



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
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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

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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 co-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.]*

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:

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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.~~

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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.

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

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

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listed:

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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.

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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.

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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.

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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.

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~~C.~~ 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.

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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.

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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

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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:

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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

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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.

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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.

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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

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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.

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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 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.]*

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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.]*

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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.]*

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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.

