

Office of the Revisor of Statutes

Administrative Rules



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

AGENCY: Environmental Quality Board

REVISOR ID: R-4157

MINNESOTA RULES: Chapter 4410



201899

The attached rules are approved for
filing with the Secretary of State

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1.1 **Environmental Quality Board**

1.2 **Adopted 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" has the meaning given in part
1.14 7035.0300.

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

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

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

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

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

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

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

2.9 Subp. 52a. **Mixed municipal solid waste land disposal facility.** "Mixed municipal
2.10 solid waste land disposal facility" has the meaning given in part 7035.0300.

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

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

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

2.15 Subp. 71a. **Refuse-derived fuel.** "Refuse-derived fuel" has the meaning given in
2.16 Minnesota Statutes, section 115A.03, subdivision 25d.

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

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

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

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

2.23 Subp. 93. **Wetland.** "Wetland" has the meaning given wetlands in Minnesota Statutes,
2.24 section 103G.005, subdivision 19.

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

3.2 **4410.0500 RGU SELECTION PROCEDURES.**

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

3.4 Subp. 4. **RGU for EAW by order of EQB.** If the EQB orders an EAW pursuant to
3.5 part 4410.1000, subpart 3, item C, the EQB shall, at the same time, designate the RGU for
3.6 that EAW.

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

3.8 Subp. 6. **Exception.** Notwithstanding subparts 1 to 5, the EQB or EQB chair may
3.9 designate a different RGU for the project if the designee has greater expertise in analyzing
3.10 the potential impacts of the project.

3.11 **4410.4300 MANDATORY EAW CATEGORIES.**

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

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

3.15 A. For construction or expansion of a facility for the storage of high level nuclear
3.16 waste, other than an independent spent-fuel storage installation, the EQB is the RGU.

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

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

3.20 A. For construction of an electric power generating plant and associated facilities
3.21 designed for or capable of operating at a capacity of 25 megawatts or more but less than 50
3.22 megawatts and for which an air permit from the PCA is required, the PCA is the RGU.

4.1 B. For construction of an electric power generating plant and associated facilities
4.2 designed for and capable of operating at a capacity of 25 megawatts or more but less than
4.3 50 megawatts and for which an air permit from the PCA is not required, the local
4.4 governmental unit is the RGU.

4.5 C. For construction of an electric power generating plant and associated facilities
4.6 designed for and capable of operating at a capacity of 50 megawatts or more, the PUC is
4.7 the RGU, and environmental review must be conducted according to parts 7849.1000 to
4.8 7849.2100 and chapter 7850.

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

4.13 Subp. 4. **Petroleum refineries.** For expansion of an existing petroleum refinery that
4.14 increases the refinery's capacity by 10,000 barrels per day or more, the PCA is the RGU.

4.15 Subp. 5. **Fuel conversion facilities.**

4.16 A. Subitems (1) and (2) designate the RGU for the type of project listed:

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

4.20 (2) For construction of a new fuel conversion facility for the production of
4.21 alcohol fuels that would have the capacity to produce 5,000,000 gallons or more per year
4.22 of alcohol, the PCA is the RGU.

4.23 B. ~~A mandatory~~ An EAW is not required for the projects described in Minnesota
4.24 ~~Statutes, section 116D.04, subdivision 2a, paragraph (b) if an ethanol plant or biobutanol~~

5.1 facility meets or exceeds thresholds of other categories of actions for which EAWs must
5.2 be prepared.

5.3 Subp. 6. **Transmission lines.** For construction of a transmission line at a new location
5.4 with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles
5.5 of its length in Minnesota, the EQB is the RGU. For construction of a high-voltage
5.6 transmission line and associated facilities, as defined in part 7850.1000, the PUC is the
5.7 RGU. Environmental review must be conducted according to parts 7849.1000 to 7849.2100
5.8 and 7850.1000 to 7850.5600.

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

5.10 Subp. 8. **Transfer facilities.** Items A to C designate the RGU for the type of project
5.11 listed:

5.12 A. For construction of a new facility designed for or capable of transferring 300
5.13 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from
5.14 one mode of transportation to a similar or different mode of transportation or the expansion
5.15 of an existing facility by these respective amounts, the PCA is the RGU.

5.16 B. For construction of a new facility or the expansion by 50 percent or more of
5.17 an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000
5.18 or more gallons per transfer, if the facility is located in a shoreland area, a delineated
5.19 floodplain, a state or federally designated wild and scenic rivers district, the Minnesota
5.20 River Project Riverbend area, or the Mississippi headwaters area, the PCA is the RGU.

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

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

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

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

6.2 Subp. 10. **Storage facilities.** Items A to H designate the RGU for the type of project
6.3 listed:

6.4 A. For construction of a new facility designed for or capable of storing more than
6.5 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal or the
6.6 expansion of an existing facility by these respective amounts, the PCA is the RGU.

6.7 B. For construction of a new major facility, as defined in part 7151.1200, that
6.8 results in a designed storage capacity of 1,000,000 gallons or more of hazardous materials,
6.9 the PCA is the RGU.

6.10 C. For expansion of an existing major facility, as defined in part 7151.1200, with
6.11 a designed storage capacity of 1,000,000 gallons or more of hazardous materials when the
6.12 expansion adds a net increase of 1,000,000 gallons or more of hazardous materials, the PCA
6.13 is the RGU.

6.14 D. For expansion of an existing facility that has less than 1,000,000 gallons in
6.15 total designed storage capacity of hazardous materials when the net increase in designed
6.16 storage capacity results in 1,000,000 gallons or more of hazardous materials, the PCA is
6.17 the RGU.

