2) more clearly identifies the type of facilities for which environmental review must be considered. The addition of “new” in subitem (1) and (2), and the deletion of “or expansion” and “or would increase its capacity by” from subitem (2) makes clear that the construction at existing facilities is not included in this EAW category, per language passed by the Minnesota Legislature in 2011 and found in [Minn. Stat. 116D.04, subdivision 2a paragraph \(b\)](#).

Item B is reasonably added to align with the requirements passed by the Minnesota Legislature in 2011 ([Minn. Stat. 116D.04, subdivision 2a, paragraph \(b\)](#)), which deals exclusively with the expansion of fuel conversion facilities:

“A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.15, subdivision 2d, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant or biobutanol facility project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.”

The addition of item B provides greater clarity, specificity and efficiency in determining if environmental review is required for a proposed project.

Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

19. 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 lines 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~~ must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

Justification.

Changes to the mandatory EAW category for transmission lines include the deletion of the requirement for mandatory environmental review of transmission lines between 70 kilovolts and 100 kilovolts (kV). The EQB, which was the designated RGU, suggested the change because those types of transmission lines are not typically constructed in Minnesota. If a future need for these transmission lines were identified, the PUC could order a discretionary review or the public could submit a petition, if they believe the project may have the potential for significant environmental effects. The addition of the phrase "the PUC is the RGU" to this subpart makes clear that the PUC is the RGU for transmission line projects.

However, high-voltage transmission line projects are still required to be reviewed. The amendments reasonably add a reference to an existing definition of "high voltage transmission line" or "HVTL." Referencing other applicable State regulatory requirements in the definition ensures that Minn. Rules ch. 4410 will stay current, when other applicable State regulatory requirements are updated. Using similar terminology with other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed.

20. Part 4410.4300, subpart 7. Pipelines.

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

- 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.~~

 - 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:
 - (1) five miles if the pipeline will occupy streets, highways, and other public property;
 - or
 - (2) 0.75 miles if the pipeline will occupy private property; the EQB or the municipality is the RGU.~~
-
- 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:
 - (1) five miles if the pipeline will be constructed and operated within an existing right-of-way; or
 - (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.~~

- ~~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.~~

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.

Justification.

Items A through D are reasonably replaced by a reference to [Minn. Stat. chapter 216G.01](#) and [216G.02](#). This statute is more recent than the existing language, and is specifically written to address pipelines in the state. [Minn. Stat. 216G.01, subdivision 2 and 3](#) deals exclusively with the construction of a pipeline:

"Subd. 2. Construction. "Construction" means any clearing of land, excavation, or other action that would adversely affect the natural environment of a pipeline route but does not include changes needed for temporary use of a route for purposes other than installation of a pipeline, for securing survey or geological data, for the repair or replacement of an existing pipeline within the existing right-of-way, or for the minor relocation of less than three-quarters of a mile of an existing pipeline.

Subd. 3. Pipeline. "Pipeline" means a pipeline located in this state which is used to transport natural or synthetic gas at a pressure of more than 90 pounds per square inch, or to transport crude petroleum or petroleum fuels or oil or their derivatives, coal, anhydrous ammonia or any mineral slurry to a distribution center or storage facility which is located within or outside of this state. "Pipeline" does not include a pipeline owned or operated by a natural gas public utility as defined in section 216B.02, subdivision 4."

The statutory language changed how the EAW category is applied to pipeline projects and identifies a different RGU for the environmental review of pipeline projects. The statute also includes new thresholds for when environmental review must be completed for pipeline projects.

Replacing the current requirements with a citation to the statutory requirements and existing rules provides greater clarity and consistency in determining if environmental review is required for a proposed project. Referencing applicable statutes and rules ensures that Minn. Rules ch. 4410 will stay current, when other applicable State regulatory requirements are updated. Using the same terminology helps the public with review, when environmental review documents and permits are co-noticed.

21. Part 4410.4300, subpart 8. Transfer facilities.

Transfer facilities. Items A ~~and B~~ to C designate the RGU for the type of project listed:

- A. For construction of a new 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~~ is the RGU.
- B. For 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, a delineated flood plain floodplain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the PCA ~~shall be~~ is the RGU.
- C. The PCA is the RGU for a silica sand project that:
 - (1) is designed to store or is capable of storing more than 7,500 tons of silica sand; or
 - (2) has an annual throughput of more than 200,000 tons of silica sand.

Justification.

The changes to item A provide clarity and consistency with item B, which also addresses “new” facilities. The addition of item C aligns with the thresholds found at Minn. Stat. 116C.991, section a, paragraph (2). The interim mandatory categories for silica sand projects are listed under Minn. Stat. § 116.991 and were established as provided by [Laws of Minnesota 2013, chapter 114, article 4, section 105](#):

- 1) *excavates 20 or more acres of land to a mean depth of ten feet or more during its existence. The local government is the responsible governmental unit; or*
- 2) *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 and is not required to receive a permit from the Pollution Control Agency. The Pollution Control Agency is the responsible governmental unit.*
 - b) *In addition to the contents required under statute and rule, an environmental assessment worksheet completed according to this section must include:*
 - 1) *a hydrogeologic investigation assessing potential groundwater and surface water effects and geologic conditions that could create an increased risk of potentially significant effects on groundwater and surface water;*
 - 2) *for a project with the potential to require a groundwater appropriation permit from the commissioner of natural resources, an assessment of the water resources available for appropriation;*
 - 3) *an air quality impact assessment that includes an assessment of the potential effects from airborne particulates and dust;*
 - 4) *a traffic impact analysis, including documentation of existing transportation systems, analysis of the potential effects of the project on transportation, and mitigation measures to eliminate or minimize adverse impacts;*
 - 5) *an assessment of compatibility of the project with other existing uses; and*
 - 6) *mitigation measures that could eliminate or minimize any adverse environmental effects for the project.*

In 2015, the Minnesota Legislature updated Minn. Stat. 116.991 [Laws of Minnesota 2015, Chapter 4, Article 4, Section 121](#), by removing the July 1, 2015 date and changed the language to :

116C.991 ENVIRONMENTAL REVIEW; SILICA SAND PROJECTS.

(a) ~~Until July 1, 2015~~ a final rule is adopted pursuant to Laws 2013, chapter 114, article 4, section 105, paragraph (d)..

The EQB determined that it would permanently adopt the original 2013 thresholds for when environmental review of silica sand projects must occur, as set by the Legislature, in the Mandatory categories rulemaking, R-04157. The EQB has discontinued that rulemaking and is addressing those requirements in the proposed rules.

In 2017, [Laws of Minnesota 2017, Chapter 93, article 1, Section 105](#) was updated to read:

Sec. 105.RULES; SILICA SAND.

(a) The commissioner of the Pollution Control Agency ~~shall~~ may adopt rules pertaining to the control of particulate emissions from silica sand projects. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(b) The commissioner of natural resources shall adopt rules pertaining to the reclamation of silica sand mines. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(c) By January 1, 2014, the Department of Health shall adopt an air quality health-based value for silica sand.

(d) The Environmental Quality Board ~~shall~~ may amend its rules for environmental review, adopted under Minnesota Statutes, chapter 116D, for silica sand mining and processing to take into account the increased activity in the state and concerns over the size of specific operations. The Environmental Quality Board shall consider whether the requirements of Minnesota Statutes, section 116C.991, should remain part of the environmental review requirements for silica sand and whether the requirements should be different for different geographic areas of the state. The rulemaking is exempt from Minnesota Statutes, section 14.125.

In 2017, the Legislature changed the language from “shall” to “may” amend EQB rules for environmental review. The EQB determined that the potential for significant environmental effects persists in relation to silica sand projects in Minnesota and it would be to the public’s benefit to have the mandatory category threshold within the environmental review Mandatory Category rules, 4410.4300.

The proposed change clarifies that processing, transloading and storage of silica sand have the potential for causing environmental impacts relating to land use, transportation, noise, facility lights, air quality, recreation, economic, and water quality and water quantity. For economic reasons, transloading, processing and storage facilities may be very large-scale, which in some cases may increase the potential for environmental impacts including fugitive dust emissions, transportation related issues and water pollution issues.

The proposed rules are in response to environmental issues identified at these sites, which have increased as a result of increased demand for silica sand. The proposed language will provide clarity for the public, RGUs and project proposers for the types of projects that require an EAW.

The proposed change reflects the 2013 legislative thresholds for projects. The thresholds are 200,000 tons of annual throughput and 7,500 tons for storage piles. These thresholds indicate a legislative intent that these types of operations have the potential for significant environmental effects, and therefore warrant

environmental review. Proposed item C addresses the potential for air emissions related to silica sand facility operations. Silica sand dust may be emitted during mining, handling, transferring, open storage piles and transport at a silica sand transloading or processing facility. Transloading or processing at a mine or standalone facility may include the storage of silica sand or the transfer of raw materials into trucks or railcars for transport. Depending on how a processing, transloading or mining operation is configured, the proximity of businesses, residences— including sensitive populations – older, asthmatics, young children from inhalation or aspiration of particles can be directly related to its potential for environmental and health effects related to air quality.

Proposed item C establishes a throughput threshold of 200,000 tons or more of silica sand annually and a facility designed to store 7,500 tons or more of silica sand. The throughput threshold is reasonable because it was developed on the basis that the legislature determined the threshold level of 200,000 tons or more of annual throughput on a silica sand project requires environmental review due to the potential for significant environmental effects. The storage threshold is reasonable on the basis that the legislature determined 7,500 tons or more of storage was an appropriate and necessary threshold due to the potential for significant environmental effects related to air quality and transportation related issues.

The proposed thresholds are also reasonable based on a 2015, EQB survey of LGUs throughout the state of Minnesota. The survey is available on EQB's website:

<https://www.eqb.state.mn.us/sites/default/files/documents/Sand%20survey%20for%20LGU%27s%20April%2015%20EQB.pdf>. The survey recorded responses from 11 counties, 13 cities and 70 townships (94 total responses). The survey recorded 66% (59) respondents agreeing with the 200,000-ton throughput threshold and 7,500-ton storage threshold, and 71% (63) agreed that the Minnesota Pollution Control Agency (PCA) should be the RGU.

Potential environmental effects at a silica sand facility may relate to air quality, noise and safety issues associated with truck traffic transporting the sand to and from the facility. The figure of 200,000 tons per mine per year converts to approximately 7,692 loaded trucks per year (15,385 total trips). This yearly figure converts to approximately 148 loaded trucks per week, and 296 total (loaded and empty) total truck trips per week. Much depends on operating hours to determine how many trucks per day and per hour. If a 6-day work week is used as an example (several MN/WI facilities are operating this way), this would be approximately 25 loaded trucks per day, and approximately 50 total trips per day from a facility.

The PCA has been designated as the RGU in compliance with Minn. Rules ch, 4410.0500, and considering the following:

- The regional scale that silica sand processing and transloading facilities encompass, and their potential for significant environmental effects encompass (air quality, transportation, water quality/quantity). Silica sand processing facilities often work as a hub and spoke system where the processing facility is the hub and neighboring and distant mines transport the silica sand resource to the processing facility where it is processed for the specified end use. Thus, the potentially significant environmental effects from a processing and/or storage and/or transloading facility are likely to be regional and the PCA, the state agency with authority over outdoor air and water quality and the environment, is best positioned to assess these potential impacts.
- The key characteristics of processing and transloading facilities which have the potential for significant environmental effects are air quality and water quality, which are incredibly complicated and which PCA has unique expertise to best assess the potential impacts.
- Permitting authority rests with the PCA for air permits and water discharge permits for processing and transloading facilities.

- If a silica sand facility proposes to process or transload sand from offsite, it is likely to be a larger facility and require more transportation infrastructure, a larger water appropriation (for the processing), and due to a larger size, it may have the potential to have increased significant environmental effects.
- The legislature determined the PCA was the appropriate RGU when it developed and established the statutory language.
- The EOB surveyed 94 LGUs in Minnesota and 71% (63) agreed that the Minnesota Pollution Control Agency (PCA) should be the RGU.

22. Part 4410.4300, subpart 10. Storage facilities.

Storage facilities. Items A to ~~GH~~ designate the RGU for the type of project listed:

- A. For construction of a new 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~~ is the RGU.
- B. For construction of a 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~~ is the RGU.
- C. 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.
- D. 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.
- E. For construction of a 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~~ PUC is the RGU, except as provided in item G.
- F. 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.
- G. 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.
- H. The PCA is the RGU for a silica sand project that:

(1) is designed to store or is capable of storing more than 7,500 tons of silica sand; or
(2) has an annual throughput of more than 200,000 tons of silica sand.

Justification.

Item A is amended to clarify that the first clause applies to “new” facilities. The Office of the Revisor has suggested changing “shall be” to “is.”

For items B and C, adding the term “major” facility resolves a long standing problem when trying to determine whether a facility meets the threshold of this subpart. The addition of the clarifying language is reasonable because it assists project proposers, the public, and the RGU to consistently determine whether a new facility requires a mandatory environmental review. The definition clearly identifies which components of a site must be considered in determining whether the project meets mandatory thresholds.

Item B only refers to the construction of a new major facility, while item C establishes a separate threshold for the expansion of an existing facility. In consultation with the PCA, the RGU for this EAW category, the separation of these activities – construction of a new facility and expanding an existing facility, is reasonable to better reflect the types of projects that have historically been addressed in this category.

Item C addresses the expansion of existing major facilities rather than the construction of new major facilities as discussed in item B. The separation of the two activities, building a new major facility and expanding an existing major facility is reasonable, to eliminate the inconsistent application of the threshold.

Nothing in the current subpart addresses increases in volume as a result of expansion. Using the term “net” increase in new items C and D helps add clarification when facilities are proposing to add or remove storage areas. The environmental review process considers the entire property or contiguous properties when factoring in net increase.

The new item D adds clarification that environmental review is required when the expansion of an existing facility with less than 1,000,000 gallons has a net increase in designed storage capacity of 1,000,000 gallons or more of hazardous materials, and designates the PCA as the RGU.

Items E, F and G are expansions of existing item E and address liquid natural gas, synthetic gas, and anhydrous ammonia. Item E is amended to expand existing rule language to cross reference to already existing definitions of liquefied natural gas and synthetic gas and also to identify a more appropriate RGU. The proposed change removes the PCA as the RGU and assigns the PUC as the RGU.

The re-assignment of the PUC as the RGU in each of these items is reasonable because the PUC is the regulatory authority for these liquids. Historically a single threshold was established for multiple substances– liquefied natural gas, synthetic gas and anhydrous ammonia were all contained in the same item with the PCA as the RGU. However, the PCA has no approval authority of any of the substances. The PUC regulates liquefied natural gas and synthetic gas, making them the more appropriate RGU. Similarly, the PCA does not regulate anhydrous ammonia, but the MDA does and is the more appropriate RGU. While the thresholds have not changed, the RGU has changed. Additionally in item G, the RGU with the greatest approval authority over the project is identified as the PUC. This change is consistent with other parts of Minn. Rules ch. 4410 and is consistent with the regulatory system around each substance.

The new threshold item H, is established to align with the thresholds found at [Minn. Stat. 116C.991, section a, paragraph \(2\)](#) as provided by [Laws of Minnesota 2015, Chapter 4, Article 4, Section 121](#), which states:

“(a) Until a final rule is adopted pursuant to Laws 2013, chapter 114, article 4, section 105, paragraph (d), an EAW must be prepared for any silica sand project that meets or exceeds the following thresholds, unless the project meets or exceeds the thresholds for an environmental impact statement under rules of the Environmental Quality Board and an environmental impact statement must be prepared:

(2) 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 and is not required to receive a permit from the PCA. The PCA is the RGU.”

Item H is identical to Minn. Rules 4410.4300, subpart 8, item C. The purpose of its inclusion in the Storage facilities mandatory EAW category is to ensure a project proposer or RGU is aware of the threshold if silica sand facility is developed that just includes storage. The justification for the need and reasonableness for this category and thresholds is described above in the justification section for [Minnesota Rules 4410.4300, subpart 8, item C.](#)

23. Part 4410.4300, subpart 12. Nonmetallic mineral mining.

Nonmetallic mineral mining. Items A to ~~C~~ D designate the RGU for the type of project listed:

Item A [unchanged]

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.

Item C [unchanged]

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.

Justification.

In item B, the term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of this chapter. This change ensures consistent application of terms throughout Minn. Rules ch. 4410. The term “shall be” is reasonably changed to “is at the recommendation of the Office of the Revisor.

Item D follows the intent of the interim rules the 2013 and 2015 legislature set forth in [Minn. Stat. § 116C.991, paragraph \(a\), clause \(1\)](#), which state:

“(a) Until July 1, 2015, an environmental assessment worksheet must be prepared for any silica sand project that meets or exceeds the following thresholds, unless the project meets or exceeds the thresholds for an environmental impact statement under rules of the Environmental Quality Board and an environmental impact statement must be prepared:

(1) excavates 20 or more acres of land to a mean depth of ten feet or more during its existence. The local government is the RGU; or...”

The addition of item D is reasonable because the extraction, mining, and ancillary features associated with extraction and mining of silica sand deposits have the potential for significant environmental effects relating to land use, transportation, noise, air quality, water quality and vibrations.

Activities and features associated with the extraction and mining processes and mine area land disturbance directly relate to the need for environmental review due to the potential for significant environmental effects caused by these activities. Specifically, the activities include truck transport of the silica sand from the mine site, which has the potential to result in increased traffic impacts, road degradation, increased noise, safety concerns and increased dust. Mine area activities also include permanent landscape alterations caused by removing overburden to access the silica sand resources and permanent landscape alterations from removing the silica sand resources from the site. The landscape alterations have the potential to change the way-of-life in a community in which these facilities are located. This change in the way-of-life may be characterized as the loss of a notable land feature from an area's viewshed or the disruption of the character of a place due to mine area activities. Additional activities and features associated with the extraction and mining process that have the potential to change the way-of-life include lights, noise, and hours of operation. In 2015, EQB completed a survey of LGUs throughout the state of Minnesota. The survey is available on EQB's website: <https://www.eqb.state.mn.us/sites/default/files/documents/Sand%20survey%20for%20LGU%27s%20April%2015%20EQB.pdf>. Survey respondents stated that non-metallic mining causes disruption to traffic flows in an area, noise, odor, dust and have a significant impact on area residents way-of-life.

Mine activities and features with the potential for significant environmental effects include: clearing the mine site, removal of vegetation, compaction, stripping, grading, grubbing, filling, storing materials, settling ponds, berms, constructed buildings associated with mine activities, haul roads and refuse piles.

Proposed item D is reasonable because the Minnesota Legislature set the threshold at 20-acre and the mean depth of 10-feet or more, indicating a legislative intent and concern that a silica sand project that excavates 20-acres or more to a mean depth of 10 feet has the potential for significant environmental effects, and therefore warrants environmental review.

Item D establishes the LGU as the RGU. The 2015 survey of LGUs throughout the state recorded responses from 11 counties, 13 cities and 70 townships. The survey recorded 56% (49) respondents agreeing with the 20 acre mine threshold and 77% (69) agreed that the LGU should be the RGU.

It is reasonable to designate the LGU as the RGU because:

- Mines are a land-use issue. LGUs have the greatest authority for supervising and permitting authority over land-use and projects in their community; LGUs have local knowledge and expertise regarding what is appropriate for their community and quality of life; thus it is necessary to involve the LGU and reasonable to designate it as the RGU.
- LGUs are in a better position to understand and protect the unique local resources that the local community deems valuable. LGUs have access to local insights and have a strong incentive to ensure that all risks of silica sand mining are mitigated.
- The environmental review program has a historic precedent to identify LGUs as the RGU because they have the greatest approval authority over a project via a land use permit.

Based on the potential for environmental impacts at existing and proposed silica sand mine sites it is reasonable to require environmental review on silica sand mine sites larger than the proposed threshold.

24. Part 4410.4300, subpart 14. Industrial, commercial, and institutional.

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:

- 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~~ is the RGU:
 - (1) unincorporated area, 150,000 square feet;
 - (2) third or fourth class city, 300,000 square feet;
 - (3) second class city, 450,000 square feet; and
 - (4) first class city, 600,000 square feet.

- 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~~ governmental unit ~~shall be~~ is the RGU:
 - (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; and
 - (4) first class city, 400,000 square feet.

Justification.

During the EQB rulemaking in 1982, the words "square feet" were inadvertently omitted from item A of this subpart, but were included in item B. The term is reasonably added to item A to eliminate any question regarding which units of measurement must be used.

The term "government" is replaced with the term "governmental," to provide consistency with how this term is used in other parts of this chapter. This change ensures consistent application of Minn. Rules ch. 4410.

25. Part 4410.4300, subpart 16. Hazardous waste.

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

- A. For construction of a new or expansion of a an existing hazardous waste disposal facility the PCA ~~shall be~~ is the RGU.

- B. For construction of a new facility for hazardous waste 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, the PCA ~~shall be~~ is the RGU.

- C. For expansion of an existing facility for hazardous waste storage processing facility storage or treatment, that increases ~~it's~~ the facility's capacity by ten percent or more, the PCA ~~shall be~~ is the RGU.

- D. For 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, the PCA ~~shall be~~ is the RGU.

Justification.

The changes to the mandatory EAW category for hazardous waste in items A, B and C clarify that the term "construction" is referring to a new facility and "expansion" applies to an existing facility.

In items B and C, the word "processing" is removed, as the term is confusing when applied to hazardous waste treatment. The terms "storage" and "treatment" are defined in Minn. R. pt. 7045.0020 and are used by the regulatory authority when permitting hazardous waste facilities. Removing the term "processing facility" and using hazardous waste "storage" or "treatment," aligns the environmental review rules with the language in other State rules. Using the same terminology also helps the public with review when environmental review documents and permits are co-noticed.

In item B, the term "acute hazardous waste" was added to the category as there are two types of hazardous waste collected at storage and treatment facilities, "acute" and "non-acute." and the threshold currently does not differentiate between the two. Technical experts at the PCA recommended that the category provide a separate, smaller, volume threshold for acute hazardous waste because acutewastes are more toxic, therefore posing more risk to human health and the environment at smaller exposure amounts.

The threshold volume of one kilogram (kg) was chosen to align with the Federal hazardous waste laws that regulate hazardous waste. Generating 1 kg of acute hazardous waste per month is regulated under the hazardous waste program equivalently to businesses generating 1000 kg per month of non-acute hazardous waste.

26. Part 4410.4300, subpart 17. Solid waste.

Solid waste. Items A to G designate the RGU for the type of project listed:

- A. For construction of a mixed municipal solid waste land disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.
- B. For expansion by 25 percent or more of ~~previous~~ previously permitted capacity of a mixed municipal solid waste land disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.
- 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.
- 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 permitted capacity of 30 tons or more ~~tons~~ per day of input, the PCA is the RGU.
- E. For construction or expansion of a mixed municipal solid waste compost facility, or a refuse-derived fuel production facility with a permitted capacity of 50 tons or more ~~tons~~ per day of input, the PCA is the RGU.

- F. For expansion by at least ten percent but less than 25 percent of ~~previous~~ previously permitted capacity of a mixed municipal solid waste land disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

Justification.

