

## ORDER

### Environmental Quality Board

#### ORDER ADOPTING RULES

**Adoption of Rules Governing Environmental Review, Minnesota Rules, 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.4600, 4410.5200, 4410.7904, 4410.7906, 4410.7926; Revisor's ID Number R-04157, OAH docket number 80-9008-35532**

#### BACKGROUND INFORMATION

1. The Environmental Quality Board (EQB) has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law. The Board authorized proposing the rules at its meeting on September 19, 2018, and a quorum was present.
2. The EQB and the Administrative Law Judge received comment letters from 208 people.
3. The EQB adopts the Administrative Law Judge's Report dated 8/27/2019 and incorporates the Report into this Order.
4. The EQB made the following changes between the proposed rules and the adopted rules. This rule is adopted after a public hearing. The Administrative Law Judge's Report dated August 22, 2019, the Chief Administrative Law Judge's Order dated August 27, 2019, and the Chief Administrative Law Judge's Order dated October 3, 2019, approved the following changes:
  - Part 4410.4300, subpart 7. Pipelines.
    - Withdraw proposed change and revert to current language.
  - Part 4410.4400, subpart 8. Metallic mineral Mining and processing.
    - Withdraw proposed change to item A. and revert to current language.
  - Part 4410.4300, subpart 5 B of the proposed rules is amended to the following (amendments in red):

An mandatory EAW is not required for the projects described in Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (b) if an ethanol plant or biobutanol facility meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared.

The recommended change (above in red) to the defect identified in proposed Minn. R. 4410.4300, sub. 5 Item B is needed and reasonable. The recommended change would cure a defect and would not result in a rule that is substantially different than the rule as originally proposed and noticed

- Part 4410.4300, subpart 6 is amended to the following (amendments in red):

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 ~~designed for and capable of operating at a nominal voltage of 100 kilovolts or more, 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.

Red underlined above reinstates the first sentence of the subpart per the ALJ's recommended change to cure the defect. The recommended change (above in red) to the defect identified in proposed Minn. R. 4410.4300, sub. 6 is needed and reasonable. The recommended change would cure a defect and would not result in a rule that is substantially different than the rule as originally proposed and noticed.

- Part 4410.4300, subpart 27 B is amended to the following (amendments in red)  
For projects that will cause an impact, as defined in part 8420.0111, to a total of one acre or more of wetlands, regardless of type, 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. Item B does not apply to projects exempted by part 4410.4600, subpart 14.

The recommended change (above in red) to the defect identified in proposed Minn. R. 4410.4300, sub. 27 B, is needed and reasonable. The recommended change would cure a defect and would not result in a rule that is substantially different than the rule as originally proposed and noticed


8. The rules are needed and reasonable.

9. The board adopted the rules at its meeting on September 18, 2019, a quorum was present, and the undersigned was authorized to sign this order.

#### ORDER

The above-named rules, in the form published in the State Register on November 13, 2018 with the modifications as indicated in the Revisor's draft, file number R-04157, dated 09/23/2019, are adopted under my authority in Statutes, section Minn. Stat. § 116D.04, subds. 2a(b), 5a, and 116C.04 (2018) and Laws of Minnesota 2013, ch. 114, art. 4, section 91 and 2015 Minn. Laws, 1<sup>st</sup> Spec. Sess, ch. 4, art. 5, § 33.

11/6/19  
\_\_\_\_\_  
Date

  
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Laura Bishop, Chair of EQB