The addition of the term “land” in items A, B and F aligns the terms with other applicable State rules. Using the same terminology with other applicable regulatory requirements helps the public with review, when environmental review documents and permits are co-noticed

Adding the terms “permitted:” and “previously permitted” adds greater clarity for identifying the correct capacity to the applicable threshold.

27. Part 4410.4300, subpart 18. Wastewater system.

Wastewater system. Items A to ~~CF~~ 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 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.~~
- 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.~~
- 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 per day or greater, the PCA is the RGU.
- 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 ~~its~~ the facility's average wet weather design flow capacity, the PCA is the RGU.

- 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.
- E. For expansion or ~~reconstruction~~ modification of an existing industrial process wastewater treatment facility ~~which that~~ increases ~~its~~ 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.
- 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

Justification.

The requirements in former items A, B and C have been revised for clarity as follows: the requirements in former item A are now addressed in items A and B; the requirements in former item B are now addressed in items C and D; and, the requirements in former item C are now addressed in items E and F.

In new items C and E, the deletion of the term "reconstruction" and the addition of the term "modification" corrects a long-standing problem. The word "reconstruction" causes confusion as it implies the existing municipal wastewater treatment facility is being rebuilt instead of modified. It is more accurate to use the term "modification," as proposers are more likely to add on new components, or significantly alter a portion of a wastewater treatment facility in order to increase treatment capacity. This proposed change will have a positive impact by preventing delays in the environmental review process.

The term "modification" does not include movement of the discharge outfall to a different location. The movement of discharge pipe and outfall to another location – such as different location of the same receiving water, a different receiving water, or different on land or subsurface disposal location, is not considered a modification and results in the need for an EAW. A new wastewater treatment facility includes:

- construction that replaces an existing wastewater treatment facility, or
- construction of a wastewater treatment facility or new discharge outfall location, where one did not exist before.

The 1986 EQB SONAR language indicated "the work will increase [treatment] capacity," and therefore the change in language follows the intent of the 1986 EQB SONAR.

28. 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 ~~government~~ governmental unit ~~shall be~~ is the RGU.

Justification.

The term "government" is replaced with the term "governmental," to provide consistency with how this term is used in other parts of Minn. Rules 4410. The change ensures consistent application of Minn. Rules ch. 4410.

29. Part 4410.4300, subpart 20a. Resorts, campgrounds, and RV parks in shorelands

Resorts, campgrounds, and RV parks in shorelands.

The local ~~government~~ 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:

Justification.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. The change ensures consistent application of Minn. Rules ch. 4410.

30. 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~~ is 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 ~~government~~ governmental unit, or the Metropolitan Airports Commission shall be the RGU. The RGU ~~shall be~~ is selected according to part 4410.0500, subpart 5.

Justification.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

31. 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 ~~government~~ governmental unit ~~shall be~~ is 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 ~~government~~ governmental unit ~~shall be~~ is the RGU.
- C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local ~~government~~ governmental unit ~~shall be~~ is the RGU.

Justification.

The primary changes to the mandatory EAW category for highway projects are the change of “travel” lane to “through” lane, excluding “auxiliary lanes” but including “passing lanes,” and extending the threshold length of through lanes from one to two miles. Auxiliary lanes is a new term in the rules as further defined in [part 4410.0200, subpart 5a](#).

With the introduction of the term “auxiliary lane”, the DOT proposes changing the term “travel lane” to “through lane.” This change is necessary to clarify the types of lanes used in road design projects. A review of 1982 SONAR does not indicate why the phrase “travel lane” was chosen. Because the term has not been previously defined, this rulemaking is an opportunity to update the rule with terminology that is commonly used today.

Types of traffic lanes are described in the MnDOT Road Design Manual (MnDOT Manual).

<http://roaddesign.dot.state.mn.us/> See Chapter 4, section 4-3.0. As described in section 4-3.0 “travel lanes” is the overall umbrella term for lanes and then a subset of travel lanes is “through lanes” and “auxiliary lanes.” Because the rule will now include the term “auxiliary lane,” it is necessary to clarify the lane terminology and separate out both through lane and auxiliary lane. Managed lanes, such as bus lanes, value- priced lanes, and high occupancy vehicle (HOV) lanes are considered standard higher speed through lanes to provide optimum transportation services and fully utilize the capacity of congested highways in urban areas. Often times these types of lanes are accomplished by using existing highway facilities. The definition of “auxiliary lane” is consistent with the *DOT Road Design Manual* (Section 4-3.02) and the *2011 American Association of State Highway Transportation Officials (AASHTO) and A Policy on Geometric Design of Highways and Streets* (Chapter 1076).

Auxiliary lanes are excluded from the threshold because these types of lanes are typically short distances and as such, have a minimal effect on the impact of the project. Auxiliary lanes are most often used to:

- A. Comply with the principle of lane balance.
 - B. Comply with capacity requirements in the case of adverse grades.
 - C. Accommodate speed changes.
 - D. Accommodate weaving.
 - E. Accommodate traffic pattern variations at interchanges.
 - F. Accommodate maneuvering of entering and exiting traffic.
 - G. Simplify traffic operations by reducing the number of lane changes.”
- (MnDOT Manual 6-1.05.04)

AASHTO explains that, generally, auxiliary lanes are used preceding median openings and are used at intersections preceding right- and left-turning movements. Auxiliary lanes may also be added to increase capacity and reduce crashes at an intersection. In many cases, an auxiliary lane may be desirable after completing a right-turn movement to provide for acceleration, maneuvering, and weaving. Auxiliary lanes can serve as a useable shoulder for emergency use or off-tracking vehicles or both. Auxiliary lanes are also used for deceleration and storage of vehicles while waiting to turn. Auxiliary lanes are used to balance the traffic load and maintain a uniform level of service on the highway. They facilitate the positioning of drivers at exits and the merging of drivers at entrances. (Green Book, 9-124-127, 10-76, 10-79)

Also, the threshold will increase from one mile to two miles. The 1982 SONAR does not specifically state why one mile was chosen (<https://www.leg.state.mn.us/archive/sonar/SONAR-00003.pdf>); however, comments made by the public in 1982 rulemaking provided that: “A one mile threshold for additional travel lanes is also too restrictive. Five or ten miles ... would be more reasonable.” (December 1, 1981

Comment by John Voss, Planning consultant, Urban Planning and Design, Inc.). As the designated RGU, the DOT conducted a 10-year historical data review of projects that completed an EAW for this subpart and found that projects between 1 mile and 2 miles did not have the potential for significant environmental effects. Project files and comments received were reviewed to determine whether potential environmental effects were identified that would not have otherwise been mitigated by a permit or other required governmental approvals. Based on that data review, the DOT determined that it is reasonable to increase the threshold from one mile to two miles.

The term "government" is replaced with the term "governmental," to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

32. Part 4410.4300, subpart 25. Marinas.

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~~ governmental unit ~~is~~ the RGU.

Justification.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

33. 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 DNR or local ~~government~~ governmental ~~shall be~~ is the RGU.

Justification.

The proposed change to the stream diversion mandatory EAW category includes adding the DNR as a possible RGU. Minn. Rule 4410.4300, subpart 26 assigns the RGU to only the LGU. However, there are circumstances where DNR is the more appropriate RGU due to having similar or greater approval of the project as a whole, in addition to possibly having greater expertise in analyzing the potential impacts. Some examples of these types of projects may include stream habitat restoration projects and floodplain management projects.

The current rule assigns the LGU to be the RGU for these projects, who may not have the natural resources expertise or approval authority related to floodplain management, erosion control, water quality, fisheries habitat, wildlife habitat, recreation, and aesthetics. There exists great variation across local governments regarding the technical/scientific expertise necessary to evaluate these projects. The addition of "DNR or" allows the DNR to be the designated RGU, when their expertise and approval authorities are appropriate. LGUs can work with the DNR to determine the most appropriate RGU to accurately assess these projects and related impacts.

Under the change, the LGU and DNR will confer early in the EAW process for the RGU determination. If it is unclear which unit of government is the designated RGU, then under Minn. Rules part 4410.0500,

subpart 5. B. (2) the question will be submitted to the EQB chairperson for a determination, based upon which governmental unit has greatest responsibility for supervising or approving the project or has greater expertise that is relevant for the environmental review.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

34. 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:

- 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 ~~pursuant~~ according to Minnesota Statutes, chapter 103G, DNR or the local government governmental unit shall be is the RGU.
- 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 wetlands, excluding public waters wetlands, if any part of the wetland is within a shoreland area, a delineated flood plain floodplain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local ~~government~~ governmental unit ~~shall be is~~ the RGU.

Justification.

Item A currently assigns the RGU to only the LGU. However, there are circumstances where the DNR is the more appropriate RGU, because the DNR may have similar or greater approval authority of the project as a whole. In some cases, the DNR may also have greater expertise in analyzing the potential impacts. Some examples of these types of projects may include wetland or stream habitat restoration projects, and floodplain management projects. In item A, the term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410.

The current language in item B does not consider the Wetland Conservation Act (WCA), as WCA was enacted into law after the establishment of mandatory requirements for wetland under Minnesota Rule Chapter 4410.4300 Subpart 27. B (1982). WCA was implemented into Laws of the State of Minnesota in 1991 to regulate those wetlands not inventoried by DNR as Public Waters or Public Water Wetlands.

The current rule assigns the LGU to be the RGU for these projects, who may not have the natural resources expertise or approval authority related to flood control, erosion control, water quality, wildlife habitat, recreation, and aesthetics. There is variation across local governments regarding the technical/scientific expertise necessary to evaluate these projects. The addition of "DNR or" to item A is added for the situations where the DNR has expertise and approval authorities. LGUs can work with the DNR to determine the most appropriate RGU to accurately assess these projects and related impacts.

The existing SONAR for designation of LGU as RGU identifies that these type of projects typically are associated with land use developments and thus the LGU is the appropriate RGU. The DNR has been added as a possible RGU for the types of projects that are not associated with land use development, and/or where LGUs sometimes have very little regulatory oversight.

Under the change, the LGU and DNR will confer early in the EAW process for the RGU determination. If it is unclear which unit of government is the designated RGU, then under Minn. Rules part 4410.0500, subpart 5. B. (2) the question will be submitted to the EQB chairperson for a determination based greatest responsibility for supervising or approving the project or has expertise that is relevant for the environmental review.

Item B references “the course, current, or cross section” of a wetland. These terms are used to define an alteration to a public waters and public water wetlands found in [Minn. Rule part 6115.0170, subpart 2](#). This portion of item B will be removed and replaced with the WCA description found in [Minn. Rule part 8420.0111, subpart 32](#), which more accurately defines an “impact” as a loss in the quantity, quality, or biological diversity of wetland associated with projects that will partially or wholly drain, fill, or excavate wetlands. The proposed change is needed and reasonable as it reflects the current regulatory provisions under WCA and aligns state rules and statutes.

Item B references “40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres.” The EQB has found that this criterion is confusing for LGUs, the RGUs for this item, to apply. Furthermore, the criteria has no association with the WCA, which generally does not distinguish wetland functions and values based on type or size. Rather, the purpose of the WCA is to achieve no net loss in quantity, quality, and biological diversity of Minnesota’s existing wetlands as described in [Minn. Rule 8420.0100, subpart 1](#). As a result, the type of wetlands has been removed, which reflects the current regulatory provisions under WCA and aligns state rules and statutes.

The existing requirement of 2.5 acres defines the size criteria for DNR public water wetlands in incorporated areas – see [Minn. Stat. 103G.005, subdivision 15a](#). This size specification also has no specific implication in WCA. Wetlands regulated under WCA include a variety of areas and types and the jurisdictional boundary is not labeled by a specific area. Consequently in consultation with the Board of Water and Soil Resources (BWSR) staff, DNR and PCA staff, the equation of “40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres” currently found in the rule has been removed and replaced with a threshold of “1 acre.” The proposed change to one acre reflects the lowest possible size threshold established by the current rule. All of these changes are needed to better reflect the changes that have occurred to wetland programs in the state since the original 1982 EAW category was written. The criteria incorporate more recent WCA standards or clarify existing thresholds in environmental review rules.

In item B., the term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

35. Part 4410.4300, subpart 28. Forestry.

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

- 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.

- 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~~ is the RGU.

Justification.

Changes to this subpart include state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

36. 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 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 ~~government~~ governmental unit ~~shall be~~ is the RGU.

Justification.

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.

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

The Recreational Trails category was developed in part to serve this purpose and provides clear thresholds for when designating uses would require environmental review. The current rule assumes state trails have statutory boundaries and defined corridors similar to other outdoor recreation units. State trails do not have statutory boundaries and may or may not identify a corridor. If a state trail master plan only identifies a search corridor, it is not practical or appropriate to evaluate other proposed projects that fall within the identified search corridor. This is especially true if the trail has not been built yet, or the trail has been built but does not identify the route to construct. For situations where a new state trail is authorized, or changes in designated use(s) are proposed through a master plan amendment, this must be considered against the recreation trails mandatory EAW criteria found in Minn. Rules part 4410.4300, subpart 37.

The category was adopted to allow for the review of non-DNR projects that are proposed within established recreation units, particularly those projects that may be inconsistent or incompatible with the recreational purposes or management plan of the unit. The DNR proposed the category to ensure the agency had the chance to review projects in conflict with the management plan. The most likely situation would be a private development proposal on an inholding within a state park, not a state trail. Prior to

legislative action in 2003, Recreational trails were not identified as exhibiting impacts that may be potentially significant.

The current rule was adopted to ensure review of projects that conflict with approved master plans for outdoor recreation units. Designation of these facilities includes preparation of a master plan for the unit. These plans may vary according to the characteristics of the area and purposes for designation. The category requires review for projects that conflict with approved master plans for outdoor recreation units.

37. 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~~ 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 ~~46~~ 54, section ~~470~~ 306108, 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.

Justification.

Changes to this subpart include state of MN Revisor's Office recommendations to improve clarity for interpreting the rule and corrections to references for the most recent applicable Code of Federal Regulations ([COF, title 54, section 306108](#)).

38. 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 ~~government~~ governmental unit ~~shall be~~ is 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 ~~government~~ governmental unit ~~shall be~~ is the RGU.

Justification.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

39. Part 4410.4300, subpart 36a. Land conversions in shoreland.

- A. For a project proposing a permanent conversion 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.
- B. For a project proposing a permanent conversion 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.
- 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.

Justification.

This mandatory category was added as part of EQB rulemaking that ended in 2009. The category was intended to apply to development activities that result in increased water runoff and loss of aquatic habitat. However, projects proposing habitat and shoreline restoration also often involve the “alteration” of shoreline as discussed by the 2009 SONAR. However, restoration activities typically do not have the negative long-term water quality and aquatic habitat impacts that are associated with shoreland conversion projects and alterations resulting from development activities, which was the original intent in developing the category.

Some of the challenges with this subpart may have been that the title identifies land conversions, but items A and B do not reference land conversion, but instead reference alterations. Per [Minn. Stat. 645.49](#), headnotes printed in boldface type are not considered part of the statute. Therefore, the addition of “permanent conversion” meant to provide clarity about what was intended by this subpart and provide consistency with the term “permanent conversion” as it is used throughout Minnesota Rules chapter 4410.

It is important to note that this clarification does not exempt public water restoration projects from environmental review, but will likely prevent environmental review from being mandatory in this category. A governmental unit may still order discretionary environmental review in response to a citizen petition of if the governmental unit determines a project may have the potential for significant environmental effects.

40. Part 4410.4300, subpart 37. Recreational trails.

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.

- 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.

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.

- 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.
- 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.
- 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.

Justification.

The current rule change to item 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.

Changes to items A – B will fulfill the Legislative directive to update rule language with statutory language:

Minn. Laws 2015, ch. 4, section 33. RULEMAKING; MOTORIZED TRAIL ENVIRONMENTAL REVIEW.

(a) The Environmental Quality Board shall amend Minnesota Rules, chapter 4410, to allow the following without preparing a mandatory environmental assessment worksheet:

(1) constructing a Recreational trails less than 25 miles long on forested or other naturally vegetated land for a recreational use;

(2) adding a new motorized recreational use or a seasonal motorized recreational use to an existing motorized Recreational trails if the treadway width is not expanded as a result of the added use; and

(3) designating an existing, legally constructed route, such as a logging road, for motorized Recreational trails use.

(b) The board may use the good cause exemption rulemaking procedure under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

Under the Revisor ID Number R-4381, the EQB used the good cause exemption rulemaking procedure to adopt rules in accordance with the above Minn. Laws from the 2015 legislative session in November 2015. The proposed rules were not approved. In addition, in February 2016, the EQB again submitted the proposed rules for adoption. The proposed rules were not adopted. The rulemaking under Revisor ID Number R-4381 has been incorporated into this rulemaking.

Administrative Law Judge Barbara J. Case's Order on Review (OAH 82-9008-32965) it is stated that the phrases "legally constructed route" and "logging road" were, "...impermissibly vague if it is so indefinite that one must guess at its meaning. A rule must establish a reasonably clear policy or standard to control and guide administrative officers so that the rule is carried out by virtue of its own terms and not according to the whim and caprice of the officer. This language is impermissibly vague and therefore unconstitutional."

The current changes to A. and B. will fulfill the intent of the 2015 legislation by utilizing commonly understood language for trails and motorized corridors while maintaining the integrity of the intent of the legislation—to allow trails to be constructed or designated without requiring an EAW or environmental review. By including the changes in the mandatory category section, as "exclusions" instead of in the "exemptions" category of Minn R. ch. 4410, citizens and stakeholders can still petition if a project presents the potential for significant environmental effects. The threshold changes to A. and B. are necessary and reasonable because the 2015 Legislature determined there was potential for significant environmental effects at the proposed threshold levels.

41. Part 4410.4400, subpart 2. Nuclear fuels.

Nuclear fuels. Items A to ~~D~~ E 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 is the RGU for uranium mills; otherwise, the PCA ~~shall be~~ is the RGU.
- B. For construction of a high-level nuclear waste disposal site, the EQB ~~shall be~~ is the RGU.
- C. For construction or expansion of an independent spent-fuel storage installation, the Department of Commerce is the RGU.

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

Justification.

The addition of item C, "For construction of an independent spent-fuel storage installation, the Department of Commerce is the RGU" reflects [Minn. Stat. 116C.83, subdivision 6, paragraph \(b\)](#) which states:

"An environmental impact statement is required under chapter 116D for a proposal to construct and operate a new or expanded independent spent-fuel storage installation. The commissioner of the Department of Commerce shall be the responsible governmental unit for the environmental impact statement."

The addition of item C makes this rule subpart consistent with Minn. Stat. 116C.83, subdivision 6. The addition of item C clarifies that for a specific type of storage facility for high-level nuclear waste, an independent spent fuel storage installation, the Minnesota Legislature has directed that the Minnesota Department of Commerce prepare an EIS.

Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

42. 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.

Justification.

The addition of "as defined in [Minnesota Statutes, section 216E.01, subdivision 5,](#)" provides greater clarity in determining if environmental review is required for a proposed project. The RGU is not designated in the current rule.

The current rule does not define or reference large electric-power generating facilities, which leads to confusion and unnecessary interpretation when determining whether a mandatory EIS is required for a proposed project. This subpart now has an RGU designation. The change aligns State environmental review rules with the other applicable MN statutes for greater continuity and efficiency.

43. Part 4410.4400, subpart 4. Petroleum refineries.

Petroleum refineries. For construction of a new petroleum refinery facility, the PCA ~~shall be~~ is the RGU.

Justification.

Need and Reasonableness: Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

44. Part 4410.4400, subpart 5. Fuel conversion facilities.

Fuel conversion facilities. Items A and B designate the RGU for the type of project listed:

- A. For construction of a new fuel conversion facility for ~~the conversion of~~ converting coal, peat, or biomass sources to gaseous, liquid, or solid fuels if ~~that~~ the facility has the capacity to ~~utilize~~ use 250,000 dry tons or more per year of input, the PCA ~~shall be~~ is the RGU.
- B. For construction of a new or expansion of ~~a~~ an existing fuel conversion facility for the production of alcohol fuels ~~which~~ that would have or would increase ~~it's~~ the facility's 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~~ is the RGU.
- C. A mandatory EIS is not required for projects described in Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (c).

Justification.

The addition of the term "new fuel conversion" facility to items A and B more clearly identifies the type of facilities for which environmental review must be considered. The addition of item C aligns with the language passed by the Minnesota Legislature and found in [Minn. Stat. 116D.04, subdivision 2a, paragraph \(c\)](#). Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

The changes provide greater clarity in determining if environmental review is required for a proposed project. The addition of item C aligns with the language passed by the Minnesota Legislature and found in [Minn. Stat. 116D.04, subdivision 2a, paragraph \(c\)](#), which deals exclusively with the expansion of fuel conversion facilities:

"(c) A mandatory environmental impact statement is not required for a facility or plant located outside the seven-county metropolitan area that produces less than 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, or produces less than 400,000 tons of chemicals annually, if the facility or plant is: an ethanol plant, as defined in [section 41A.09, subdivision 2a](#), paragraph (b); a biobutanol facility, as defined in [section 41A.15, subdivision 2d](#); or a cellulosic biofuel facility. A facility or plant that only uses a cellulosic feedstock to produce chemical products for use by another facility as a feedstock is not considered a fuel conversion facility as used in rules adopted under this chapter."

45. 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~~ must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

Justification.

The addition of the phrases “construction of a high-voltage” and “as defined in [part 7850.1000](#)” clarifies the definition of “associated facilities” and “high-voltage transmission line.” The addition of the phrase “the PUC is the RGU” to this subpart makes clear that the PUC is the RGU for transmission line projects.

The definition ensures consistency for determining whether transmission lines and associated facilities require environmental review, as the definition clearly identifies which components of a site must be considered in determining whether the project means mandatory thresholds.

46. Part 4410.4400, subpart 8. Metallic mineral mining and processing.

Metallic mineral mining and processing. Items ~~A to C~~ A and B designate the RGU for the type of projected listed:

~~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.~~

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.

B. For construction of a new metallic mineral processing facility, the DNR ~~shall be~~ is the RGU.

Justification.

The existing rule envisioned the potential for projects involving extraction of radioactive minerals to occur. Bulk samples are taken to evaluate the mineral characteristics and economic feasibility of the materials. These actions were elevated to a mandatory EIS category because of the increased potential for adverse environmental impacts and human health impacts. The 1,000-ton threshold was adopted as a feasible threshold to provide a level of concern for significant adverse environmental impacts. This amount is near the limit of the amount of ore commonly analyzed in deposit evaluations.

The existing rule is unnecessary because this type of action is not being proposed. Although thought to be possible when originally enacted, the rule is now obsolete given little or no expected radioactive mineral extraction in Minnesota.

Eliminating the current rule is appropriate when there is little or no potential for actual projects that fit the rule to be proposed. The category has no history of revisions and DNR staff are not aware of ever conducting an EIS for this type of project.

According to the DNR Division of Lands and Minerals, exploration for uranium has not occurred in Minnesota since the 1970s. It is also believed that future radioactive mineral exploration is unlikely to occur in Minnesota. It should be noted that although the mandatory EIS category is proposed to be eliminated, if future exploration were to occur, an EAW would be mandatory under Minn. Rules part

4410.4300, subpart 11A. If such extraction of radioactive minerals were proposed, such exploration could be subject to preparation of an EIS if a positive declaration is made, or preparation of a discretionary EIS is volunteered, both under Minn. Rules part 4410.2000, subpart 3.

The amendment will have a positive effect by eliminating a rule for which the likelihood of the action being proposed is minimal. If such a project were proposed, it would be subject to mandatory EAW preparation under Minn. Rules part 4410.4300, subpart 11A. An EIS would be required if the project were determined to have the potential for significant environmental effects under Minn. Rules part 4410.1700, subpart 7.

47. Part 4410.4400, subpart 9. Nonmetallic mineral mining.

Nonmetallic mineral mining.

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

- 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.
- 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.

Justification.

The term government is replaced with the term governmental, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

48. Part 4410.4400, subpart 11. Industrial, commercial, and institutional facilities.

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:

- 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:
 - (1) unincorporated area, 375,000 square feet;
 - (2) third or fourth class city, 750,000 square feet;
 - (3) second class city, 1,000,000 square feet; and
 - (4) first class city, 1,500,000 square feet.
- 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~~ governmental unit ~~shall be~~ is the RGU:
 - (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; and
- (4) first class city, 1,000,000 square feet.

Justification.

During the EQB rulemaking in 1982, the words “square feet” were omitted from item A of this subpart, but were included in item B. In order to eliminate any question regarding which units of measurement must be used in applying item A, the EQB is adding the words “square feet” to this subpart.

The term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410.

49. Part 4410.4400, subpart 12. Hazardous waste.

Hazardous waste. Items A to C designate the RGU for the type of project listed:

- C. For construction of expansion of a facility for hazardous waste processing facility storage, or treatment, 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~~ is the RGU.

Justification

The word “processing” is confusing when applied to hazardous waste treatment, as the terms “storage” and “treatment” are more often used by the regulatory authority when permitting hazardous waste facilities.

Removing the term “processing facility” and using hazardous waste “storage” or “treatment,” aligns the environmental review rules with the language in other State rules. Using similar terminology also helps the public with review when environmental review documents and permits are co-noticed.

50. Part 4410.4400, subpart 13. Solid waste.

Solid waste. Items A to E designate the RGU for the type of project listed:

- A. For construction of a mixed municipal solid waste land disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.
- B. For construction or expansion of a mixed municipal solid waste land disposal facility_z in a water-related land use management district_z or in an area characterized by soluble bedrock, the PCA is the RGU.
- C. For construction or expansion of a mixed municipal solid waste energy recovery facility_z or incinerator_z, or ~~the utilization use~~ use of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel_z with a permitted capacity of 250 tons or more ~~tons~~ per day of input, the PCA is the RGU.
- D. For construction or expansion of a mixed municipal solid waste compost facility_z or a refuse-derived fuel production facility when the construction or expansion results in a facility with a permitted capacity of 500 tons or more ~~tons~~ per day of input, the PCA is the RGU.

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

Justification.

The addition of the term “land” in items A through E allows the environmental rule language to align with other applicable State regulatory requirements. This change provides greater clarity, specificity and efficiency for determining if environmental review is required for a proposed project. In addition, using similar terminology helps the public with review when environmental review documents and permits are co-noticed.

51. Part 4410.4400, subpart 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~~ governmental unit ~~shall be~~ is the RGU.

Justification.

The term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410. Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

52. Part 4410.4400, subpart 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~~ governmental unit ~~shall be~~ is the RGU.

Justification.

The term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410. Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

53. Part 4410.4400 subpart. 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~~ governmental unit ~~shall be~~ is the RGU.

Justification

The term “government” is replaced with the term “governmental”, to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410. Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

54. 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, the DNR or the local government governmental unit shall be is the RGU.

Justification.

The current rule assigns the RGU to only the LGU when there are circumstances where DNR has greater expertise in analyzing the potential impacts. The 1982 SONAR identifies these resources as significant, pursuant to the DNR's inventory program. The elimination of such resources would have significant local and regional impacts. There is variation across local governments regarding the technical/scientific expertise necessary to evaluate these projects.

Under the change, the LGU and DNR will to confer early in the process for the RGU determination. If it is unclear which unit of government is the appropriate designated RGU, then under Minn. Rules part 4410.0500, subpart 5. B. (2) the question will be submitted to the EQB chairperson, for a determination based greatest responsibility for supervising or approving the project or has expertise that is relevant for the environmental review.

The term "government" is replaced with the term "governmental", to provide consistency with how this term is used in other parts of Minn. Rules 4410. This change ensures consistent application of Minn. Rules ch. 4410. Other changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

55. Part 4410.4400, subpart 25. Incineration of wastes containing PCBs.

~~Incineration of Incinerating wastes containing PCBs.~~ For the incineration of incinerating wastes containing PCB's PCBs for which an EIS is required by Minnesota Statutes, section 116.38, subdivision 2, the PCA shall be is the RGU.

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

56. Part 4410.4600, subpart 10. Industrial, commercial, and institutional facilities.

Industrial, commercial, and institutional facilities. The following projects are exempt:

- B. ~~The~~ Construction of a warehousing, light industrial, commercial, or institutional facility with less than 4,000 square feet of gross floor space, and with associated parking facilities designed for 20 vehicles or less, is exempt fewer.
- C. Construction of a new parking facility for less fewer than 100 vehicles if the facility is not located in a shoreland area, a delineated flood plain floodplain, a state or federally

designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area ~~is exempt~~.

Justification .

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

57. Part 4410.4600, subpart 12. Residential development.

Residential development. The following projects are exempt:

- A. Construction of a sewer residential development, of:
 - (1) ~~less~~ fewer than ten units in an unincorporated area~~;~~
 - (2) ~~less~~ fewer than 20 units in a third or fourth class city~~;~~
 - (3) ~~less~~ fewer than 40 units in a second class city~~;~~ or
 - (4) ~~less~~ fewer than 80 units in a first class city, no part of which is within a shoreland area, a delineated ~~flood plain~~ floodplain state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, is exempt.
- B. Construction of less than ten residential units located in shoreland, provided all land in the development that lies within 300 feet of the ordinary high water level of the lake or river, or edge of any wetland adjacent to the lake or river, is preserved as common open space.
- C. Construction of a single residence or multiple residence with four dwelling units or ~~less~~ fewer and accessory appurtenant structures and utilities ~~is exempt~~.

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

58. Part 4410.4600, subpart 14. Highway projects.

Highway projects. The following projects are exempt:

- A. Highway safety improvement projects ~~are exempt~~.
- B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones, and access and egress lanes for transit and paratransit vehicles ~~is exempt~~.
- C. Modernization of an existing roadway or bridge by resurfacing, restoration, or rehabilitation that may involve ~~the acquisition of~~ acquiring minimal amounts of right-of-way ~~is exempt~~.
- D. Roadway landscaping, and construction of bicycle and pedestrian lanes, paths, and facilities within an existing right-of-way ~~are exempt~~.
- E. Any stream diversion, realignment, or channelization within the right-of-way of an existing public roadway associated with bridge or culvert replacement ~~is exempt~~.

- E. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that may involve ~~the acquisition of~~ acquiring minimal amounts of right-of-way ~~is exempt.~~

Justification.

Revisor's office change to improve clarity for interpreting the rule and adding the word "realignment" to make this change to be consistent with part 4410.4300, subpart 26, Stream Diversion. Part 4410.4300, subpart 26 provides as follows:

Subpart 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. (Emphasis added)

During the EQB rulemaking in 1997, the EQB amended subpart 26 to add the word "realignment." Prior to the 1997 amendment, part, 4410.4300, subpart 26 and the highway project exemption language in part 4410.4600, subpart 14, item E were consistent. Both subparts referenced stream diversion or channelization for the EAW threshold and the highway project exemption. The 1997 rulemaking did not address the language in part 4410.4600, subpart 14, item E, however, the language regarding the exemption in part 4410.4600, subpart 14, item E, remained in part 4410.4300, subpart 26. Therefore, it appears that the omission of "realignment" in part 4410.4600, subpart 14, item E was overlooked as a cross-reference that should have been updated in 1997 as well. The EQB is now proposing the amendment in part 4410.4600, subpart 14, item E to correct this oversight.

59. Part 4410.4600, subpart 18. Agriculture and forestry.

Agriculture and forestry. The following projects are exempt:

- A. Harvesting of timber for maintenance purposes ~~is exempt.~~
- B. Public and private forest management practices, other than clearcutting or ~~the application of~~ applying pesticides, that involve less than 20 acres of land, ~~are exempt.~~

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

60. Part 4410.4600, subpart 27. Recreational trails.

Recreational trails. The projects listed in items A to ~~F~~ H are exempt. For purposes of this subpart, "existing trail" means an established corridor in current legal use.

- G. Paving a trail located on an abandoned railroad grade retired in accordance with Code of Federal Regulations, title 49, part 1152.
- H. Adding a new motorized use to an existing motorized trail or trail segment where the trail is located only on an abandoned railroad grade retired in accordance with Code of Federal Regulations, title 49, part 1152.

Justification.

Recreational trails projects developed on abandoned rail grades have minimal environmental impacts and do not have the potential to result in significant environmental effects. Because these corridors already exist, there is little or no potential for new surface disturbance resulting in permanent cover-type conversion or other impacts. The rail grade is already filled and compressed to withstand the weight of a train, so it seems unlikely that paving and/or motorized use will cause much physical impact. Water crossings are already in place, whether by bridge or culvert. The activities covered by this proposed exemption would have a minimal impact and the environment and warrant being exempted.

The current mandatory categories do not distinguish between abandoned rail grades and other types of surfaces, whether for completely new projects or addition of new uses to existing trails. Utilizing these corridors when available is desirable because impacts have already occurred when the rail line was originally constructed. Little or no environmental effects are anticipated from paving or adding a motorized use to abandoned rail grades, thus warranting an exemption.

The proposed exemptions pertain to projects employing abandoned rail grades for trail siting. As used by railroad companies, "abandon" means to cease operation on a line, or to terminate the line itself. The most frequent type of abandonment is where the track has not been used for two years or more or the track has so little traffic on it that it is clear that the carrier could not be making a profit. "Abandoned," when used with reference to a rail line or right-of-way, means a line or right-of-way where the Surface Transportation Board (STB) or other responsible federal regulatory agency has permitted discontinuance of rail service. The STB's procedures are codified under [49 CFR 1152](#).

The proposed exemptions will have a positive effect by eliminating from environmental review a specific type of trail development with minimal impact.

For the remaining sections, the changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

61. Part 4410.5200, subpart 1. Required notices.

Required notices. Governmental units are required to publish notice of the items listed in items A to R in the EQB Monitor, except that this part constitutes a request and not a requirement with respect to federal agencies.

- A. When a project has been noticed pursuant to item D, separate notice of individual permits required by that project need not be made unless changes in the project are proposed that will involve new and potentially significant environmental effects not considered previously. No decision granting a permit application for which notice is required to be published by this part ~~shall be~~ is effective until 30 days following publication of the notice.
 - (1) For all public hearings conducted pursuant to water resources permit applications, Minnesota Statutes, chapter 103G, the DBR is the permitting authority.
 - (2) For notice of public sales of permits for or leases to mine iron ore, copper-nickel, or other minerals on state-owned or administered mineral rights, Minnesota

Statutes, section 93.16, ~~and 93.335, and 93.351~~, and part 6125.0500, the DBR is the permitting authority.

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

62. Part 4410.7904, Licensing of Explorers.

LICENSING OF EXPLORERS.

An applicant ~~shall~~ must comply with Minnesota Statutes, section ~~156A.071~~ 103I.601, subdivision 2, and parts 4727.0400 to ~~4727.0900~~ 4727.0860, relating to the regulation of exploratory boring.

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

63. Part 4410.7906, subpart 2. Content of an application for drilling permit.

Content of an application for drilling permit. An application for a drilling permit ~~shall~~ must be filed by the applicant with the ~~board~~ EQB and ~~shall~~ must include:

- C. the applicant's explorer's license, issued under Minnesota Statutes, section ~~156A.071~~ 103I.601, subdivision 2 and parts 4727.0400 to ~~4727.0900~~ 4727.0860;

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

64. Part 4410.7926. Abandonment of Exploratory Borings.

Pursuant to Minnesota Statutes, section 116C.724, subdivision 2, clause (1), any abandonment, whether temporary or permanent, ~~shall~~ must comply with the state drilling and drill hole abandonment and restoration rules governing exploratory boring under Minnesota Statutes, chapter ~~156A~~ 103I, and part 4727.1000 to ~~4727.1300~~ 4727.1250.

Justification.

Changes reflect the state of MN Revisor's Office recommendations to improve clarity for interpreting the rule.

VI. Regulatory analysis

This part addresses the requirements of Minn. Stat. § 14.131 (a), which compel state agencies to address a number of questions in the SONAR. In some cases, the response will depend on specific amendment being proposed and specific detail will be provided. However, for most of the questions, the EQB's response can

be general and will apply across all of the components of this rulemaking, regardless of the specific amendment being proposed.

A. Description of the classes of person who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

As with the existing rules, the proposed amendments to Minn. Rules 4410.0200, 4410.4300 and 4410.4400 will primarily affect persons who propose to develop projects in Minnesota that have, or may have the potential for significant environmental effects. The greatest economic impact would occur to those proposers whose projects would require an EAW or EIS under the proposed rules but not under existing Minn. Rules ch. 4410 or under other current law/statute.

Most of the changes proposed in this rulemaking will have little to no effect on the cost to proposers or Responsible Government Units (RGU) responsible for environmental review due to the fact that a majority of the changes proposed in this rulemaking are an attempt to align with statute, and provide more clarity and certainty on which types of projects require environmental review for potential proposers and RGUs. Where a specific class will be affected, a discussion is provided below.

All changes proposed in this rulemaking provide the benefit of clarity and certainty for EQB, project proposers, RGUs and citizens. Often, changes to the proposed rules that increase clarity and certainty for EQB, project proposers, and RGUs also reduce costs due to a reduction in process time, the staff time in determination if a project requires environmental review; such as the proposed change under Minn. Rules 4410.0500, subpart 6. Exceptions. Clarity in this subpart should reduce staff time spent determine a project's environmental review status and the appropriate RGU at EQB and thus reduce costs to EQB, project proposers, and RGUs.

1. Regulatory Analysis: Minn. Rules 4410.0200

For the proposed changes to Minn. Rules 4410.0200, EQB expects there to be no change in cost to RGUs, proposers, EQB and citizens. The changes to Minn. Rules 4410.0200, provide benefit to RGUs, proposers and citizens by increasing clarity and aligning definitions with other applicable regulatory requirements will benefit the public, project proposers, RGUs and the EQB with review, when environmental review documents and permits are co-noticed. It is challenging to determine if definitional changes, which provide the benefit of more clarity and certainty for proposers, RGUs and the public, will result in more or less environmental review.

2. Regulatory Analysis: Minn. Rules 4410.4300, subpart 2 Nuclear fuels and Nuclear Waste

For the proposed change in Minn. Rules 4410.4300, subpart 2. Nuclear fuels and Nuclear Waste; EQB expects there to be no change to the number of EAWs or EISs as a result of the change that excludes "independent spent-fuel storage installation." Since this threshold update is already required in statute, EQB does not anticipate there to be any change in costs to proposers or the RGU. This clarification and change was required by the Minnesota Legislature in [Minn. Stat. 116C.83, subdivision 6](#), paragraph (b).

3. Regulatory Analysis: Minn. Rules 4410.4300, subpart 3. Electric-generating facilities

The proposed change for Minn. Rules 4410.4300, subpart 3. Electric-generating facilities, item A., will result in less cost to EQB due to the reduction in process steps by directly referring the responsibility for the proposed project to the Minnesota Pollution Control Agency (PCA) instead of a proposed project coming before the EQB Board and then being referred to the PCA (as usually occurs).

Similarly, the change to Minn. Rules 4410.4300, subpart 3., item B means that proposed projects generating between 25 megawatts and 50 megawatts will be reviewed by the Local Government Unit (LGU) instead of going before the EQB Board and then potentially being referred to a Local Government Unit (LGU). This change is expected to increase costs for LGUs because with this change, LGUs will always be the RGU (the LGU is now designated as the RGU) where in the past, in some cases EQB was the RGU and in some cases the RGU was re-designated. Since 2011, the EQB has records of thirteen projects in this category, of the thirteen projects, one would have been between 25 and 50 megawatts and would have triggered an EAW that would have been conducted by a LGU. To mitigate any EAW costs, local government units have the option of creating a local ordinance to require project proposers to pay the costs of an environmental assessment worksheet.

The change to item C is expected to result in less cost to EQB due to the reduction in process steps by directly referring the proposed project to the Public Utilities Commission (PUC) instead of a proposed project coming before the EQB Board and then being referred to the PUC (as usually occurs).

The change to item D is expected to result in less cost to EQB due to the reduction in process steps by directly referring the proposed project to the Public Utilities Commission (PUC) instead of a proposed project coming before the EQB Board and then being referred to the PUC.

4. Regulatory Analysis: Minn. Rules 4410.4300, subpart 4. Petroleum refineries

The proposed rule language change for Minn. Rules 4410.4300, subp. 4. Petroleum refineries, EQB expects there to be no change to cost for EQB, proposers or RGU.

5. Regulatory Analysis: Minn. Rules 4410.4300, subpart 5. Fuel conversion facilities.

EQB expects the changes to items A and B, which add the phrase “new fuel conversion” to reduce costs to the proposer and RGU. The clarity of specifying “new fuel conversion” will help a proposer and RGU more effectively and efficiently determine if a proposed project should undergo environmental review and complete an EAW.

The change to item B, that deletes “or expansion” from the mandatory category is expected to reduce the number of EAWs in this category—thus reducing the cost for proposers and RGU (in this case, the PCA). The additional change to item B, that deletes “or would increase its capacity by...” and changes it to “a capacity” provides more certainty on when a new fuel conversion facility should undergo environmental review.

Finally, the proposed change to item C is expected to provide more clarity and certainty to proposers, RGUs and citizens when determining which projects in this category must undergo mandatory environmental review. This change aligns with [Minnesota Statutes 116D.04, subdivision 2a, paragraph \(b\)](#) and thus there is no actual change to the mandatory category. environmental review. The additional language in item c, helps the proposer, RGU and citizens more easily access the statutory language by its inclusion in 4410.4300.

6. Regulatory Analysis: Minn. Rules 4410.4300, subpart 6. Transmission lines.

The proposed change to Minn. Rules 4410.4300, subpart 6. Transmission lines, is expected to have minimal effect on the cost to proposers, RGUs or citizens of Minnesota. The changes to this category are a language alignment of rule language with already existing Minnesota Rule and statutory language. Inclusion of Minnesota Rule references of the “high-voltage transmission lines” definition will provide more ease of access for proposers, citizens and RGUs and EQB expects no change to cost for EQB, RGUs, proposers, or citizens.

The additional change to subpart 6, the change of the RGU from EQB to PUC should reduce costs for EQB, because EQB will no longer need to re-designate the RGU for a proposed Transmission line project. Per Minn. Rules, [7849.1000](#) to [7849.2100](#) and [7850.1000](#) to [7850.5600](#); environmental review for a proposed high-voltage transmission line project must be conducted by the PUC as required by Minn. Stat., section [216B.243](#) or [216B.2425](#).

7. Regulatory Analysis: Minn. Rules 4410.4300, subpart 7. Pipelines.

The proposed change to Minn. Rules 4410.4300, subpart 7. Pipelines, is expected to increase clarity and efficiency in processing proposed pipeline projects. The deletion of all the current mandatory category language and the introduction of new language will provide clarity to proposers, EQB, citizens, and the RGU through simplification of the threshold determination. EQB expects this change to reduce costs for EQB because it will no longer need to re-designate the Public Utilities Commission the RGU. The change aligns with and incorporates [Minn. Stat. 216G](#) and [Minn. Rules 7852](#), which directs how environmental review is conducted. This incorporation of statute into rule will increase ease of access to all relevant statutory and rule requirements for the proposer, RGU and citizen when determining the environmental review process.

8. Regulatory Analysis: Minn. Rules 4410.4300, subpart 8. Transfer facilities.

The proposed rule language change to Minn. Rules 4410.4300, subpart 8. Transfer facilities. Item C. is an incorporation of existing statutory language and is expected to have no effect on the cost to EQB, RGUs, citizens or proposers due to the fact that these environmental review threshold requirements are already in affect through statute ([Minn. Stat. 116C.991](#)).

9. Regulatory Analysis: Minn. Rules 4410.4300, subpart 10. Storage facilities.

The proposed rule language change to Minn. Rules 4410.4300, subpart 10. Storage facilities. Item A. is a simple readability change and should have no effect on the cost to EQB, RGUs, citizens or proposers.

The proposed rule language change to Item B is a change that should provide more clarity through defining “new major facility” ([Minn. Rule 7151.1200](#)) and “hazardous materials” ([CFR, title 49, section 171.8](#)) to help the RGU, proposer and citizens more easily determine when a facility is required to conduct a mandatory Environmental Assessment Worksheet. These changes should benefit the proposer, RGUs, EQB and citizens by clarifying what a “new major facility” is and what “hazardous materials” are through other, already established, Minnesota rules and Federal codes. All other changes for item B are for readability and should have no effect on costs.

The proposed rule language for Minn. Rules 4410.4300, subpart 10. Storage facilities, item C, is completely new and will likely increase costs for the RGU and proposers due to the fact that more Environmental Assessment Worksheets will be completed. This cost increase will be bore by the Minnesota Pollution Control Agency (PCA) and proposers and will not affect costs for small municipalities. EQB has no record of any projects of this type being proposed in the last 10 years.

The proposed rule language for item D may increase costs for the RGU and proposers due to the fact that more Environmental Assessment Worksheets may be completed because the threshold related to “expansion”. This cost increase will be bore by the Minnesota Pollution Control Agency (PCA) and proposers, and will not affect costs for small municipalities. It is unknown how much this change may cost for proposers or the RGU because it is new and it is unclear to EQB how many projects may occur in the future.

The proposed rule language for item E. will increase clarity through incorporating statutory definitions of “liquefied natural gas” ([Minn. Stat. 299F.56](#)) and “synthetic natural gas” ([Minn. Stat. 216B.02](#)) into the new proposed rule language. These definitions will provide more clarity for proposers, RGU and the EQB by incorporating the already established definitions from statute. The proposed change that deletes the PCA as the RGU and adds the Public Utilities Corporation (PUC) as the RGU aligns with statute and PUC’s jurisdictional authority and expertise. This change should reduce time and costs for the EQB, because now the EQB will not need to re-designate the RGU to the PUC for the proposed project.

The proposed rule change to item F, which aligns a mandatory category with an agency that already has oversight over anhydrous ammonia, Minnesota Department of Agriculture (MDA), provides a benefit to the PCA and EQB, by eliminating their role as an RGU, but may increase costs to MDA. Changing the RGU to MDA may increase costs for proposers and MDA by increasing the level of scrutiny of proposals. This change will benefit all Minnesotans because anhydrous ammonia facilities will undergo environmental review by a state agency that already tracks the location and size of these facilities.

The proposed rule language for item G will increase clarity through incorporating statutory definitions of “liquefied natural gas” ([Minn. Stat. 299F.56](#)) and “synthetic natural gas” ([Minn. Stat. 216B.02](#)) into the new proposed rule language. These definitions should provide more clarity for proposers, RGU and EQB by incorporating the already established definitions from statute.

The proposed change that deletes the PCA as the RGU and adds the Public Utilities Corporation (PUC) as the RGU aligns with statute and PUC’s jurisdictional authority and expertise. This change should reduce time and costs for the PCA and the EQB because now the EQB will not need to re-designate the RGU to the PUC for the proposed project.

The proposed rule language for item H is an incorporation of existing statutory language and is expected to have no effect on the cost to EQB, RGUs, citizens or proposers due to the fact that these statutory requirements are already in effect. Including this change into 4410.4300 rule language will benefit proposers and the RGU by making it easier to know when a proposed project requires environmental review.

10. Regulatory Analysis: Minn. Rules 4410.4300, subpart 12. Nonmetallic mineral mining.

The proposed rule language change to Minn. Rules 4410.4300, subpart 12. Nonmetallic mineral mining, is an incorporation of existing statutory language ([Minn. Stat. 116C.991](#)) and is expected to have no effect on the cost to EQB, RGUs, citizens or proposers due to the fact that this threshold is already in effect through statute. Including this change into 4410 rule language (where proposers and RGUs look when determining if environmental review is required) will benefit proposers and the RGU by making it easier to know when a proposed project requires environmental review.

11. Regulatory Analysis: Minn. Rules 4410.4300, subpart 14. Industrial, commercial and institutional facilities.

The proposed rule language change to Minn. Rules 4410.4300, subpart 14. Industrial, commercial and institutional facilities, is a readability change (adding "square feet") and will have no effect on cost or the number of EAWs in the State of Minnesota. Readability will benefit proposers when determining if a proposed project requires environmental review.

12. Regulatory Analysis: Minn. Rules 4410.4300, subpart 16. Hazardous waste.

The proposed rule language change to Minn. Rules 4410.4300, subpart 16. Hazardous waste. Item A, is a change that adds additional clarity to "new" and "existing". This change should have no effect in costs for proposers, the RGU or the EQB.

Much of the proposed rule language change to Minn. Rules 4410.4300, subpart 16. Hazardous waste. Item A and B adds additional clarity. The clarity changes (wording, "new", etc.) should have no effect in costs for proposers, the RGU or the EQB. The deletion of "with a capacity of 1,000 or more kilograms per month" and the change to "is generating or receiving 1,000 kilograms or more per month," may increase or reduce the costs to proposers of potential projects because now the mandatory threshold is not just about a site's "capacity" but about how much a site "generates" or "receives." This equates to a threshold change and may require proposers of potential projects to undergo environmental review now where they were not required in the past.

The proposed change of "one kilogram or more per month of acute hazardous waste" is also a threshold change and may increase costs for proposers of potential projects to undergo environmental review now where they we're not required in the past. This change may also increase costs for the RGU (PCA) due to additional environmental review of proposed projects that would now be required to conduct a mandatory environmental review. This category has many unknowns because no projects have been proposed in the last ten years and there is no indication there would be any new projects in future years. This cost increase will be bore by the Minnesota Pollution Control Agency (PCA) and proposers and will not affect costs for small

municipalities. It is unknown how much this change may cost for proposers or the RGU because it is new and it is unclear to EQB how many projects may occur in the future.

The proposed rule language change to Minn. Rules 4410.4300, subpart 16. Hazardous waste. Item C adds additional clarity. The clarity changes should have no effect in costs for proposers, the RGU or the EQB.

13. Regulatory Analysis: Minn. Rules 4410.4300, subpart 17. Solid waste.

The proposed rule language change to Minn. Rules 4410.4300, subpart 17. Solid waste. Item A, provides more clarity by incorporating "land" into the category to clarify that this is for locations on the land with solid waste. This change should have no effect on costs for proposers, the RGU (PCA) or the EQB.

The proposed rule language change to Minn. Rules 4410.4300, subpart 17. Solid waste. Item B, adds words that provide more clarity in what the threshold is for this mandatory category. This change may or may not increase costs for proposers and the RGU. This change will benefit proposers, the RGU and citizens by having certainty of how to measure the mandatory threshold.

The proposed rule language change to Minn. Rules 4410.4300, subpart 17. Solid waste. Item D, E and F, provides more clarity by increasing readability of the category. This category assumes similar changes to B, E and F, which all add in the word "permitted". Including "permitted" into the category should provide more clarity for RGUs, proposers and citizens. It is unknown if this change will increase or decrease costs for proposers, the RGU or the EQB. Currently the threshold is related to the "capacity" of a site which EQB assumes would be the "permitted capacity" and thus there should be no change to the number of environmental reviews required. The word "permitted" is incorporated to provide more clarity that the threshold is derived from that which is permitted not a "potential" or "designed" capacity.

14. Regulatory Analysis: Minn. Rules 4410.4300, subpart 18. Wastewater system.

The proposed change to Minn. Rules 4410.4300, subpart 18. A, provides more clarity by increasing readability of the category by splitting "A" into two parts: "A" and "B". The thresholds do not change and thus EQB expects there to be no change in cost to RGUs, EQB, proposers, or citizens.

The proposed change to Minn. Rules 4410.4300, subpart 18. C, by adding "modification" may increase the number of EAWs due to more clarity and specificity in the mandatory category. It is unknown if costs will increase for proposers and RGUs due to more EAWs. It is unknown if this category was applied when a project "modified" a wastewater treatment plant or if they only completed an EAW when they "reconstructed" a wastewater plant.

The proposed change to Minn. Rules 4410.4300, subpart 18, D. EQB expects there to be no cost changes to RGUs, project proposers, or citizens, due to the fact that this is a simple language clarification change.

The proposed change to Minn. Rules 4410.4300, subpart 18. E, by adding "modification" may increase the number of EAWs due to more clarity and specificity in the mandatory category. It is unknown if costs will increase for proposers and RGUs due to more EAWs. It is unknown if this

category was applied when a project “modified” a wastewater treatment plant or if they only completed an EAW when they “reconstructed” a wastewater plant.

The proposed change to Minn. Rules 4410.4300, subpart 18, F. EQB expects there to be no cost changes to RGUs, project proposers, or citizens, due to the fact that this is a simple language clarification change.

15. Regulatory Analysis: Minn. Rules 4410.4300, subparts 20, 20a, 21.

The proposed change to Minn. Rules 4410.4300, subpart. 20., 20a and 21. EQB expects there to be no cost changes to RGUs, project proposers, or citizens, due to the fact that this is a simple language clarification change.

16. Regulatory Analysis: Minn. Rules 4410.4300, subpart 22. Highway projects.

The proposed change to Minn. Rules 4410.4300, subpart 22. Highway Projects. EQB expects there to be less cost to EQB, project proposers and RGUs due to the fact that there will be less EAWs due to the increase in threshold (from 1-mile to 2-miles).

17. Regulatory Analysis: Minn. Rules 4410.4300, subparts 25, 30, 31, 36.

The proposed changes to Minn. Rules 4410.4300, subparts 25, 30, 31, 36, are expected to be no change to costs for EQB, project proposers and RGUs.

18. Regulatory Analysis: Minn. Rules 4410.4300, subpart 26. Stream diversion.

The proposed change to Minn. Rules 4410.4300, subpart 26 that allows for either the “DNR or LGU” to be the RGU may or may not reduce costs for a proposed project. It is likely to reduce costs and time for the proposer due to the reduction in EQB process of re-designation if an LGU wants the DNR to be the RGU for a project (this occurs often).

19. Regulatory Analysis: Minn. Rules 4410.4300, subpart 27. Wetlands and public waters.

The proposed changes to Minn. Rules 4410.4300, subpart 27. Wetlands and Public waters. changes the title of the category for readability. This will have no effect on costs for proposers, the RGU, EQB or citizens.

The proposed change to item A, may or may not reduce costs for a proposed project. It is likely to reduce costs and time for the proposer due to the reduction in EQB process of re-designation if an LGU wants the DNR to be the RGU for a project (this occurs often).

The proposed change to Minn. Rules 4410.4300, subpart 27, item B, may increase costs for project proposers that trigger this mandatory threshold. The proposed language change incorporates “impact”, defines it through existing Minnesota Rule ([Minn. Rule 8420.0111](#)). The deletion of “change or diminish the course, current, or cross-section of 40 percent or more of five or more acres of types 3 through 8 wetlands of 2.5 acres or more” and the replacement with “cause an impact” simplifies the determination of if a project crosses the mandatory threshold and thus

requires environmental review. From this perspective, the simplification in language will reduce costs for the RGU and potentially the project proposer due to the renewed ease of determining if a project requires environmental review. Although, the change in “cause an impact” of “one or more acre or wetland” may increase costs for project proposers that impact wetlands with a proposed project due to clarity and removal of a confusing formula and replacement with a simple threshold. This may mean more Environmental Assessment Worksheets (EAW) will be required and thus increase costs for proposers and RGUs. All other changes to item B are for readability and will have no effect on cost.

20. Regulatory Analysis: Minn. Rules 4410.4300, subpart 30. Natural Areas.

Most of the proposed changes to Minn. Rules 4410.4300, subp. 30. Natural Areas. are for readability and will have no effect on cost for the RGU or proposers. The deletion of “state trail corridor,” will likely reduce costs for the RGU due to no mandatory Environmental Assessment Worksheet being required (in this category) on proposed projects in state trail corridors.

21. Regulatory Analysis: Minn. Rules 4410.4300, subpart 31. Historical places.

The proposed changes to Minn. Rules 4410.4300, subpart 31 is a housekeeping change and is expected to have no change to costs for EQB, project proposers and RGUs.

22. Regulatory Analysis: Minn. Rules Part 4410.4300, subpart 36. Land use conversions, including golf courses.

The proposed changes to Minn. Rules 4410.4300, subpart 36 is a housekeeping change and is expected to have no change to costs for EQB, project proposers and RGUs.

23. Regulatory Analysis: Minn. Rules Part 4410.4300, subpart 36a. Land conversions in shoreland.

The addition of “permanent conversion” meant to provide clarity about what was intended by this subpart and provide consistency with the term “permanent conversion” as it is used throughout Minnesota Rules chapter 4410. The proposed language is expected to have little effect on the costs for EQB, project proposers and the RGU, LGUs.

24. Regulatory Analysis: Minn. Rules 4410.4300, subpart 37. Recreational Trails.

The proposed change at Minn. Rules 4410.4300, subp. 37. Recreational Trails. EQB expects there to be less cost to EQB due to clarity and certainty on if a project is required to undergo mandatory environmental review—or if it is excluded via Legislatively directed language, [Minn. Laws 2015, ch. 4, section 33](#).

25. Regulatory Analysis: Minn. Rules 4410.4400.

All the proposed changes to Minn. Rules 4410.4400 are expected to have little to no change in projected costs for EQB, proposers or RGUs due to the language changes being for readability (clarity), alignment with statute, and minor grammatical updates.

26. Regulatory Analysis: Minn. Rules 4410.4600.

All the proposed changes to Minn. Rules 4410.4600, are expected to have little to no change in projected costs for EQB, proposers or RGUs due to the language changes being for readability (clarity), alignment with statute, and minor grammatical updates.

27. Regulatory Analysis: Minn. Rules 4410.5200

All changes to Minn. Rules 4410.5200 are expected to have little to no change in projected costs for EQB, proposers or RGUs due to the language changes being for readability (clarity), alignment with statute, and minor grammatical updates.

28. Regulatory Analysis: Minn. Rules 4410.7904, 4410.7906, 4410.7926.

All changes to Minn. Rules 4410.7904, 4410.7906, 4410.7926 are expected to have little to no change in projected costs for EQB, proposers or RGUs due to the language changes being for readability (clarity), alignment with statute, and minor grammatical updates.

B. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The proposed rule amendments clarify practices and mandatory EAW and EIS category thresholds already in place for the statewide environmental review program, therefore the proposed rule amendments are unlikely to result in a significant increase in costs to the state. Costs associated with the implementation of the existing rules includes EQB staff time and staff resources to provide technical assistance to citizens, project proposers and RGUs around the state. One goal of the proposed rules is to reduce EQB staff time needed to process requests to designate different RGUs and to determine whether projects meet the mandatory EAW and EIS category thresholds. Moreover, project proposers and RGUs will benefit from those same time and cost savings.

Other state agencies and many local governmental units are RGUs and therefore responsible for overseeing the completion of the environmental review process, often in the form of an EAW or EIS. Those agencies and local governmental units may incur some additional costs or reduction in costs because the rule amendments clarify mandatory EAW and EIS category thresholds and therefore there may be some projects that require environmental review that had not previously been captured by the threshold. Nevertheless, most of the changes proposed in this rulemaking are intended to make environmental review clearer and easier to understand and apply, so any increase or decrease in costs as a result of this rule should be nominal. Please refer to Section A. above for more details on which categories may result in increased costs for other agencies due to RGU change or other proposed language changes.

C. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The vast majority of the proposed rule amendments are technical changes and to align state rule with state statutes and in doing so, gaining efficiencies for all classes of people affected by these rules. Consequently, the only straightforward method for making technical and statutory changes to the rules is through rulemaking.

- D. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule.**

The alternative of not conducting this rulemaking was considered. However, this would not achieve the goal of the proposed rules, including clarifying the rules, keeping the rules up to date with state statute language and technical changes, and streamlining the rules. Therefore, not amending the existing rules was rejected by the EQB in favor of the proposed rule amendments.

Moreover, EQB's alternatives were limited, particularly for changes related to recreational trails, a rulemaking directed by the Minnesota state legislature. The proposed changes could not be addressed through agency policy, development of guidance or internal rule interpretation.

- E. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

The potential or probable costs are discussed in detail in item A. of this section. Environmental review costs are project and RGU dependent. Costs are wide ranging and difficult to ascertain since the complexity and location of a proposed project plays a significant factor in determining costs for affected parties.

- F. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

The potential or probable costs or consequences of not adopting the proposed rules are discussed in detail in item A. of this section. Environmental review costs are project and RGU dependent. Costs are wide ranging and difficult to ascertain since the complexity and location of a proposed project plays a significant factor in determining costs for affected parties. The consequences of not adopting these rules is that environmental review reviews will continue to not align with Statute, will be unclear and difficult to read and comprehend for proposers, LGUs, RGUs and citizens.

- G. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.**

It is possible for a given project to require review of its environmental impacts under requirements of the NEPA as well as the MEPA. The federal process prescribes environmental documents similar to state EAWs and EISs and uses processes similar in general outline although different in details to the Minnesota process under chapter 4410. Almost always, it is public projects such as highways, water resources projects, or wastewater collection and treatment that require such dual review. In the few cases where dual review is needed, specific provisions in the environmental review rules provide for joint state-federal review with one set of environmental documents to avoid duplication of effort. These provisions, found in part 4410.1300, which provides that a federal Environmental Assessment document can be directly substituted for a state EAW document and part 4410.3900, which provides for joint state and federal review in general. Neither of these provisions will be affected by the proposed amendments.

H. An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

Minn. Stat. § 14.131 defines “cumulative effect” as “the impact that results from incremental impact of the proposed rule in addition to the other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

There is no cumulative effect of the rule with other federal and state regulations related to environmental review. The 4410 rules cover the process, definitions, mandatory thresholds for EAW and EIS and exclusions and have no relation to federal and state regulations because environmental review is not a regulation per se, it is an exercise in fact finding and due diligence to develop a project that will not have the potential for significant environmental effects.

VII. Notice plan

Minn. Stat. § 14.131 requires that an Agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule, or explain why these efforts were not made.

The EQB utilizes a self-subscription service for interested and affected parties to register to receive rule related activities at the EQB. Each EQB rule project has a page on the EQB’s website and rulemaking information include status, timelines and drafts can be found on the rulemaking webpage.

A. Notice

The EQB published notice requesting comments on planned rule amendments to Minn. R. ch. 4410. The notice was placed on the EQB’s rulemaking webpage. Three Request for Comments were published in the State Register:

- a. July 22, 2013 - The Request for Comments closed on August 23, 2013 at 4:30pm.
- b. November 9, 2015 - The Request for Comments closed on December 31, 2015 at 4:30pm.
- c. October 24, 2016 - The Request for Comments closed on November 28, 2016 at 4:30pm.

On November 9, 2015, the EQB sent messages to the following audiences: MN Cities; MN Townships and members of the Association of Minnesota Counties. The message was sent via email and noticed in the EQB Monitor. All recipients were invited to visit the EQB webpage to use the self-subscription service and sign up for notification on topics of interest to them. Listed topics include rulemaking projects.

1. Minn. Stat. § 14.14, subdivision 1a. On the date the Notice is published in the State Register, the EQB intends to send an electronic notice with a hyperlink to electronic copies of the Notice, SONAR, and proposed rule amendments to all parties who have self-subscribed to the EQB rulemaking distribution lists for the purpose of receiving notice of rule proceedings. The EQB will also distribute an electronic notice with a hyperlink to electronic copies of the Notice, SONAR, and proposed rule amendments in the next available EQB Monitor.

Additionally, the EQB intends to send an electronic notice with a hyperlink to electronic copies of the Notice, SONAR, and the proposed rule amendments to the following organizations:

Name	Contact	Email
Association of MN Counties	Jennifer Berquam, Environment & Natural Resources Policy Analyst	
League of MN Cities	Craig Johnson, Intergovernmental Relations Representative	cjohnson@lmc.org
MN Association of Townships (MAT)		
Center for Environmental Advocacy	Kathryn Hoffman	khoffman@mncenter.org
MN Chamber of Commerce	Tony Kwilas	tkwilas@mncchamber.com
MN Solid Waste Administrators Association	Troy Freihammer, SWA President	Troy.Freihammer@co.stearns.mn.us
Metropolitan Council	Leisa Thompson, MCES General Manager	leisa.thompson@metc.state.mn.us

A copy of the Notice, proposed rule amendments and SONAR will be posted on the EQB’s rulemaking webpage: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>

Pursuant to Minn. Stat. § 14.14, subdivision 1a, the EQB believes its regular means of notice, including publication in the State Register, EQB Monitor and on the EQB’s rulemaking webpage, will provide adequate notice of this rulemaking to persons interested in or regulated by these rules.

Minn. Stat. § 14.116. The EQB intends to send a cover letter with a hyperlink to electronic copies of the Notice, SONAR, and the proposed rule amendments to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule amendments, as required by Minn. Stat. § 14.116. The timing of this notice will occur at least 33 days before the end of the comment period because it will be delivered via U.S. Mail.

This statute also states that if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting House and Senate legislators who were chief authors of the bill granting the rulemaking. This does not apply because no bill was authored within the past two years granting rulemaking authority.

Minn. Stat. §14.111. If the rule affects agricultural land, Minn. Stat. § 14.111 requires an agency to provide a copy of the proposed rule changes to the Commissioner of Agriculture no later than 30 days before publication of the proposed rule in the State Register. This rule is expected to impact the Minnesota Department of Agriculture (MDA). The rule changes will be submitted to the Commissioner of the Department of Agriculture with a cover letter notifying the MDA of the changes.

VIII. Additional notice plan

Minn. Stat. § 14.14 requires that in addition to its required notices:

“each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.”

The Environmental Quality Board (EQB) considered these statutory requirements governing additional notification and as detailed in this section, intends to fully comply with them. In addition, as described in Section 2, Public participation and stakeholder involvement, the EQB has made reasonable efforts, thus far, to notify and involve the public and stakeholders in the rule process, including various meetings and publishing the RFC.

The EQB intends to request that the Office of Administrative Hearings review and approve the Additional Notice Plan, pursuant to Minn. R. 1400.2060. The EQB's plan to notify additional parties includes the following:

1. Publish its Notice of Intent to Adopt Rules on the EQB's webpage at <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>.
2. Provide specific notice to tribal authorities. The EQB maintains a list of the 12 federally recognized tribes in Minnesota. The EQB will send specific electronic notice to the designated tribal contact person of Minnesota's tribal communities. The notice will be sent on or near the day the proposed rule amendments are published in the State Register, and will have a hyperlink to the webpage where electronic copies of the Notice of Intent to Adopt Rules, proposed rule amendments, and SONAR can be viewed.
3. Provide specific notice to associations related to responsible governmental units (RGUs), environmental groups, other industry associations that may be affected by the proposed rules. The notice will be sent to the following associations and groups on or near the day the proposed rule amendments are published in the State Register, and will have a hyperlink to the webpage where electronic copies of the Notice, proposed rule amendments, and SONAR can be viewed.
 - Metro Cities - Association of Metropolitan Municipalities
 - Association of Minnesota Counties
 - Coalition of Greater Minnesota Cities
 - League of Minnesota Cities
 - Metropolitan Council
 - Minnesota Association of Small Cities
 - Minnesota Chamber of Commerce
 - Minnesota City/County Management Association
 - Minnesota Center for Environmental Advocacy
 - Minnesota Environmental Partnership
 - Sierra Club North Star Chapter
 - PCA Environmental Justice Advisory Group
 - PCA Environmental Justice List serve
 - Environmental Justice Advocates of Minnesota (EJAM)
 - The Alliance Advancing Regional Equity
 - Minnesota Farm Bureau
 - Minnesota Farmers Union
 - Minnesota Corn Growers Association

- Minnesota Association of Wheat Growers
- Minnesota Land Improvement Contractors Association
- Red River Watershed Management Board
- Minnesota Soybean Growers Association
- Minnesota Pollution Control Agency
- Minnesota Industrial Sand Council
- Minnesota Public Utilities Commission
- Minnesota Department of Commerce
- Minnesota Department of Natural Resources

Note: some members of these associations may already subscribe to receive GovDelivery notices.

4. Providing an extended comment period to allow additional time for the review of the proposed revisions. The EQB intends to provide more than the minimum 30-day comment period prior to the hearings and to request that the administrative law judge provide the maximum allowed post-hearing comment period.
5. Email the Notice of Intent to Adopt Rules; the proposed rules; links to the SONAR and any additional documents related to the rulemaking; to persons on the EQB's broader email list, the "EQB Monitor".
 - The EQB Monitor is a weekly publication announcing environmental review documents, public comment periods and other actions of the Environmental Quality Board. The EQB Monitor is published every Monday at 8:00 am.
6. The EQB believes that by following the steps of this Additional Notice Plan, and its regular means of public notice, including early notification of the GovDelivery mail list for this rulemaking and the broader "EQB Monitor" email list, publication in the State Register, and posting on the EQB's webpages, the EQB will adequately provide additional notice pursuant to Minn. Stat. § 14.14, subd. 1a.

IX. Performance-based rules

Minn. Stat. §14.002 requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of an agency's regulatory objectives while allowing maximum flexibility to regulated parties and to an agency in meeting those objectives.

The goal of the environmental review program is to obtain useful information about potential environmental effects of proposed projects and how they can be avoided or mitigated. The structure of the rules promotes flexibility for units of government in obtaining this information. The rules specify the types of information that are needed, but the RGU chooses how it will obtain the information. Except for one of the proposed amendments, which will streamline RGU determinations early in the environmental review process, the present rulemaking does not substantially affect the procedures of environmental review. Rather it makes minor adjustments to the thresholds at which review is required. Furthermore, environmental review is not a regulatory program, and hence the EQB has no "regulatory objectives" in this rulemaking.

X. Consult with MMB on local government impact

As required by Minn. Stat. § 14.131, the EQB will consult with Minnesota Management and Budget (MMB). The EQB will do this by sending MMB copies of the documents that are sent to the Governor's office for review and approval on the same day the EQB sends them to the Governor's office. The Agency will do this before publishing the Notice of Intent to Adopt/Dual Notice/Notice of Hearing. The documents will include - the Governor's Office Proposed Rule, and SONAR Form, the proposed rules; and the SONAR. The EQB will submit a copy of the cover correspondence and any response received from MMB to the Office of Administrative Hearing (OAH) at the hearing or with the documents it submits for Administrative Law Judge (ALJ) review (Exhibit #5).

XI. Impact on local government ordinances and rules

Minn. Stat. § 14.128, subdivision 1, requires an agency to determine whether a proposed rule will require a local government to adopt or amend any ordinances or other regulation in order to comply with the rule. The EQB has determined that the proposed amendments will not have any effect on local ordinances or regulations.

XII. Costs of complying for small business or city

Minn. Stat. § 14.127, subs. 1 and 2 require an agency to "determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees."

The EQB determined that the cost of complying with the proposed rules in the first year after the rules take effect may or may not exceed \$25,000 for any small business or small city. The Board has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR. The potential or probable costs of adopting the proposed rules are discussed in detail in item A. of this section. In general, local units of government prepare approximately two-thirds of the total environmental review documents each year, and eighty-percent of the total projects are reviewed using the EAW process.

It is difficult to assess the potential cost of an individual project and/or categories of projects. The overall project costs can vary based on the adequacy of the data submitted to the RGU, the complexity of the project, the project's location and proximity to sensitive resources, and the level of controversy. Because the EQB delegates the authority to prepare and approve environmental documents, they do not have reliable historic project data. EQB staff attempted to better understand the RGU costs of preparing these environmental documents through survey questions, but did not receive substantive responses. According to 2017 survey (Exhibit 2) data collected, the average cost for environmental review for RGUs was \$35,960, with a range of \$200 to \$75,000 (Exhibit #2). It is worth noting there was a small sample size related to RGU costs and a large range reported.

Additionally, EQB staff reached out to several local governments and state agencies who are RGUs for projects that require environmental review. According to these RGUs, the cost for EAWs ranged from \$1,500 to \$368,600. An example project, is the Lilydale Regional Park Master Plan EAW. The EAW for this project was estimated to cost between \$18,889 and \$28,058. Another example is a more complex project, CHS Field in St. Paul, MN. The estimated proposed cost for the EAW for this project was \$368,600. Another set of example of estimated EAW costs, from Scott County, for three mining projects ranged

from \$17,000-\$53,000. Scott County also provided an estimate cost for an EIS for a mining project, this estimate was \$232,000 for a completed EIS.

To mitigate any EAW costs, local government units have the option of creating a local ordinance to require project proposers to pay the costs of an environmental assessment worksheet.

XIII. Authors and SONAR exhibits

A. Authors

- Denise Wilson, Planning Director, Environmental Review, Environmental Quality Board
- Erik Cedarleaf Dahl, Planning Director, Environmental Quality Board

B. SONAR exhibits

Exhibits are located at the end of this document.

XIV. Conclusion

In this SONAR, the EQB has established the need for and the reasonableness of each of the proposed amendments to Minn. Rules ch. 4410. The EQB has provided the necessary notifications and in this SONAR documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules. The EQB will comply with Minn. Stat. 14.131 and 14.23 and submit the SONAR to the Legislative Reference when the EQB mails out the Dual Notice.

Based on the forgoing, the proposed amendments are both needed and reasonable.

11/13/18
Date


David Frederickson, Chair
Environmental Quality Board

XV. SONAR exhibits

1. Mandatory Categories Report (2013)
2. 2017 Survey Results RGUs and Project Proposers Debrief
3. Recreational Trails Legal Review of Previous Efforts
 - (a) Judge's Order: December 2, 2015
 - (b) Judge's Order: February 16, 2016
4. EQB Statutory Authority
5. MMB Letter

XVI. References

Minnesota Department of Transportation. Road Design Manual. 2018.
<http://roaddesign.dot.state.mn.us/>. Section 4-3.0, 4-4(8), 6-1.05.04, 18.01.

Transportation Officials (AASHTO). A Policy on Geometric Design of Highways and Streets. American Association of State Highway 2011. Section 8-35, 9-124-127, 10-76, 10-79)

Voss, John. Mandatory Categories Statement of Needs and Reasonableness. December 1, 1982, Minnesota Environmental Quality Board. 1982.

LINE	Rule Part	Rule Part	Exhibit	Comment Topic	Summary of comment (note: comments that are paraphrased are indicated with *)	Discussed on SONAR page or supporting documentation	Affiliation Name/Address	Comment Type
1	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.1.	EAW highway category	*Supports: Aux Lane definition, additional <u>through</u> lakes or <u>passing lanes, two</u> or more miles.	pages 17, pags 39-41	Mark R. Sehr, PE Rock County Highway Department 1120 N. Blue Mound Avenue PO Box 808 Luverne, MN 56156-0808	Dual-notice Comment Period
2	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The proposed revisions to subpart 27, item B would significantly increase the number of projects that trigger preparation of an EAW"	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
3	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The types of wetlands included have been expanded"	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
4	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The area of wetland impact that triggers an EAW has been significantly reduced to one acre made up by accumulating smaller wetland impacts."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
5	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Although both the existing and amended rule language limit the applicability of this category to projects where any part of the wetland is within a shoreland area, a delineated floodplain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbed area, or the Mississippi headwaters area, this clause eliminates relatively few of our county highway projects that impact one or more acre of wetland."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
6	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Subpart 27 item B, especially as revised, does not meet the core purposes of Minnesota's environmental review rules and may detract from their effectiveness for other projects. In our experience the environmental review process can serve as a meaningful project planning tool when applied to projects that have a variety of potential impacts and alternatives."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
7	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The proposed revisions to subpart 27 item B are inconsistent with the intent of this rulemaking"	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
8	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The proposed revisions to subpart 27 item B would result in new costs"	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
9	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Per Minn. R. 14.131 the agency must consult with the commissioner of Minnesota Management and Budget (MMB) to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
10	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"In addition to the expense of preparing an EAW for additional projects, one of our biggest concerns is the negative impact this category as revised would have on project delivery timelines, likely leading to project implementation delays of 12 months or more."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period

11	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Preparing an EAW for projects that do not require review based on any other category (i.e. they only trigger an EAW due to impacts to public waters or wetlands) does not increase environmental protection because it duplicates environmental review efforts already required by state and federal regulations governing work in wetlands and public waters that require the project proposer to avoid, minimize, and mitigate such impacts."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
12	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Many projects undertaken by road authorities, in particular, would not benefit from preparing an EAW."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
13	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Preparing a state level EAW for a project with wetland impacts duplicates federal environmental review."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
14	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"The proposed changes to subpart 27 item B were not included in the required notifications to the public and the entities identified for the following dates listed on the EQB website as July 22, 2013; November 9, 2015; or October 24, 2016."	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
15	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"Minn. Stat. § 14.131 requires that an agency proposing rules include in the SONAR "an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.""	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
16	4410.4300, subpart 27		I.1.	EAW Wetlands and Public Waters	"recommends that EQB delete 4410.4300 subpart 27 from the rules in its entirety to eliminate duplication"	pages 42-43	Mark R. Sehr	Dual-notice Comment Period
17	All		I.1.	Hearing Request	*Requests a public hearing.	N/A	Mark R. Sehr	Dual-notice
18	All		I.2.	General Comment	"Changing or making new rules should always be made to the public. The biggest problem with the way it is set up is that most of the time the rural population feel like we have no choice. Everything is done in St. Paul!"	N/A	Cal Anderson, calscf66 <calscf66@gmail.com>	Dual-notice Comment Period
19	All		I.3.	Hearing Request	*Requests a public hearing.	N/A	Elizabeth Dickinson <eadickinson@mindspring.com>	Dual-notice Comment Period
20	4410.4400, Subpart 8	Lines 20.1-20.3	I.4.	Metallic Mineral Mining (Radioactive)	"Failure of the Minnesota Environmental Quality Board to retain the language presently contained in 4410.4400 Subpart 8 Lines 20.1 through 20.3, as is hereby requested by the North American Water Office would be an unconscionable dereliction of duty and a murderous betrayal of the public's trust in the Minnesota Environmental Quality Board to protect public health and safety."	page 51-52	Mary LeBlanc <leblancmary906@gmail.com>	Dual-notice Comment Period
21	All		I.5.	Hearing Request	*Requests a public hearing.	N/A	Stephen P. Schnieder, P.E. Nobles County Public Works Director 960 Diagonal Road P O Box 187 Worthington, MN 56187-0187	Dual-notice Comment Period
22	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.5.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pages 39-41	Stephen P. Schnieder, P.E. Nobles County Public Works Director	Dual-notice Comment Period

23	4410.4300, subpart 27		I.5.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Stephen P. Schnieder, P.E. Nobles County Public Works Director	Dual-notice Comment Period
24	All		I.6.		"There seems to be an inconsistency between the language in the Notice and in Admin rules for comment and requesting hearings when legality of a rule may be in question. Your Notice seems to require that any comment addressing legality of a rule change must be stated as such."	N/A	Willis Mattison, mattison@arvig.net	Dual-notice Comment Period
25	All		I.7.	Hearing Request	"This communication is in support of the North American Water Office's request to hold a public hearing regarding the Minnesota Environmental Quality Board proposing a rule change that would eliminate Mandatory Environmental Review for the Monitoring of radioactive characteristics in the metallic mineral mining processing permits."	N/A	La Shella Sims, <lasims3@gmail.com>	Dual-notice Comment Period
26	4410.4300, subpart 7	4410,4400, subpart 24	I.8.	Pipeline provision	"The intent, then, of the proposed rule revision appears to be to require mandatory EISs for larger pipelines, and mandatory EAWs for the smaller ones, and to use the thresholds in section 216G.01 and 216.02 to make that determination. That makes sense, and Friends of the Headwaters ("FOH") could support that change. Unfortunately, that is not all the proposed rule revision does."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
27	4410.4300, subpart 7	4410,4400, subpart 24	I.8.	Pipeline provision	"...in the proposed new Minn. R. 4410.4300, subp. 7, there is a completely new sentence: "Environmental review must be conducted according to chapter 7852 and Minnesota Statutes, chapter 216G." That new sentence was not in the preliminary draft rules, it is not mentioned in the SONAR, and its rationale is not explained anywhere in the documents EQB has made public. Our concern is that this additional sentence might create a new argument for reversing, the decision of the Minnesota Court of Appeals in In re North Dakota Pipeline Co., 869 N.W.2d 693 (Minn. Ct. App. 2015), and sanctioning, by rule, the PUC's old "comprehensive environmental assessment" alternative to normal environmental review for pipeline projects."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
28	4410.4300, subpart 7	4410,4400, subpart 24	I.8.	Pipeline provision	"FOH is not arguing that EQB's rules for alternative review processes be changed in this rulemaking process, or that any previous authorizations be overturned by rule. The question of whether applicant-prepared CEA's under Minnesota Rules, chapter 7852, are adequate alternatives to full EISs in pipeline cases should be decided on the facts by the EQB, not by trying to slip in rule language through a technical amendments package."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period

29	4410.4400, subpart 24		I.8.	Pipeline provision	"The second issue has to do with the mandatory EIS category for pipelines. The new mandatory EAW category uses the phrase "[f]or construction, as defined in Minnesota Statutes, chapter 216G.01, subdivision 2," but the old mandatory EIS category will still use "[f]or routing." That potentially limits the scope of a pipeline EIS to issues not covered by a certificate of need, which is confusing and inconsistent with the North Dakota Pipeline Co. ruling."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
30	4410.4300, subpart 7	4410.4400, subpart 24	I.8.	Pipeline provision	FOH therefore recommends that the last sentence in the proposed new subpart 7 of Minn. R. 4410.4300 be deleted. FOH further recommends that EQB replace the word "routing" in the current Minn. R. 4410.4400, with the word "construction" or with the phrase "construction, as defined in Minnesota Statutes, chapter 216G.01, subdivision 2."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
31	4410.0500 subpart 6		I.9.	RGU Selection Procedures	"I believe the whole board should be involved so maximize transparency in decision-making and furthermore, that the time period should be retained."	Page 22	Barbara Draper 2212 19th Ave NE Minneapolis, MN 55418 <barbaradraper@gmail.com	Dual-notice Comment Period
32	4410.4300, subpart 7		I.9.	Pipeline EAW Category	"Pipelines should have a mandatory EIS for the application as well as the certificate of need and routing. Also, gas pipelines should still be under the rules, either EAW or EIS."	pages 26-27	Barbara Draper 2212 19th Ave NE Minneapolis, MN 55418 <barbaradraper@gmail.com	Dual-notice Comment Period
33	4410.4400, subpart 24		I.9.	Pipeline EIS Category	"This should be assessed for legality - it likely runs contrary to MEPA law and MN Court of Appeals Ruling."	N/A	Barbara Draper 2212 19th Ave NE Minneapolis, MN 55418 <barbaradraper@gmail.com	Dual-notice Comment Period
34	4410.4300, subpart 4		I.9.	Refinery EAW category	"Refinery expansions of 10,000 barrels per day should be subject to mandatory EIS requirements"	page 24	Barbara Draper 2212 19th Ave NE Minneapolis, MN 55418 <barbaradraper@gmail.com	Dual-notice Comment Period
35	4410.4400, subpart 4		I.9.	Refinery EIS category	"In addition to requiring EIS for construction of new refineries, major rebuilds (such as the one in Duluth) should be subject to mandatory EIS."	pages 49-50	Barbara Draper 2212 19th Ave NE Minneapolis, MN 55418 <barbaradraper@gmail.com	Dual-notice Comment Period
36	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The proposed rule change is unwarranted and will impose enormous new costs on local governmental units and rural Minnesota property owners due to the significant expansion of the number of Environmental Assessment Worksheets that will be required if the proposed change is adopted."	pages 42-43	Representative Dale K. Lueck Minnesota House of Representatives 311 State Office Building, 100 Rev. Dr. Martin Luther King Jr. Blvd, St. Paul MN 55155-1298 rep.dale.lueck@house.mn	Dual-notice Comment Period
37	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"All Minnesota governmental agencies and private property owners are subject to the wetland definitions contained in MN Rules Part 8420.0111, including subparts 32 and 72 referenced in the proposed rule change. There is no need to repeat the definitions or single out individual wetland definitions that are already contained in MN Rule 8420.0111."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period

38	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The EQB would be acting beyond the scope of its authority should it elect to impose new more restrictive acreage and wetland type parameters than currently exist in MN Rules 4410.4300 subpart 27.B."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
39	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The EQB lacks legislative direction to change specific the wetland acreage parameters. To do so without specific legislative direction disregards the spirit and intent of EQB' s existing rule making authority."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
40	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"This proposed change lacks sufficient justification, provides insufficient analysis of the new mandated costs it will impose on LGU' s and private citizens and is being proposed without the opportunity for adequate public input from those that would be impacted by the change and thus must not be adopted."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
41	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The proposed change will impose significant new cost on local government units by increasing the number of EA W's required for activities that might impact a wetland. Those costs will have to be paid by local taxpayers at the township, small city and county levels for processing the large number of additional EA W's this change would generate."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
42	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The proposed change will also impose delays and new costs on road construction, road maintenance, and storm water infrastructure construction and maintenance"	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
43	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The proposed change imposes a tremendous new unfair tax burden on the citizens of north and north central Minnesota where most of the pre-settlement wetlands remain intact and are already well protected by existing federal, state and local regulations."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
44	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"The proposed change singles out the private property owners and business operations in northern and north central Minnesota for a new round of unwarranted costs and delays should they attempt to make even small improvements to private property or business infrastructure."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
45	4410.4300 subpart 27.B		I.10.	EAW Wetlands and Public Waters	"This proposal if adopted will significantly increase the number of EA W's required of citizens in many cases for minor building additions, new building construction or improvements to residential and business driveways that may have only minor involvement of a wetland."	pages 42-43	Representative Dale K. Lueck	Dual-notice Comment Period
46	4410.4300, subpart 37	Line 18.5	I.11.	Recreational Trails Mandatory Category	"...issue on line 18.5. To lessen confusion and potential conflict, we believe if you struck "newly designated" on that line it would help clear up the language. By leaving it in, it seems to imply that newly designated trails would also count towards the 25 mile threshold for a mandatory EAW, while under part B., line 17.20 – 17.25, the new rule specifically states that it doesn't count towards the 25 miles."	pages 46-48	Ron Potter, All-Terrain Vehicle Association of Minnesota ron@nohvcc.org	Dual-notice Comment Period

47	All		I.12.	Hearing Request	*Requests a public hearing.	N/A	Bill Adamski, 4433 Garfield Ave. S. Minneapolis, MN 5541 adamski.bill@gmail.com	Dual-notice Comment Period
48	All		I.12.	All rules	"I am specifically opposed to EQB's "Proposed Amendment to Rules Governing Environmental Review, Minnesota Rules, 4410.0200, 4410.0500, 4410.4300, 4410,4400, 410,5200, 4410.7904, 4410.7906, 4410.7926, 4410.4600"."	N/A	Bill Adamski, 4433 Garfield Ave. S. Minneapolis, MN 5541 adamski.bill@gmail.com	Dual-notice Comment Period
49	4410.0500, subpart 6		I.13.	RGU Selection Procedures	"demand that the following proposed changes be rejected"	Page 22	GRETA LARSON Garden manager 1962 Harbor Street Mora, MN 55051, gretamlarson@gmail.com	Dual-notice Comment Period
50	4410.4300 all subparts		I.13.	All rules	"demand that the following proposed changes be rejected"		Greta Larson 1962 Harbor Street Mora, MN 55051	Dual-notice Comment Period
51	4410.4400 all subparts		I.13.	All Rules	"demand that the following proposed changes be rejected"		Greta Larson 1962 Harbor Street Mora, MN 55051	Dual-notice Comment Period
52	All		I.14.	Hearing Request	*Requests a public hearing.	N/A	John Kearney, 2512 33rd Ave South, #2, Minneapolis, MN 55406, jmkearney9@gmail.com	Dual-notice Comment Period
53	4410.4400, Subpart 8	Lines 20.1- 20.3	I.15.	Metallic Mineral Mining (Radioactive)	*Same comment as North American Water Office (line 20)	page 51-52	Lea Foushee, lfoushee@nawo.org PO BOX 174 LAKE ELMO, MN 55042	Dual-notice Comment Period
54	4410.4400, Subpart 8	Lines 20.1- 20.3	I.15.	Metallic Mineral Mining (Radioactive)	*Same comment as North American Water Office (line 20)	page 51-52	George Crocker, PO BOX 174 LAKE ELMO, MN 55042	Dual-notice Comment Period
55	All		I.16.	Hearing Request	*Requests a public hearing.	N/A	Mark Ray, PE City of Crystal 4141 Douglas Dr. N. Crystal, MN 55422- 1696	Dual-notice Comment Period
56	All		I.16.	All Rules	"I oppose the entire rule."	N/A	Mary Ray	Dual-notice
57	All		I.17.	Hearing Request	*Requests a public hearing.	N/A	Timothy DenHerder-Thomas timothydht@gmail.com, 3100 Longfellow Ave. Minneapolis, MN 55407	Dual-notice Comment Period
58	All	Lines 20.1- 20.3	I.17.	All rules & Metallic Mineral Mining	"I request that in the Minnesota Environmental Quality Board's recent proposed changes to Minnesota Rules 4410.0200 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, and 4410.4600, the proposed changes to Rule 4410.4400 Subpart 8 Lines 20.1 through 20.3 must be rejected, and the original language of the rule must be retained."	page 51-52	Timothy DenHerder-Thomas timothydht@gmail.com, 3100 Longfellow Ave. Minneapolis, MN 55407	Dual-notice Comment Period
59	All		I.18.	Hearing Request	*Requests a public hearing.	N/A	Tim Springer 2836 18th Ave S Minneapolis, MN 55407, thegreenwayguy@gmail.com	Dual-notice Comment Period
60	4410.4400, Subpart 8	Lines 20.1- 20.3	I.19.	Metallic Mineral Mining (Radioactive)	*Same comment as North American Water Office (line 20) & requests hearing	page 51-52	Terry W. Hokenson 3352 Prospect Ter. SE Minneapolis, MN 5414	Dual-notice Comment Period
61	4410.4400, Subpart 8	Lines 20.1- 20.3	I.20.	Metallic Mineral Mining (Radioactive)	*Supports comment as North American Water Office (line 20) & requests hearing	page 51-52	Claudia Foussard 75 S. Wheeler St. St. Paul , MN 55105	Dual-notice Comment Period

62	All		I.21.	Hearing Request	*Requests a public hearing.	N/A	Travis Fristed 7900 International Drive Suite 550, Minneapolis, MN 55425 Travis.Fristed@is-grp.com	Dual-notice Comment Period
63	4410.4300 subpart 27.B		I.21.	EAW Wetlands and Public Waters	"we respectfully object to the proposed rule amendments as they result in an unnecessary environmental review and financial burdens on project proposers, local government units, and RGUs. Specifically, there are several deficiencies in Part 4410.4300 subpart 27. Wetlands and public waters."	pages 42-43	Travis Fristed 7900 International Drive Suite 550, Minneapolis, MN 55425 Travis.Fristed@is-grp.com	Dual-notice Comment Period
64	4410.4300 subpart 27.B		I.21.	EAW Wetlands and Public Waters	"The proposed addition of "a total of one acre or more of wetlands" will increase costs to project proposers and local governments units due to the additional staff time and resources needed for initial data/information gathering to determine and quantify post-construction wetland impacts (if any) from indirect impacts, such as partial drainage."	pages 42-43	Travis Fristed 7900 International Drive Suite 550, Minneapolis, MN 55425 Travis.Fristed@is-grp.com	Dual-notice Comment Period
65	4410.4300 subpart 27.B		I.21.	EAW Wetlands and Public Waters	"...the proposed one acre or more wetland impact threshold when combined with "if any part of the wetland basin is within" language creates an over reaching and unnecessary EAW result. Under this language, the entire one acre or more wetland impact could occur outside of these locations, however, a small portion of the non-impacted wetland basin may be located within these features, and thus would require an EAW."	pages 42-43	Travis Fristed 7900 International Drive Suite 550, Minneapolis, MN 55425 Travis.Fristed@is-grp.com	Dual-notice Comment Period
66	4410.4300, subpart 27		I.22.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Joe Triplett, Chisago County Public Works, 313 N. Main St, Room 400, Center City, MN 55012 Joe.Triplett@chisagocounty.us	Dual-notice Comment Period
67	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.22.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Joe Triplett, Chisago County Public Works, 313 N. Main St, Room 400, Center City, MN 55012 Joe.Triplett@chisagocounty.us	Dual-notice Comment Period
68	4410.4300, subpart 27		I.23.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Karin Grandia, Itasca County Transportation Department 123 NE 4th Street Grand Rapids, MN 55744, Karin.Grandia@CO.ITASCA.mn.us	Dual-notice Comment Period
69	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.23.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Karin Grandia, Itasca County Transportation Department 123 NE 4th Street Grand Rapids, MN 55744, Karin.Grandia@CO.ITASCA.mn.us	Dual-notice Comment Period
70	All		I.24.	Hearing Request	*Requests a public hearing.	N/A	Alice West 315 1st Ave. East, #11 Grand Marais, MN 55604 alice.m.west@gmail.com	Dual-notice Comment Period
71	All		I.25.	Hearing Request	*Requests a public hearing.	N/A	David Ratner, 4013 Kipling Ave, Edina MN 55416 davidratner1.0@gmail.com	Dual-notice Comment Period

72	4410.4300, subpart 27		I.26.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Brian Ketring Roseau County Highway Department 407 5th Ave NW, Roseau MN 56751 bketring@co.roseau.mn.us	Dual-notice Comment Period
73	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.26.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Brian Ketring Roseau County Highway Department 407 5th Ave NW, Roseau MN 56751 bketring@co.roseau.mn.us	Dual-notice Comment Period
74	All		I.27.	Hearing Request	*Requests a public hearing.	N/A	Sarah Hampton 1101 Linden St. S. Northfield, MN 55057	Dual-notice Comment Period
75	4410.4400, Subpart 8	Lines 20.1-20.3	I.27.	Metallic Mineral Mining (Radioactive)	"...the Minnesota Environmental Quality Board is seeking to eliminate the monitoring of radioactive materials in mining waste. This seems to be an omission tailor-made to pave the way for the Polymet mine proposed in northern Minnesota. This rule change is being requested based on the false assertion that there are no radioactive materials in Minnesota"	page 51-52	Sarah Hampton 1101 Linden St. S. Northfield, MN 55057	Dual-notice Comment Period
76	4410.4300, subpart 27		I.28.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Dan Sauvé, P.E. County Engineer Clearwater County 113 7th St. NE Bagley, MN 56621	Dual-notice Comment Period
77	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.28.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Andrew J. Witter, P.E. Sherburne County 13880 Business Center Drive, Suite 100, Elk River, MN 55330 Andrew.Witter@co.sherburne.mn.us	Dual-notice Comment Period
78	4410.4300, subpart 27		I.29.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Dan Sauve 213 Main Avenue North Bagley, Minnesota 56621	Dual-notice Comment Period
79	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.29.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Dan Sauve 213 Main Avenue North Bagley, Minnesota 56621	Dual-notice Comment Period
80	4410.4300, subpart 27		I.30.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Richard Heilman, PE Isanti County Engineer 232 N Emerson Str Cambridge, MN 55008	Dual-notice Comment Period
81	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.30.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Richard Heilman, PE Isanti County Engineer 232 N Emerson Str Cambridge, MN 55008	Dual-notice Comment Period
82	4410.4300, subpart 27		I.31.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Nick Klisch, PE Cottonwood County Public Works 1355 9th Ave, Windom, MN 56101	Dual-notice Comment Period

83	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.31.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Nick Klisch, PE Cottonwood County Public Works 1355 9th Ave, Windom, MN 56101	Dual-notice Comment Period
84	4410.4300, subpart 27		I.32.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Tim Becker Sibley County Public Works 111 8th Street, PO BOX 897 Gaylord, MN 55334	Dual-notice Comment Period
85	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.32.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Tim Becker Sibley County Public Works 111 8th Street, PO BOX 897 Gaylord, MN 55334	Dual-notice Comment Period
86	4410.4300, subpart 27		I.33.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Brian Giese Pope County brian.giese@co.pope.mn.us	Dual-notice Comment Period
87	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.33.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Brian Giese Pope County brian.giese@co.pope.mn.us	Dual-notice Comment Period
88	4410.4300, subpart 27		I.34.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Jodi L. Teich, P.E. Stearns County 455 28th Avenue South Waite Park, MN 56387	Dual-notice Comment Period
89	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.34.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Jodi L. Teich, P.E. Stearns County 455 28th Avenue South Waite Park, MN 56387	Dual-notice Comment Period
90	4410.4300, subpart 27		I.35.	EAW Wetlands and Public Waters *Requests a public hearing.	"This change will result in RGUs completing more EAWs and there does not seem to be an environmental benefit."	pages 42-43	Andi Moffatt, WSB, Andi Moffatt <AMoffatt@wsbeng.com>	Dual-notice Comment Period
91	4410.4300, subpart 27		I.35.	EAW Wetlands and Public Waters *Requests a public hearing.	"The rule change seems redundant in its environmental protection, as wetland impacts are already subject to regulatory programs review (WCA, USACE Section 404, etc.) which require wetland impacts avoidance and minimization."	pages 42-43	Andi Moffatt, WSB, Andi Moffatt <AMoffatt@wsbeng.com>	Dual-notice Comment Period
92	4410.4300, subpart 27		I.35.	EAW Wetlands and Public Waters *Requests a public hearing.	"We do recognize the need to make this section less confusing. However, we recommend removing this change to the rules as needing an EAW when you impact one acre or more of wetlands is onerous and already covered with WCA rules. We suggest a higher threshold such as three acres for non-transportation projects and five acres for transportation project."	pages 42-43	Andi Moffatt, WSB, Andi Moffatt <AMoffatt@wsbeng.com>	Dual-notice Comment Period
93	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.35.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Andi Moffatt, WSB, Andi Moffatt <AMoffatt@wsbeng.com>	Dual-notice Comment Period
94	All		I.36.	Hearing Request	*Requests a public hearing.	N/A	Michelle Shaw 3110 Pierce St. NE Minneapolis, MN 55418	Dual-notice Comment Period
95	4410.0500, subpart 6		I.36.	RGU Selection Procedures	"I do not agree with the following rules that have been proposed: 4410.4300, subpart 6"	Page 22	Michelle Shaw 3110 Pierce St. NE Minneapolis, MN 55418	Dual-notice Comment Period

96	4410.4300 all subparts		1.36.	All rules	"I do not agree with the following rules that have been proposed: 4410.4300 (Mandatory EAW Categories)"	All	Michelle Shaw 3110 Pierce St. NE Minneapolis, MN 55418	Dual-notice Comment Period
97	4410.4400 all subparts		1.36.	All Rules	"I do not agree with the following rules that have been proposed: 4410.4400 (Mandatory EAW Categories)"	All	Michelle Shaw 3110 Pierce St. NE Minneapolis, MN 55418	Dual-notice Comment Period
98	4410.4300 all subparts	4410.4400 all subparts	1.36.	All Rules	"I also question the legality of the proposed changes to rules 4410.4300 and 4410.4400, especially in regards to their compliance with existing law and court ruling."	All	Michelle Shaw 3110 Pierce St. NE Minneapolis, MN 55418	Dual-notice Comment Period
99	All		1.37.	All Rules	*Same as Michelle Shaw (lines 94-98)	All	Ulla Nilsen 4322 Pillsbury Ave S Minneapolis, MN 55409	Dual-notice Comment Period
100	All		1.38.	All Rules	*Same as Michelle Shaw (lines 94-97)	All	Kriss Wells 3929 Elliot Ave. MPLS, MN 55407	Dual-notice Comment Period
101	All		1.39.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Brian C. PaStarr 2201 22nd Ave. S. Mpls. MN. 55404	Dual-notice Comment Period
102	4410.4300, subpart 27		1.40.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Lyndon Colebrook-Robjent Carver County Public Works 11360 Highway 212, Suite 1, Cologne, MN 55322 lrobject@co.carver.mn.us	Dual-notice Comment Period
103	4410.0200, subpart 5a	4410.4300, subpart 22, item B	1.40.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Lyndon Colebrook-Robjent Carver County Public Works 11360 Highway 212, Suite 1, Cologne, MN 55322 lrobject@co.carver.mn.us	Dual-notice Comment Period
104	All		1.41.	All Rules	*Same as Michelle Shaw (lines 94-98)	All	Hendrik Svien 2221 Minneapolis Avenue Mpls. MN 55406	Dual-notice Comment Period
105	All		1.42.	All Rules	*Same as Michelle Shaw (lines 94-98)	All	Laurel Bangs 2221 Minneapolis Ave Minneapolis, MN 55406	Dual-notice Comment Period
106	All		1.43.	All Rules	*Same as Michelle Shaw (lines 94-98)	All	Genna Mastellone 3735 Harriet Ave S, Mpls, MN, 55409	Dual-notice Comment Period
107	All		1.44.	All Rules	*Same as Michelle Shaw (lines 94-98)	All	Margaret O'Connor 2607 W. 55th St. Minneapolis, MN 55410	Dual-notice Comment Period
108	All		1.45.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Scott Russell 3124 44th Ave. S. Minneapolis, MN 55406	Dual-notice Comment Period
109	All		1.46.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	M. Delaney Russell 3124 44th Ave. S. Minneapolis, MN 55406	Dual-notice Comment Period
110	All		1.47.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Nova J Bradford 2118 DuPont Ave S #2 Minneapolis, MN, 55405	Dual-notice Comment Period
111	All		1.48.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Steven A Smith 1011 E 37th St. Minneapolis MN 55407	Dual-notice Comment Period

112	All		I.49.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Bonnie Beckel 3519 23rd Ave. So., Minneapolis, MN 55407	Dual-notice Comment Period
113	4410.4300, subpart 27		I.50.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Fred Arnold, Houston County, 1124 East Washington St, Caledonia, MN 55921 Brian.Pogodzinski@co.houston.mn.us	Dual-notice Comment Period
114	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.50.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Fred Arnold, Houston County, 1124 East Washington St, Caledonia, MN 55921 Brian.Pogodzinski@co.houston.mn.us	Dual-notice Comment Period
115	4410.4300, subpart 27		I.51.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Lon Aune, Marshall County, 447 So. Main Warren MN 56762 Lon.aune@co.marshall.mn.us	Dual-notice Comment Period
116	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.51.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Lon Aune, Marshall County, 447 So. Main Warren MN 56762 Lon.aune@co.marshall.mn.us	Dual-notice Comment Period
117	4410.4300, subpart 27		I.52.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Kelly Bengtson, Kittson County, 401 2nd Street S.W. Hallock, MN 56728, kbengtson@co.kittson.mn.us	Dual-notice Comment Period
118	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.52.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Kelly Bengtson, Kittson County, 401 2nd Street S.W. Hallock, MN 56728, kbengtson@co.kittson.mn.us	Dual-notice Comment Period
119	4410.4300, subpart 27		I.53.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Samuel A. Muntean, Law qui Parle County, 422 5th Ave, Suite 301, Madison, MN 56256, sam.muntean@lqpc.com	Dual-notice Comment Period
120	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.53.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Samuel A. Muntean, Law qui Parle County, 422 5th Ave, Suite 301, Madison, MN 56256, sam.muntean@lqpc.com	Dual-notice Comment Period
121	4410.4300, subpart 27		I.54.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Jonathan Large, Mahnomen County, PO Box 399, Mahnomen, MN 56557, jon.large@co.mahnomen.mn.us	Dual-notice Comment Period
122	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.54.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Jonathan Large, Mahnomen County, PO Box 399, Mahnomen, MN 56557, jon.large@co.mahnomen.mn.us	Dual-notice Comment Period
123	All		I.55.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Denny Wagner 360 1st St N APT 249 Minneapolis, MN 55401	Dual-notice Comment Period
124	All		I.56.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Jacqueline Rodkewich 1603 Adams St Minneapolis MN 55413	Dual-notice Comment Period
125	All		I.57.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Maurice Spangler, 15995 Freedom Drive, Park Rapids, MN 56470	Dual-notice Comment Period

126	All		I.58.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Elaine J. Moore, MA,LP 314 Clifton Ave Suite 303 Minneapolis, MN 55403	Dual-notice Comment Period
127	All		I.59.	Hearing Request	*Requests a public hearing.	N/A	Ron Wetzell 4837 East Upland Crest Columbia Heights, MN., 554521	Dual-notice Comment Period
128	All		I.60.	All Rules	*Same as Michelle Shaw (lines 94-98), requests hearings in multiple parts of the state.	All	Stephen Borden 6810 37th Avenue North Crystal, MN 55427	Dual-notice Comment Period
129	All		I.61.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Robert G. Merritt, P.G. 1241 Minnesota Ave. Detroit Lakes, MN 56501	Dual-notice Comment Period
130	All		I.61.	All Rules	"I object to the proposed following rules: 4410.0500 Subp.6. (RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court ruling"	All	Robert G. Merritt, P.G. 1241 Minnesota Ave. Detroit Lakes, MN 56501	Dual-notice Comment Period
131	4410.4300, subpart 27		I.62.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Jonathan Large, Mahnommen County, PO Box 399, Mahnommen, MN 56557, jon.large@co.mahnomen.mn.us	Dual-notice Comment Period
132	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.62.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Jonathan Large, Mahnommen County, PO Box 399, Mahnommen, MN 56557, jon.large@co.mahnomen.mn.us	Dual-notice Comment Period
133	All		I. 63.	Hearing Request	*Requests a public hearing.	N/A	Mel Odens, PE, Kandiyohi County, 1801 Hwy 12 East, Willmar, MN 56201	Dual-notice Comment Period
134	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.63.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Mel Odens, PE, Kandiyohi County, 1801 Hwy 12 East, Willmar, MN 56201	Dual-notice Comment Period
135	4410.4300, subpart 27		I.63.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Mel Odens, PE, Kandiyohi County, 1801 Hwy 12 East, Willmar, MN 56201	Dual-notice Comment Period
136	All		I. 64.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Michael Menzel, M.D., 5410 York Ave So, Edina, MN 55410	Dual-notice Comment Period
137	All		I.64.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Michael Menzel, M.D., 5410 York Ave So, Edina, MN 55410	Dual-notice Comment Period
138	All		I. 65.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Kathryn J. Iverson, 5410 York Ave So, Edina, MN 55410	Dual-notice Comment Period
139	All		I.65.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Kathryn J. Iverson, 5410 York Ave So, Edina, MN 55410	Dual-notice Comment Period
140	All		I. 66.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Sarah Harper, 1905 1st Ave S., Minneapolis, MN 55403	Dual-notice Comment Period
141	All		I.66.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Sarah Harper, 1905 1st Ave S., Minneapolis, MN 55403	Dual-notice Comment Period
142	All		I.67.	Hearing Request	*Requests a public hearing.	N/A	Louis Norrgard, 10368 Columbus Circle, Bloomington, MN 55420	Dual-notice Comment Period

143	All		I.67.	All Rules	"I object to the proposed following rules: 4410.0500 Subp.6. (RGU Selection Procedures)It is important for the full Board to retain this decision-making authority for the sake of accountability, so the public can watch and comment. 4410.4300 (Mandatory EAW Categories) Oil pipelines shouldn't be in the EAW category but instead should be in the mandatory environmental impact statement category for both the route permit and certificate of need. Gas pipelines should be either in the EIS or EAW category. 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court ruling"	All	Louis Norrgard, 10368 Columbus Circle, Bloomington, MN 55420	Dual-notice Comment Period
144	All		I. 68.	Hearing Request	*Requests a public hearing.	N/A	John Haluska, 5660 Arthur St NE, Fridley, MN 55432	Dual-notice Comment Period
145	All		I.68.	All Rules	*Same as Louis Norrgard (line 143)	All	John Haluska, 5660 Arthur St NE, Fridley, MN 55432	Dual-notice Comment Period
146	All		I.69.	Hearing Request	*Requests a public hearing.	N/A	Michelle Thelen, 4541 42nd Ave S., Minneapolis, MN 55406	Dual-notice Comment Period
147	All		I.69.	All Rules	*Same as Louis Norrgard (line 143)	All	Michelle Thelen, 4541 42nd Ave S., Minneapolis, MN 55406	Dual-notice Comment Period
148	All		I.70.	Hearing Request	*Requests a public hearing.	N/A	Margaret Breen, 1600 Grand Ave., St. Paul, MN 55410	Dual-notice Comment Period
149	All		I.70.	All Rules	"I object to the proposed following rules: 4410.0500 Subp.6. (RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court rulings because they conflict the Court of Appeals 2015 ruling on the Sandpiper case."	All	Margaret Breen, 1600 Grand Ave., St. Paul, MN 55410	Dual-notice Comment Period
150	All		I.71.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Cynthia Gillespie, 556 Mariner Way, Woodbury, MN 55129	Dual-notice Comment Period
151	All		I.71.	All Rules	"I object to the proposed rules: 4410.0500 Subp.6. RGU Selection Procedures 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court ruling."	All	Cynthia Gillespie, 556 Mariner Way, Woodbury, MN 55129	Dual-notice Comment Period
152	All		I.71.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Dan La Vigne, 713 Heather Drive, Shoreview, MN 55126	Dual-notice Comment Period
153	4410.0500 subpart 6		I.71.	RGU Selection Procedures	"Some of the proposed rule changes that I oppose are: 4410.0500 Subp.6. (RGU Selection Procedures) line 3.18"	page 22-23	Dan La Vigne, 713 Heather Drive, Shoreview, MN 55126	Dual-notice Comment Period
154	4410.4300 Subpart 7		I.71.	Pipeline EAW Category	"4410.4300 Subp. 7 (Mandatory EAW Categories)"	pages 26-27	Dan La Vigne, 713 Heather Drive, Shoreview, MN 55126	Dual-notice Comment Period
155	4410.4400		I.71.	Pipeline EIS Category	"4410.4400 (Mandatory EIS Categories) Pipelines should be included for both CON and routing."	N/A	Dan La Vigne, 713 Heather Drive, Shoreview, MN 55126	Dual-notice Comment Period

156	All		I.71.	All Rules	"I also believe there may be some legal questions regarding the proposed changes to 4410.4300 & 4410.4400 with existing law and compliance with a court ruling."	All	Dan La Vigne, 713 Heather Drive, Shoreview, MN 55126	Dual-notice Comment Period
157	All		I.73.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Kaia Svien, MS, 3632 13th Ave S, Minneapolis, MN 55407	Dual-notice Comment Period
158	All		I.73.	All Rules	"I am concerned about the following proposed rules enough to strongly object to them. I want other citizens to hear about my concerns at Public Hearings. Here are the rules that worry me: 4410.0500 Subp. 6)RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories)	All	Kaia Svien, MS, 3632 13th Ave S, Minneapolis, MN 55407	Dual-notice Comment Period
159	All		I.74.	Hearing Request	*Requests a public hearing.	N/A	Anna Kleven, 4437 47th Avenue South, Minneapolis, MN 55406	Dual-notice Comment Period
160	All		I.74.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Anna Kleven, 4437 47th Avenue South, Minneapolis, MN 55406	Dual-notice Comment Period
161	All		I.75.	Hearing Request	*Requests a public hearing.	N/A	Sophie Breen, 2924 15th Ave. S., Minneapolis, MN 55407	
162	All		I.75.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Sophie Breen, 2924 15th Ave. S., Minneapolis, MN 55407	Dual-notice Comment Period
163	All		I.76.	Hearing Request	*Requests a public hearing.	N/A	Luke Breen, 5136 Zenith Ave S, Minneapolis, MN 55410	Dual-notice Comment Period
164	All		I.76.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Luke Breen, 5136 Zenith Ave S, Minneapolis, MN 55410	Dual-notice Comment Period
165	All		I.77.	Hearing Request	*Requests a public hearing.	N/A	Justin Femrite, P.E., 13065 Orono Parkway, Elk River, MN 55330	Dual-notice Comment Period
166	4410.4300 subpart 27.B		I.77.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Justin Femrite, P.E., 13065 Orono Parkway, Elk River, MN 55330	Dual-notice Comment Period
167	All		I.78.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Mary Breen, 5136 Zenith Ave. S, Minneapolis, MN 55410	Dual-notice Comment Period
168	All		I.78.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Mary Breen, 5136 Zenith Ave. S, Minneapolis, MN 55410	Dual-notice Comment Period
169	4410.4300, subpart 7	4410,4400, subpart 24	I.79.	Pipeline provision	*Same comment as Scott Strand (line 26)	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period

170	4410.4300, subpart 7	4410,4400, subpart 24	1.79.	Pipeline provision	"...in the proposed new Minn. R. 4410.4300, subp. 7, there is a completely new sentence: "Environmental review must be conducted according to chapter 7852 and Minnesota Statutes, chapter 216G." That new sentence was not in the preliminary draft rules, it is not mentioned in the SONAR, and its rationale is not explained anywhere in the documents EQB has made public. Our understanding is that this language was inserted after a meeting EQB staff had with staff at the PUC, the DNR, and the MPCA in August 2018. Our concern is that this additional sentence might create a new argument for reversing, the decision of the Minnesota Court of Appeals in In re North Dakota Pipeline Co., 869 N.W.2d 693 (Minn. Ct. App. 2015), and sanctioning, by rule, the PUC's old "comprehensive environmental assessment" alternative to normal environmental review for pipeline projects."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
	4410.4300, subpart 7	4410,4400, subpart 24	1.79.	Pipeline provision	"By adding rule language that says environmental review of pipelines "must be conducted," not under MEPA, but "according to chapter 7852 and Minnesota Statutes, chapter 216G," the PUC and pipeline applicants get another argument that the full EIS process can be avoided. FOH, of course, does not concede that this language would actually have that effect. A full EIS process can comply with both MEPA and the PUC's statute and rules, and we believe that would be an appropriate way to harmonize potentially conflicting provisions. Nevertheless, it is difficult to discern any rationale for this extra sentence other than to preserve the option to avoid the usual MEPA requirements for environmental review. Certainly, the SONAR provides no alternative rationale."	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
171	4410.4300, subpart 7	4410,4400, subpart 24	1.8.	Pipeline provision	*Same comment as Scott Strand (line 28)	pages 26-27	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	
172	4410,4400, subpart 24		1.79.	Pipeline provision	*Same comment as Scott Strand (line 29)	N/A	Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
173	4410.4300, subpart 7	4410,4400, subpart 24	1.79.	Pipeline provision	*Same comment as Scott Strand (line 30)		Scott Strand, Environmental Law & Policy Center, 60 S. 6th St., Suite 2800 Minneapolis, MN 55402 sstrand@elpc.org	Dual-notice Comment Period
174	All		1.79.	Hearing Request	*Requests a public hearing. "particularly northern Minnesota locations, beside St. Paul and St. Cloud"	N/A	Richard Smith, P.O. Box 583, Park Rapids, MN 56470	Dual-notice Comment Period
175	All		1.80.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Maria Klein, 5627 Green Circle Drive, Minnetonka, MN	Dual-notice Comment Period

176	All		I.71.	All Rules	"I object to the proposed changes for the following environmental review rules for pipelines, silica sand, mining, recreation trails, etc." 4410.0500 Subp.6 (RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 as regards to their compliance with existing law and court ruling."	All	Maria Klein, 5627 Green Circle Drive, Minnetonka, MN	Dual-notice Comment Period
177	All		I.81.	All Rules	"I OPPOSE the Environmental Quality Board's (EQB) proposed changes to the environmental review section of their rules"	All	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
178	All		I.81.	Hearing Request	*Requests a public hearing.	N/A	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
179	4410.0500		I.81.	RGU Selection Procedures	"The EQB Chair should NOT be able to make a sole decision regarding the Responsible governmental unit (RGU). Review should continue to be reviewed by the full Board, allowing public observation and comments with the ability to see the final vote."	Page 22-23	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
180	4410.4300 Subpart 7		I.81.	Pipeline provision	"The change in this section for oil pipelines from routing to construction in the Environmental Assessment Worksheet (EAW) should not be made, and gas pipelines should not be removed. Further, oil pipelines should not be in the EAW category but continue to be in the mandatory Environmental Impact Statement (EIS) category for both Cert of Need and routing applications."	Page 26-27	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
181	4410.4400 Subpart 24		I.81.	Pipeline provision	"This proposed rule may not be legal; it goes against MEPA law and the MN Court of Appeals Ruling. It should be rejected."	Page 26-27	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
182	4410.4300 Subpart 4		I.81.	Pipeline provision	"As we face rapid climate change, we must require that refinery expansion applications also are required to be in the EIS category."	Page 26-27	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
183	4410.4400 Subpart 4		I.81.	Pipeline provision	"Given the explosion in Superior this autumn, any major refinery rebuilds MUST be required to provide EIS and therefore should fall in the mandatory EIS category. The current language requires and EIS only for new construction."	Page 26-27	Eleanor Dvorak, 5708 Scenic Drive, Minnetonka, MN 55345	Dual-notice Comment Period
184	All		I.82.	Hearing Request	*Requests a public hearing.	N/A	Caleb Peterson, PE, 1307 Cloquet Avenue, Cloquet, MN 55720	Dual-notice Comment Period
185	4410.4300 subpart 27.B		I.82.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	Page 42-43	Caleb Peterson, PE, 1307 Cloquet Avenue, Cloquet, MN 55720	Dual-notice Comment Period
186	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.83.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	John Brunkhorst, PE, 1400 Adams Street SE, Hutchinson, MN 55350	Dual-notice Comment Period
187	4410.4300, subpart 27		I.83.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	John Brunkhorst, PE, 1400 Adams Street SE, Hutchinson, MN 55350	Dual-notice Comment Period
188	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.84.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Keith Carlson, 161 St. Anthony Ave. Suite 850, St. Paul, MN 55103	Dual-notice Comment Period
189	4410.4300, subpart 27		I.84.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Keith Carlson, 161 St. Anthony Ave. Suite 850, St. Paul, MN 55103	Dual-notice Comment Period

190	4410.4300 subpart 27.B		1.85.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	Page 42-43	Terry Neff and Steve Hughes, 209 Second Street NW, Aitkin, MN 56431	Dual-notice Comment Period
191	All		1.85.	Hearing Request	*Requests a public hearing.	N/A	Terry Neff and Steve Hughes, 209 Second Street NW, Aitkin, MN 56431	Dual-notice Comment Period
192	All		1.86.	Pipeline provision	*same comment as Eleanor Dvorak (lines 180-183)	pages 26-27	Paul Stolen, 37603 370th Ave. SE, Fosston, MN 56542	Dual-notice Comment Period
193	All		1.86.	Hearing Request	*Requests a public hearing.	N/A	Paul Stolen, 37603 370th Ave. SE, Fosston, MN 56542	Dual-notice Comment Period
194	4410.0200, subpart 5a	4410.4300, subpart 22, item B	1.87.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Richard Sanders, Polk County, 820 Old Highway 75 S., Crookston, MN 56716	Dual-notice Comment Period
195	4410.4300, subpart 27		1.87.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Richard Sanders, Polk County, 820 Old Highway 75 S., Crookston, MN 56716	Dual-notice Comment Period
196	4410.0200, subpart 5a	4410.4300, subpart 22, item B	1.88.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Bruce D. Cochran, Mille Lacs County, 635 2nd Street SE, Milaca, MN 56353	Dual-notice Comment Period
197	4410.4300, subpart 27		1.88.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Bruce D. Cochran, Mille Lacs County, 635 2nd Street SE, Milaca, MN 56353	Dual-notice Comment Period
198	All		1.89.	Hearing Request	*Same as Robert G. Merritt, P.G. (line 129)	N/A	Rita Chamblin 9025 Kinn Dr. NE Bemidji, MN 56601	Dual-notice Comment Period
199	All		1.89.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Rita Chamblin 9025 Kinn Dr. NE Bemidji, MN 56601	Dual-notice Comment Period
200	4410.4300, subpart 27		1.90.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Steven G. Bot, City of St. Michael, 11800 Town Center Drive NE, St. Michael, MN 55376	Dual-notice Comment Period
201	All		1.91.	Hearing Request	*Requests a public hearing in Grand Rapids or farther north.	N/A	John Munter 14860 Bruce Creek Rd, Warba, MN 55793	Dual-notice Comment Period
202	All		1.92.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Lowell J. Schellack P.O. Box 628 Park Rapids, MN 56470	Dual-notice Comment Period
203	All		1.92.	All Rules	*Same as Robert G. Merritt, P.G. (line 130)	All	Lowell J. Schellack P.O. Box 628 Park Rapids, MN 56470	Dual-notice Comment Period
204	4410.4300, subpart 27		1.93.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Tom Kellogg, City of Waseca, 508 South State Street, Waseca, MN 56093	Dual-notice Comment Period
205	4410.4300, subpart 27		1.94.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Caleb Peterson, City of Cloquet, 1307 Cloquet Avenue, Cloquet, MN 55720	Dual-notice Comment Period
206	4410.4300, subpart 27		1.95.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Todd Gerhardt, City of Chanhassen, 7700 Market Blvd., PO Box 147, Chanhassen, Minnesota 55317	Dual-notice Comment Period

207	4410.4300, subpart 27		I.96.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Alyson Fauske/David Abel, 7701 Co Rd 110 W Minnetrista, MN 55364	Dual-notice Comment Period
208	All		I.96.	Hearing Request	*Requests a public hearing	N/A	Alyson Fauske/David Abel, 7701 Co Rd 110 W Minnetrista, MN 55364	Dual-notice Comment Period
209	4410.4300, subpart 27		I.97.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Ryan Thilges, Blue Earth County, 35 Map Drive, PO Box 3080, Mankato, MN 56002-3083 ryan.thilges@blueearthcountymn.gov	Dual-notice Comment Period
210	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.97.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Ryan Thilges, Blue Earth County, 35 Map Drive, PO Box 3080, Mankato, MN 56002-3083 ryan.thilges@blueearthcountymn.gov	Dual-notice Comment Period
211	4410.4300, subpart 27		I.98.	EAW Wetlands and Public Waters *Requests a public hearing.	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Michael Flaagan, Pennington County, 250 25th Ave. NE, Thief River Falls, MN 56701	Dual-notice Comment Period
212	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.98.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Michael Flaagan, Pennington County, 250 25th Ave. NE, Thief River Falls, MN 56701	Dual-notice Comment Period
213	4410.4300, subpart 27		I.99.a.	EAW Wetlands and Public Waters *Requests a public hearing.	"In regard to Section 4410.4300 Subpart 27 B, I am against changing, "the 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" to, "cause an impact, as defined in part 8420.0111, to a total of one acre or more of wetlands" because part 8420.0111 only provides protections for wetland types 3 through 5 so this language change would remove protections for wetland types 6 through 8."	pages 42-43	Levi Gregg, 11277 Neal Avenue North gregglev000@stillwaterschools.org	OAH E-Comment, Dual-notice Comment Period
214	All		I.99.a.	Hearing Request	*Requests a public hearing	N/A	Levi Gregg, 11277 Neal Avenue North gregglev000@stillwaterschools.org	OAH E-Comment, Dual-notice Comment Period
215	N/A		I.99.b.	OAH question?	Non-rule related, OAH question of commenter	N/A	linuslanger@outlook.com	OAH E-Comment, Dual-notice Comment Period
216	All		I.99.c.	Hearing Request	*Requests a public hearing	N/A	Abby Banks, Woodbury, MN, abhehe@outlook.com	OAH E-Comment, Dual-notice Comment Period
217	All		I.99.d.	Hearing Request	*Requests a public hearing	N/A	Joshua Framke, 14620 114th St. CIR N, Stillwater, MN 55082, joshua.framke@gmail.com	OAH E-Comment, Dual-notice Comment Period

218	All		I.99.e.	Pipeline provision	"I oppose the rules being changed in section 4410.4300. These changes would allow for a more streamlined process to create new pipelines, which would be especially damaging to wetland areas of Minnesota. This type of ecosystems is critical to MN wildlife and makes Minnesota unique, and the damaging of these areas cannot be permitted. In addition, this new proposed process hinders the people's ability to protest in a timely manner, and doesn't permit for enough time to properly research how much damage could be caused by such constructions."	pages 26-27	Abigal Mc Bride, Stillwater, MN mcbriabi000@stillwaterschools.org	OAH E-Comment, Dual-notice Comment Period
219	All		I.99.f.	Hearing Request	*Requests a public hearing	N/A	Keriann Cooper, Minneapolis, MN kerianncooper02@gmail.com	OAH E-Comment, Dual-notice Comment Period
220	All		I.99.g.	Pipeline provision/Hearing Request	"I am requesting a public hearing on the rule changes in section 4410.4300. I am opposed to these changes because of the severe potential negative consequences they could have by making it easier to construct new, harmful oil pipelines in Minnesota that threaten the health of our environment and the wellbeing of our communities."	pages 26-27	Katie Schroeer 206 Winona St. in Northfield, MN, 55057 katie.schroeer@gmail.com	OAH E-Comment, Dual-notice Comment Period
221	All		I.99.h.	Hearing Request	*Requests a public hearing	N/A	Priya Dalal-Whelan 3605 Pleasant Ave. S. 55409 priyadw00@gmail.com	OAH E-Comment, Dual-notice Comment Period
222	All		I.99.i.	Pipeline provision/Hearing Request	"Oil pipelines are a threat to the earth and to people and we should not make their construction any easier."	pages 26-27	Eva Beeman Trelstad, 584 Burlington Rd. St Paul, MN, 55119 begona458@gmail.com	OAH E-Comment, Dual-notice Comment Period
223	All		I.99.j.	Pipeline provision/Hearing Request	"Pipelines and other fossil-fuel infrastructures have horrendous impacts on the environment and communities, and they accelerate the progression of climate change. The Environmental Quality Board should not encourage and quicken the construction of fossil-fuel infrastructure."	pages 26-27	Maddy Fernands 6905 West Shore Drive, Edina, MN 55435 maddyfernands@gmail.com	OAH E-Comment, Dual-notice Comment Period
224	All		I.99.k.	Hearing Request	*Requests a public hearing	N/A	Alex Funk, Albert Lea, MN alex.anne.funk@icloud.com	OAH E-Comment, Dual-notice Comment Period
225	All		I.99.l.	Hearing Request	*Requests a public hearing	N/A	Lia Harel, 13604 Inverness Rd. Minnetonka, MN 55305 liaharel@gmail.com	OAH E-Comment, Dual-notice Comment Period
226	All		I.99.m.	Hearing Request	*Requests a public hearing	N/A	Cassie Mox, 1095 Wescott Road, Eagan MN, 55123, cassiemox@comcast.net	OAH E-Comment, Dual-notice Comment Period
227	All		I.99.n.	Hearing Request	*Requests a public hearing	N/A	Henri Nguyen, 4133 135th St. W. Savage, MN 55378, hngu1901@mpsedu.org	OAH E-Comment, Dual-notice Comment Period
228	All		I.99.o.	Hearing Request	*Requests a public hearing	N/A	Maya Sprenger-Otto, 6115 10th Ave S Minneapolis, MN 55517 msprengerotto@gmail.com	OAH E-Comment, Dual-notice Comment Period
229	All		I.99.p.	Hearing Request	*Requests a public hearing	N/A	Benjamin Fena, 3515 Norton Road Duluth, MN 55803, benjaminfena@hotmail.com	OAH E-Comment, Dual-notice Comment Period

230	All		I.99.q.	Hearing Request	*Requests a public hearing	N/A	Gabriel Kaplan, 2828 Sunset Blvd, Minneapolis, MN 55416 gabekaplan7@gmail.com	OAH E-Comment, Dual-notice Comment Period
231	All		I.99.r.	Pipeline provision/Hearing Request	*Requests a public hearing, Objects to streamlining the process for oil pipelines.	pages 26-27	Roari-Clyde Soule-Fahey, Minneapolis, MN shadowlight14.alice@gmail.com	OAH E-Comment, Dual-notice Comment Period
232	All		I.99.s.	Hearing Request	*Requests a public hearing	N/A	Erika Peterson, 3112 41st Ave S. Minneapolis, MN 55406 erikajpeterson@comcast.net	OAH E-Comment, Dual-notice Comment Period
233	All		I.99.t.	Pipeline provision/Hearing Request	*Requests a public hearing, Objects to streamlining the process for oil pipelines.	pages 26-27	Talia Magnuson, 4224 23rd Ave S 55407, Minneapolis MN, elkawatson@yahoo.com	OAH E-Comment, Dual-notice Comment Period
234	All		I.99.u.	Hearing Request	*Requests a public hearing	N/A	Rose Moore, 2247 Benjamin St. NE Minneapolis 55418, redrose.moore4@gmail.com	OAH E-Comment, Dual-notice Comment Period
235	All		I.99.v.	Hearing Request	*Requests a public hearing	N/A	Olya Wright, 221 County Rd. 44 Grand Marais, MN 55004 wright@boreal.org	OAH E-Comment, Dual-notice Comment Period
236	All		I.99.w.	Hearing Request	*Requests a public hearing	N/A	Sophia Anderson St. Paul, MN sophiatanderson@gmail.com	OAH E-Comment, Dual-notice Comment Period
237	All		I.99.x.	Hearing Request	*Requests a public hearing	N/A	Anne Funk, Albert Lea MN 56007 akfunkey@yahoo.com	OAH E-Comment, Dual-notice Comment Period
238	All		I.99.y.	Hearing Request	*Requests a public hearing	N/A	Isadora Benson, 3829 Harriet Ave S, Minneapolis, MN isadorabenson17@gmail.com	OAH E-Comment, Dual-notice Comment Period
239	All		I.99.z.	Hearing Request	*Requests a public hearing	N/A	Isra Hirsi, 225 Portland Ave S Minneapolis, MN israhirsi9@gmail.com	OAH E-Comment, Dual-notice Comment Period
240	All		I.99.aa.	Hearing Request	*Requests a public hearing	N/A	Sophie Morrill, 3936 Harriet ave s, Minneapolis, morrillsophie@gmail.com	OAH E-Comment, Dual-notice Comment Period
241	All		I.99.bb.	Hearing Request	*Requests a public hearing	N/A	Marit Isaacson, 2349 Bourne Ave, Saint Paul 55108 maritisaacson@gmail.com	OAH E-Comment, Dual-notice Comment Period
242	All		I.99.cc.	Pipeline provision/Hearing Request	*Requests a public hearing, Objects to streamlining the process for oil pipelines.	pages 26-27	Alarcon-Borges, 4287 Sun Cliff Rd, Eagan, MN alarconborgestonio@gmail.com	OAH E-Comment, Dual-notice Comment Period
243	4410.4300, subpart 27		I.99.dd.	EAW Wetlands and Public Waters	"Minnesota Rules 4410.4300, Subpart 27, Item A. This change proposes to add the DNR as a potential RGU for projects that require an EAW. Current Minnesota Rules provide that the local governmental unit (LGU) is the responsible governmental unit (RGU). Drainage projects may be delayed and incur additional cost if this rule change is adopted and the LGU and theDNR need to confer and determine responsibility for the project. Furthermore, if agreement cannot be reached, then the EQB is involved in a process that will most certainly delay the project."	pages 42-43	Michael Stalberger, Blue Earth County 204 S. Fifth Street, PO BOX 8608, Mankato, MN 56002, michael.stalberger@blueearthcountymn.gov or	OAH E-Comment, Dual-notice Comment Period

244	4410.4300, subpart 27		I.99.dd.	EAW Wetlands and Public Waters	"Current Minnesota Rules provide that the project must "...change or diminish the course, current, or cross section..." This proposed change will increase costs to projects and local governmental units such as Drainage Authorities due to the additional staff time and resources needed for initial data/information gathering to determine and quantify impacts (if any). In some cases, partial drainage of wetlands does not result in a measurable change. The additional time needed to prepare an EAW may also risk or delay third party funding and government programs that support the proposed project. Furthermore, Minnesota Statutes (Section 103E.015) already requires the Drainage Authority to consider a list of criteria – including water quality, wetlands, and environmental impact – before establishing projects. This proposed change unnecessarily duplicates environmental consideration in a way that adds cost and time without additional environmental benefit."	pages 42-43	Michael Stalberger, Blue Earth County 204 S. Fifth Street, PO BOX 8608, Mankato, MN 56002, michael.stalberger@blueearthcountymn.gov or	OAH E-Comment, Dual-notice Comment Period
245	4410.4300, subpart 27		I.100.	EAW Wetlands and Public Waters	*Agrees with clarifying wetland terms, changing the threshold to 1-acre presents overly burdensome requirements without corresponding environmental benefits. Substantial increase in regulatory burden.	pages 42-43	Chrissy Bartovich, U.S. Steel Corporation, PO BOX 417, Mt. Iron, MN 55768,	Dual-notice Comment Period
246	All		I.101.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Mike Hofer 9487 Teakwood Lane N Maple Grove, MN 55369	Dual-notice Comment Period
247	4410.4300, subpart 37	Line 18.5	I.101.	Recreational Trails Mandatory Category	*Every proposed route or trail should undergo a mandatory environmental review.	pages 46-48	Mike Hofer 9487 Teakwood Lane N Maple Grove, MN 55369	Dual-notice Comment Period
248	4410.0500 subpart 6		I.102.	RGU Selection Procedures	*The City's Planning Commission is concerned by the proposed change to allow the EQB Chair to unilaterally determining the RGU. Strike the language	Page 22	Carlos Espinosa, City of Winona, 207 Lafayette Street, P.O. Box 378 Winona, Minnesota 55987 cespinos@ci.winona.mn.us	Dual-notice Comment Period
249	4410.4300, subpart 27		I.103.	EAW Wetlands and Public Waters	*Opposes language change. Significantly increase the number of road projects that trigger preparation of an EAW due to wetland impact with no resulting benefit to the environment. Its scope duplicates state (WCA) and federal (EPA) laws, rules and permitting programs for work in public waters, wetlands and tributaries. Also, the area of wetland impact that triggers an EAW has been significantly reduced to one acre made up by accumulating smaller wetland impacts. Under the existing rule language one acre of impact only becomes the applicable threshold under limited circumstances.	pages 42-43	Tim Worke, Associated General Contractors of Minnesota 525 Park Street, Suite #110, Saint Paul, MN 55103	Dual-notice Comment Period
250	All		I.104.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Kathy Hollander 3824 Edmund Blvd Minneapolis MN, kath77holl77@gmail.com	Dual-notice Comment Period

251	All		I.104.	All Rules	"I object to the proposed following rules: 4410.0500 Subp.6. (RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court ruling"	All	Kathy Hollander 3824 Edmund Blvd Minneapolis MN, kath77holl77@gmail.com	Dual-notice Comment Period
252	All		I.105.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Dorthy Carlson, 1678 Rose Hill Circle Lauderdale, MN doriecarlson@gmail.com	Dual-notice Comment Period
253	4410.4300, subpart 37	Line 18.5	I.105.	Recreational Trails Mandatory Category	*Every proposed route or trail should undergo a mandatory environmental review.	pages 46-48	Dorthy Carlson, 1678 Rose Hill Circle Lauderdale, MN doriecarlson@gmail.com	Dual-notice Comment Period
254	4410.0200, subp. 5a	Line 1.11	I.106.	Aux Lanes	Does "Auxiliary lane" apply to bike lanes on roadways?	Page 17	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
255	4410.0200 subp. 93	Line 3.6	I.106.	Wetland definition	Putting the definition of wetlands based on state code is reasonable.	page 21-22	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
256	4410.0500 subpart 6	Line 3.16- 3.18	I.106.	RGU Selection Procedures	Putting the power in the chair to determine the RGU seems to make it easier to have a different RGU. Prefer to remove chair's ability to singularly make the determination on the RGU, or at least have a chance for an RGU to appeal.	page 22-23	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
257	4410.4300 subp. 3	Line 4.20-22	I.106.	Wind energy conversion system	State Code Chap.7854 says the PUC permit takes the place of an EAW, but text in the EQB rules seems to indicate an EAW is still needed. Thus unclear.	page 23-24	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
258	4410.4300, Subp. 5	Line 5.14- 5.15	I.106.	Fuel Conversion Facility	Could be interpreted that even if the projects types meet another EAW threshold, they would be exempt from an EAW. I believe the intent is to say the project types in of themselves are not mandatory EAW categories. I would suggest either deleting 5.14-5.15 or rewriting to something like "The project types described in MN Statutes, section 116D.04, subdivisions 2a, paragraph (b) are not mandatory EAW categories under this subp., but are subject to a mandatory EAW if the project meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared". I support having the project types, if exceeding EAW thresholds, to do an EAW.	page 25	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
259	4410.4300, Subp. 8	Line 7.22- 7.35	I.106.	Transfer Facilities	Seems reasonable to include silica sand projects as a triggering category.	Page 21-31	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
260	4410.4300, Subp. 17	Line 11.12, 12.1	I.106.	Solid Waste	Replace "25 percent" with "10%" and then drop F on 12.1	page 36-37	John Howard III <howar674@umn.edu>	Dual-notice Comment Period

261	4410.4300, Subp. 27	Line 14.23-14.24	I.106.	Wetlands	Seems it would be better to say that any cumulative combination of impacts to an acre or more of public waters, public waters wetland, or wetlands triggers an EAW. Seems the description in 15.1 to 15.11 has a loophole where a development that impacts part of a public water wetland and then part of a wetland – for instance locating a 1.9 acre project so 0.95 acres is in the public water wetland, and 0.95 acres is in the wetland – could be exempt. Suggest addition right before “Items A...” : “For projects that will impact one acre or more of any combination of public waters, public waters wetland, or wetlands exceeding, items...”	page 42-43	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
262	4410.4300, Subp. 27	Line 15.1-4	I.106.	Wetlands	Unclear when the DNR or local government is the RGU.	page 42-43	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
263	4410.4300, Subp. 27	Line 15.5-7	I.106.	Wetlands	Smaller threshold is a good addition. 1 acre instead of 2 acres	page 42-43	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
264	4410.4300, Subp. 27	Line 15.16	I.106.	Wetlands	What is “critical area”? Maybe “critical concern area”, but not clear.	page 42-43	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
265	4410.4300, Subp. 27	Line 22.24	I.106.	Wetlands	22.24: No mention of wetland – seems it should include “wetlands”	page 42-43	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
266	4410.4600, Subp. 27	Line 25.9	I.106.	Recreational Trails	Should set a distance threshold for Railroad grade trails requiring EIS. Reads as any conversion of abandoned rail way would need one, even if very small.	pages 46-48	John Howard III <howar674@umn.edu>	Dual-notice Comment Period
267	4410.4300, subpart 27		I.107.	EAW Wetlands and Public Waters	*Same as previous comment from Michael Stalberger. (line 243-244)	pages 42-43	Michael Stalberger, 204 S. Fifth Street, PO BOX 8608, Mankato, MN 56002, michael.stalberger@blueearthcountymn.gov or	Dual-notice Comment Period
268	4410.4300, subpart 27		I.107.	EAW Wetlands and Public Waters	*Same as previous comment from Michael Stalberger. (line 243-244)	pages 42-43	Michael Stalberger, 204 S. Fifth Street, PO BOX 8608, Mankato, MN 56002, michael.stalberger@blueearthcountymn.gov or	Dual-notice Comment Period
269	All		I.108.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Willis Mattison 42516 State Highway 34 Osage, Minnesota 56570	Dual-notice Comment Period
270	4410.4300, Subpart 7		I.108.	Pipeline Provision	"Omits any reference to MN Appeals Court ruling, SONAR should disclose party requesting the change: "The Appeals Court determined current state statutes and rule require the preparation of a full environmental impact statement (EIS), especially when questions of need and routes of a proposed pipeline decision was to be made. The court appears also to have rendered an even broader opinion declaring that pipeline routing, whether combined with Certificate of Need review process or not was very likely subject to the mandatory requirement for an EIS under MEPA as well. The PUC rules do not appear to be MEPA compliant and no such declaration, finding or opinion either granting, affirming or discounting this position is offered in the SONAR."	pages 26-27	Willis Mattison 42516 State Highway 34 Osage, Minnesota 56570	Dual-notice Comment Period

271	4410.4500, Subpart 6		I.108.	RGU Selection	"I plan to object to this change on the grounds that citizens will not be afforded sufficient opportunity for input to a proposed RGU change negotiated between a project proposer, the designated RGU the proposed RGU and the EQB Chair. Posting the proposed change in the EQB Monitor just a week before the EQB Chair makes this change is based on a faulty assumption that an EQB Board member can, in that short time somehow become aware and adequately represent objections any citizen may have."	pages 22-23	Willis Mattison 42516 State Highway 34 Osage, Minnesota 56570	Dual-notice Comment Period
272	All		I.108.	Absence of rule changes	*Absence of Proposed Rule Changes Citizens Have Called For: Civic Engagement, GHG Emissions, Natural Carbon Sequestration, Energy Source and Use Efficiencies	N/A	Willis Mattison 42516 State Highway 34 Osage, Minnesota 56570	Dual-notice Comment Period
273	All		I.108.	Legality	"Notify EQB staff and the ALJ that I plan to contest the legality of several parts of the propose rule changes. More detail on that challenge of legality with more specificity on which rules are being challenged will follow in the supplementary comments I plan to submit before the close of the comment period in February."	N/A	Willis Mattison 42516 State Highway 34 Osage, Minnesota 56570	Dual-notice Comment Period
274	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.109.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Tony Winiecki, Scott County, 600 Country Trail East, Jordan, MN 55352-9339, twiniecki@co.scott.mn.us	Dual-notice Comment Period
275	4410.4300, subpart 27		I.109.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Tony Winiecki, Scott County, 600 Country Trail East, Jordan, MN 55352-9339, twiniecki@co.scott.mn.us	Dual-notice Comment Period
276	All		I.110.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Jo Haberman 1900 St. Louis Avenue Apartment 103 Duluth, Minnesota 55802, jhaberman87@gmail.com	Dual-notice Comment Period
277	4410.4300, subpart 37	Line 18.5	I.110.	Recreational Trails Mandatory Category	*Every proposed route or trail should undergo a mandatory environmental review.	pages 46-48	Jo Haberman 1900 St. Louis Avenue Apartment 103 Duluth, Minnesota 55802, jhaberman87@gmail.com	Dual-notice Comment Period
278	All		I.111.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Katherine McClure POBox 1258 Grand Marais, MN 55604, kmcvtv@msn.com	Dual-notice Comment Period
279	4410.4300, subpart 37	Line 18.5	I.111.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Katherine McClure POBox 1258 Grand Marais, MN 55604, kmcvtv@msn.com	Dual-notice Comment Period
280	All		I.112.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Lynn Barringer 60 Trailsyde Hovland, MN. 55606, barrilynna@gmail.com	Dual-notice Comment Period

281	4410.4300, subpart 37	Line 18.5	I.112.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Lynn Barringer 60 Trailsyde Hovland, MN. 55606, barrilynna@gmail.com	Dual-notice Comment Period
282	All		I.113.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	John Praxmarer 63 Maple Hill Dr. Grand Marais, MN 55604, johnpraxmarer@gmail.com	Dual-notice Comment Period
283	4410.4300, subpart 37	Line 18.5	I.113.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	John Praxmarer 63 Maple Hill Dr. Grand Marais, MN 55604, johnpraxmarer@gmail.com	Dual-notice Comment Period
284	All		I.114.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Martha Marnocha 63 Maple Hill Drive Grand Marais, MN 55604, iceagemind@gmail.com	Dual-notice Comment Period
285	4410.4300, subpart 37	Line 18.5	I.114.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Martha Marnocha 63 Maple Hill Drive Grand Marais, MN 55604, iceagemind@gmail.com	Dual-notice Comment Period
286	All		I.115.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Lawrence Landherr 7740 W. Hwy 61 Schroeder, MN. 55613, ljl71504@gmail.com	Dual-notice Comment Period
287	4410.4300, subpart 37	Line 18.5	I.115.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Lawrence Landherr 7740 W. Hwy 61 Schroeder, MN. 55613, ljl71504@gmail.com	Dual-notice Comment Period
288	All		I.116.	Hearing Request, all rules	*Requests a public hearing in multiple parts of the state & opposes all rules	N/A	James Reents <jwreents@gmail.com>	Dual-notice Comment Period
289	All		I.117.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Stephanie Johnson 290 Otter Trail Grand Marais, MN 55604, rosskemo@gmail.com	Dual-notice Comment Period
290	4410.4300, subpart 37	Line 18.5	I.117.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Stephanie Johnson 290 Otter Trail Grand Marais, MN 55604, rosskemo@gmail.com	Dual-notice Comment Period
291	All		I.118.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Charles Johnson 12915 W. 1st Street Duluth, MN 55808, labbums1@msn.com	Dual-notice Comment Period
292	4410.4300, subpart 37	Line 18.5	I.118.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Charles Johnson 12915 W. 1st Street Duluth, MN 55808, labbums1@msn.com	Dual-notice Comment Period

293	All		I.119.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Angie Arden 12915 W. 1st. Street Duluth, MN 55808, wolfflowartist2@gmail.com	Dual-notice Comment Period
294	4410.4300, subpart 37	Line 18.5	I.119.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Angie Arden 12915 W. 1st. Street Duluth, MN 55808, wolfflowartist2@gmail.com	Dual-notice Comment Period
295	All		I.120.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Kris Barber 18 Pendant Lake Trail Grand Marais, MN 55604, kjb12304@yahoo.com	Dual-notice Comment Period
296	4410.4300, subpart 37	Line 18.5	I.120.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Kris Barber 18 Pendant Lake Trail Grand Marais, MN 55604, kjb12304@yahoo.com	Dual-notice Comment Period
297	All		I.121.	Hearing Request, all rules	*Requests a public hearing in multiple parts of the state & opposes all rules	N/A	William Barton 533 Cretin Avenue S Saint Paul, MN 55116, bartonwf@yahoo.com	Dual-notice Comment Period
298	All		I.122.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	DENNIS FITZPATRICK 210 BIRCH DR PO BOX 563 GRAND MARAIS MN 55604-0563 dfitz@boreal.org	Dual-notice Comment Period
299	4410.4300, subpart 37	Line 18.5	I.122.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	DENNIS FITZPATRICK 210 BIRCH DR PO BOX 563 GRAND MARAIS MN 55604-0563 dfitz@boreal.org	Dual-notice Comment Period
300	4410.4300, subpart 27		I.123.	EAW Wetlands and Public Waters Public Hearing Request	*Changes may have a negative impact on project delivery timelines without providing environmental benefit.	pages 42-43	Carla J. Stueve, Hennepin County, Public Works Facility 1600 Prairie Drive Medina, MN 55340, carla.stueve@hennepin.us	Dual-notice Comment Period
301	All		I.124.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Sharon Frykman 306 County Rd 44 Grand Marais, MN 55604, frykman@boreal.org	Dual-notice Comment Period
302	4410.4300, subpart 37	Line 18.5	I.124.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Sharon Frykman 306 County Rd 44 Grand Marais, MN 55604, frykman@boreal.org	Dual-notice Comment Period
303	All		I.125.	Hearing Request	*Requests a public hearing in multiple parts of the state. Due to Wetland misunderstanding, pipelines,	pages 42-43	Mike Tauber 2540 Co 41 Nw Backus MN 56435, mjtauber42@outlook.com	Dual-notice Comment Period

304	4410.4400, subpart 8		I.125.	Radioactive	*reinstatement of Lines 20.1-20.3	page 51-52	Mike Tauber 2540 Co 41 Nw Backus MN 56435, mjtauber42@outlook.com	Dual-notice Comment Period
305	4410.4300, subpart 36.b		I.125.	Request for additional rule change	"The rule of most concern to Minnesotans everywhere should be 4410.4300 subp.36.B that allows for removal of forest or natural vegetation from up to one square mile (640 acres) of land without environmental review. This archaic rule and it's assignment to small (sometimes inept) or unduly influenced LGU's has done as close to nothing as possible for the ecology of Minnesota. The idea that one square mile can be completely stripped of vegetation without dire consequences to ecology is ludicrous, and even this extremely high threshold is ignored by RGU's and large companies."	N/A	Mike Tauber 2540 Co 41 Nw Backus MN 56435, mjtauber42@outlook.com	Dual-notice Comment Period
306	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.126.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Emily Murray, Association of MN Counties, 1360 University Ave. West, Suite 131, St. Paul, MN 55104, emurray@mncounties.org	Dual-notice Comment Period
307	4410.4300, subpart 27		I.126.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Emily Murray/Lon Aune, Association of MN Counties, 1360 University Ave. West, Suite 131, St. Paul, MN 55104, emurray@mncounties.org	Dual-notice Comment Period
308	All		I.126.	Hearing request	*Requests a public hearing.	pages 42-43	Emily Murray/Lon Aune, Association of MN Counties, 1360 University Ave. West, Suite 131, St. Paul, MN 55104, emurray@mncounties.org	Dual-notice Comment Period
309	All		I.127.	Hearing Request/Pipelines	*Requests a public hearing in multiple parts of the state. Strongly opposed to pipeline change	pages 26-27	Deanna Johnson 15559 Explorer Circle Park Rapids, MN 56470	Dual-notice Comment Period
310	All		I.128.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Charles Perrin 19635 Southfork Drive Prior Lake, MN 55372, whatisreality@integra.net	Dual-notice Comment Period
311	4410.4300, subpart 37	Line 18.5	I.128.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Charles Perrin 19635 Southfork Drive Prior Lake, MN 55372, whatisreality@integra.net	Dual-notice Comment Period
312	All		I.129.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Jill Barber 18 Pendant Lake Trail Grand Marais, MN 55604, krisandjillbarber@gmail.com	Dual-notice Comment Period
313	4410.4300, subpart 37	Line 18.5	I.129.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Jill Barber 18 Pendant Lake Trail Grand Marais, MN 55604, krisandjillbarber@gmail.com	Dual-notice Comment Period
314	All		I.130.	Hearing Request	*Requests a public hearing	N/A	Lowell Deede 21726 County Highway 21 Detroit Lakes, MN 56501, lowelldeede@q.com	Dual-notice Comment Period

315	All		I.131	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Jayne Johnson 52 Black Spruce Trl Grand Marais, MN. 55604, fing0006@gmail.com	Dual-notice Comment Period
316	4410.4300, subpart 37	Line 18.5	I.131	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Jayne Johnson 52 Black Spruce Trl Grand Marais, MN. 55604, fing0006@gmail.com	Dual-notice Comment Period
317	All		I.132	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Don Pietrick P. O. Box 242 132 Willard Lane Lutsen, MN 55612, pietricks@yahoo.com	Dual-notice Comment Period
318	4410.4300, subpart 37	Line 18.5	I.132	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Don Pietrick P. O. Box 242 132 Willard Lane Lutsen, MN 55612, pietricks@yahoo.com	Dual-notice Comment Period
319	All		I.133.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Dan Wilm 35559 Northview Harbor Drive Pequot Lakes, MN 56472, wilm@tds.net	Dual-notice Comment Period
320	4410.4300, subpart 37	Line 18.5	I.133.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Dan Wilm 35559 Northview Harbor Drive Pequot Lakes, MN 56472, wilm@tds.net	Dual-notice Comment Period
321	All		I.134.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Lynn Pietrick P O Box 242 132 Willard LN Lutsen, MN	Dual-notice Comment Period
322	4410.4300, subpart 37	Line 18.5	I.134.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Lynn Pietrick P O Box 242 132 Willard LN Lutsen, MN	Dual-notice Comment Period
323	All		I.135.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Michael & Mary Norlander 194 Willard Lane Pike Lake Lutsen, MN 55612, michaelcnorlander@msn.com	Dual-notice Comment Period
324	4410.4300, subpart 37	Line 18.5	I.135.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Michael & Mary Norlander 194 Willard Lane Pike Lake Lutsen, MN 55612, michaelcnorlander@msn.com	Dual-notice Comment Period

325	All		I.136.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Dave Zentner, Past National President Izaak Walton League Member MPCA Board 1974-79 Co-Chair LCMR reform to LCCMR-2014 Chair Capitol Rally for Legacy Amendment Member Conservation Legacy Council 2009, dzentner@charter.net	Dual-notice Comment Period
326	All		I.137.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Phil Oswald PO Box 696 Grand Marais, MN 55604, philc.oswald@snc.edu	Dual-notice Comment Period
327	4410.4300, subpart 37	Line 18.5	I.137.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Phil Oswald PO Box 696 Grand Marais, MN 55604, philc.oswald@snc.edu	Dual-notice Comment Period
328	All		I.138.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Mike Kolasinski 607 Barker Lake Rad Lutsen, MN. 556122, kola0013@umn.edu	Dual-notice Comment Period
329	4410.4300, subpart 37	Line 18.5	I.138.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Mike Kolasinski 607 Barker Lake Rad Lutsen, MN. 556122, kola0013@umn.edu	Dual-notice Comment Period
330	All		I.139.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Robin Penner 4725 Chicago Bay Road Box 181 Hovland, MN 55606, robinpenner@me.com	Dual-notice Comment Period
331	4410.4300, subpart 37	Line 18.5	I.139.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Robin Penner 4725 Chicago Bay Road Box 181 Hovland, MN 55606, robinpenner@me.com	Dual-notice Comment Period
332	All		I.140.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Robin Nicholson 313 2nd Ave. W Grand Marais, MN 55604, rcrwnicholson@yahoo.com	Dual-notice Comment Period
333	4410.4300, subpart 37	Line 18.5	I.140.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Robin Nicholson 313 2nd Ave. W Grand Marais, MN 55604, rcrwnicholson@yahoo.com	Dual-notice Comment Period
334	All		I.141.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Gregory M. Gailen PO Box 914 Grand Marais, MN 55604, whtpinemn@yahoo.com	Dual-notice Comment Period

335	4410.4300, subpart 37	Line 18.5	I.141.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Gregory M. Gailen PO Box 914 Grand Marais, MN 55604, whtpinemn@yahoo.com	Dual-notice Comment Period
336	All		I.142.	All Rules	"I object to the proposed following rules: 4410.0500 Subp.6. (RGU Selection Procedures) 4410.4300 (Mandatory EAW Categories) 4410.4400 (Mandatory EIS Categories) In addition, I question the legality of the proposed changes to 4410.4300 and 4410.4400 in regards to their compliance with existing law and court ruling"	All	Elizabeth Baker-Knuttila 12029 Far Portage Dr. Park Rapids, MN 56470, 2014looncall@gmail.com	Dual-notice Comment Period
337	All		I.143.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Eric Gagner 3540 Croftview Terrace Minnetonka MN 55345, ericgagner@yahoo.com	Dual-notice Comment Period
338	4410.4300, subpart 37	Line 18.5	I.143.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Eric Gagner 3540 Croftview Terrace Minnetonka MN 55345, ericgagner@yahoo.com	Dual-notice Comment Period
339	4410.4300, subpart 27		I.144.	EAW Wetlands and Public Waters	*Opposes rules because it is neither necessary or reasonable. WCA fulfills each and every purpose of an EAW. Wetland rule should be deleted.	pages 42-43	Tony Kwilas, Minnesota Chamber of Commerce, 400 Robert St. North, Suite 1500, St. Paul, MN 55101, tkwilas@mnchamber.com	Dual-notice Comment Period
340	4410.4300, subpart 27		I.145.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Paul Sandy, City of Brainerd, 501 Laurel Street, Brainerd, MN 56401, psandy@ci.brainerd.mn.us	Dual-notice Comment Period
341	All		I.146.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Stacy and Dan Mader 14251 Arbore Lane N Hugo, MN 55038, madersm@yahoo.com	Dual-notice Comment Period
342	4410.4300, subpart 37	Line 18.5	I.146.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Stacy and Dan Mader 14251 Arbore Lane N Hugo, MN 55038, madersm@yahoo.com	Dual-notice Comment Period
343	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.47.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Krysten Saatella Foster, Lake and Cook Counties, 601 Third ave, Two Harbors, MN 55616, Krysten.Foster@co.lake.mn.us	Dual-notice Comment Period
344	All		I.47.	Hearing Request/Wetland change	*Requests a public hearing due to Wetland change	N/A	Krysten Saatella Foster, Lake and Cook Counties, 601 Third ave, Two Harbors, MN 55616, Krysten.Foster@co.lake.mn.us	Dual-notice Comment Period
345	All		I.148.	Hearing Request	*Same as previous comment	N/A	Charles Perrin 19635 Southfork Drive Prior Lake, MN 55372, whatisreality@integra.net	Dual-notice Comment Period

346	4410.4300, subpart 37	Line 18.5	I.148.	Recreational Trails Mandatory Category	*Same as previous comment	pages 46-48	Charles Perrin 19635 Southfork Drive Prior Lake, MN 55372, whatisreality@integra.net	Dual-notice Comment Period
347	All		I.149.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Robert Tamanaha 3911 18th Ave. S. Minneapolis, MN 55407, rjruler@yahoo.com	Dual-notice Comment Period
348	4410.4300, subpart 37	Line 18.5	I.149.	Recreational Trails Mandatory Category	*Same comment as Jo Haberman, Line 277 (Rec Trails)	pages 46-48	Robert Tamanaha 3911 18th Ave. S. Minneapolis, MN 55407, rjruler@yahoo.com	Dual-notice Comment Period
349	All		I.150.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Peter Hovde 17300 Horseshoe Ln Bagley MN 56621, hovde@cord.edu	Dual-notice Comment Period
350	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.151.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	Chris Byrd, Benton County, 7752 Hwy 25 N., PO Box 247, Foley MN 56329, highway@co.benton.mn.us	Dual-notice Comment Period
351	4410.4300, subpart 27		I.151.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Chris Byrd, Benton County, 7752 Hwy 25 N., PO Box 247, Foley MN 56329, highway@co.benton.mn.us	Dual-notice Comment Period
352	All		I.152.	Hearing Request	*Requests a public hearing in multiple parts of the state.	N/A	Nicolette Slagle, Honor the Earth, nicollette@honorearth.org	Dual-notice Comment Period
353	4410.4300, subpart 27		I.153.	EAW Wetlands and Public Waters	*Same comment as line 245, Chrissy Bartovich, U.S. Steel Corporation	pages 42-43	Scott Gischia, Cleveland-Cliffs, Inc., 10 Outer Drive, Silver Bay, MN 55614, scott.gischia@clevelandcliffs.com	Dual-notice Comment Period
354	4410.4300, subpart 27		I.154.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Julie M. Long, City of Bloomington, 700 West 98th Street, Bloomington, MN 55431	Dual-notice Comment Period
355	4410.4300, subpart 27		I.155.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	Kevin F. Voracek & Timothy C Murray, City of Faribault, 208 First Ave. NW., Faribault, MN 55021	Dual-notice Comment Period
356	4410.0200, subpart 5a	4410.4300, subpart 22, item B	I.156.	EAW highway category	*Same comment as Mark R. Sehr (lines 1)	pages 17, pags 39-41	James Foldesi, St. Louis County, 4787 Midway Road, Duluth, MN 55811, AndrewsC@stlouiscountymn.gov	Dual-notice Comment Period
357	4410.4300, subpart 27		I.156.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	James Foldesi, St. Louis County, 4787 Midway Road, Duluth, MN 55811, AndrewsC@stlouiscountymn.gov	Dual-notice Comment Period
358	4410.4300, subpart 27		I.156.	Hearing Request	*Requests a Hearing	N/A	James Foldesi, St. Louis County, 4787 Midway Road, Duluth, MN 55811, AndrewsC@stlouiscountymn.gov	Dual-notice Comment Period
359	4410.4300, subpart 27		I.157.	EAW Wetlands and Public Waters	*Same comment as Mark R. Sehr (lines 2-16)	pages 42-43	John Gorder, City of Eagan, 3830 Pilot Knob, Eagan MN, 55122	Dual-notice Comment Period
360	4410.4300, subpart 27		I.158.	EAW Wetlands and Public Waters	*Opposes any amendment to MN Rules 4410.4300, subpart 27	pages 42-43	Board of Commissioners, Mille Lacs County, MN 635 2nd Street SE, Milaca, MN 56353	Dual-notice Comment Period
361	4410.4300, subpart 27		I.158.	Hearing Request	*Requests a Hearing/Wetlands	N/A	Board of Commissioners, Mille Lacs County, MN 635 2nd Street SE, Milaca, MN 56353	Dual-notice Comment Period

362	4410.4300, subpart 27		I.159.	EAW Wetlands and Public Waters	"Throughout the document, it is noted that the DNR may possibly be the RGU if it is believed the DNR has similar or greater expertise. The RRWMB is concerned with the lack of clarity on how the EQB will designate who is the RGU if there is similar or greater expertise in analyzing the potential impacts on flood damage reduction projects by watershed districts within the RRWMB."	pages 42-43	Robert L. Sip Executive Director Red River Watershed Management Board	Dual-notice Comment Period
363	4410.4300, subpart 27		I.159.	EAW Wetlands and Public Waters	*Opposes change to wetlands category	pages 42-43	Robert L. Sip Executive Director Red River Watershed Management Board	Dual-notice Comment Period