6.18 E. For construction of a new facility designed for or capable of storing on a single
6.19 site 100,000 gallons or more of liquefied natural gas, as defined in Minnesota Statutes,
6.20 section 299F.56, subdivision 14, or synthetic gas, as defined in Minnesota Statutes, section
6.21 216B.02, subdivision 6b, the PUC is the RGU, except as provided in item G.

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

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

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

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

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

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

7.10 Subp. 12. **Nonmetallic mineral mining.** Items A to D designate the RGU for the type
7.11 of project listed:

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

7.13 B. For development of a facility for the extraction or mining of sand, gravel, stone,
7.14 or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land
7.15 to a mean depth of ten feet or more during its existence, the local governmental unit is the
7.16 RGU.

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

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

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

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

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

8.4 (1) unincorporated area, 150,000 square feet;

8.5 (2) third or fourth class city, 300,000 square feet;

8.6 (3) second class city, 450,000 square feet; and

8.7 (4) first class city, 600,000 square feet.

8.8 B. For construction of a new or expansion of an existing industrial, commercial,
8.9 or institutional facility, other than a warehousing or light industrial facility, equal to or in
8.10 excess of the following thresholds, expressed as gross floor space, the local governmental
8.11 unit is the RGU:

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

8.13 (3) second class city, 300,000 square feet; and

8.14 (4) first class city, 400,000 square feet.

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

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

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

8.19 A. For construction of a new or expansion of an existing hazardous waste disposal
8.20 facility, the PCA is the RGU.

8.21 B. For construction of a new facility for hazardous waste storage or treatment that
8.22 is generating or receiving 1,000 kilograms or more per month of hazardous waste or one
8.23 kilogram or more per month of acute hazardous waste, the PCA is the RGU.

9.1 C. For expansion of an existing facility for hazardous waste storage or treatment
9.2 that increases the facility's capacity by ten percent or more, the PCA is the RGU.

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

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

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

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

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

9.11 D. For construction or expansion of a mixed municipal solid waste energy recovery
9.12 facility or incinerator or use of an existing facility for the combustion of mixed municipal
9.13 solid waste or refuse-derived fuel, with a permitted capacity of 30 tons or more per day of
9.14 input, the PCA is the RGU.

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

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

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

9.22 Subp. 18. **Wastewater systems.** Items A to F designate the RGU for the type of project
9.23 listed:

10.1 A. For expansion, modification, or replacement of a municipal sewage collection
10.2 system resulting in an increase in design average daily flow of any part of that system by
10.3 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with
10.4 a capacity less than 20,000,000 gallons per day, the PCA is the RGU.

10.5 B. For expansion, modification, or replacement of a municipal sewage collection
10.6 system resulting in an increase in design average daily flow of any part of that system by
10.7 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with
10.8 the capacity of 20,000,000 gallons or greater, the PCA is the RGU.

10.9 C. For expansion or modification of an existing municipal or domestic wastewater
10.10 treatment facility that results in an increase by 50 percent or more and by at least 200,000
10.11 gallons per day of the facility's average wet weather design flow capacity, the PCA is the
10.12 RGU.

10.13 D. For construction of a new municipal or domestic wastewater treatment facility
10.14 with an average wet weather design flow capacity of 200,000 gallons per day or more, the
10.15 PCA is the RGU.

10.16 E. For expansion or modification of an existing industrial process wastewater
10.17 treatment facility that increases the facility's design flow capacity by 50 percent or more
10.18 and by at least 200,000 gallons per day or more, the PCA is the RGU.

10.19 F. For construction of a new industrial process wastewater treatment facility with
10.20 a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or
10.21 more, or 20,000,000 gallons per year or more, the PCA is the RGU. This category does not
10.22 apply to industrial process wastewater treatment facilities that discharge to a publicly owned
10.23 treatment works or to a tailings basin reviewed according to subpart 11, item B.

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

11.1 Subp. 20. **Campgrounds and RV parks.** For construction of a seasonal or permanent
11.2 recreational development, accessible by vehicle, consisting of 50 or more sites, or the
11.3 expansion of such a facility by 50 or more sites, the local governmental unit is the RGU.

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

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

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

11.11 A. For construction of a paved, new airport runway, the DOT, local governmental
11.12 unit, or the Metropolitan Airports Commission is the RGU.

11.13 B. For construction of a runway extension that would upgrade an existing airport
11.14 runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder
11.15 than aircraft currently using the runway, the DOT, local governmental unit, or the
11.16 Metropolitan Airports Commission is the RGU. The RGU is selected according to part
11.17 4410.0500, subpart 5.

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

11.20 A. For construction of a road on a new location over one mile in length that will
11.21 function as a collector roadway, the DOT or local governmental unit is the RGU.

11.22 B. For construction of additional through lanes or passing lanes on an existing
11.23 road for a length of two or more miles, exclusive of auxiliary lanes, the DOT or local
11.24 governmental unit is the RGU.

12.1 C. For the addition of one or more new interchanges to a completed limited access
12.2 highway, the DOT or local governmental unit is the RGU.

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

12.4 Subp. 25. **Marinas.** For construction or expansion of a marina or harbor that results
12.5 in a 20,000 or more square foot total or a 20,000 or more square foot increase of water
12.6 surface area used temporarily or permanently for docks, docking, or maneuvering of
12.7 watercraft, the local governmental unit is the RGU.

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

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

12.14 A. For projects that will change or diminish the course, current, or cross-section
12.15 of one acre or more of any public water or public waters wetland except for those to be
12.16 drained without a permit according to Minnesota Statutes, chapter 103G, the DNR or local
12.17 governmental unit is the RGU.

12.18 B. For projects that will cause an impact, as defined in part 8420.0111, to a total
12.19 of one acre or more of wetlands, regardless of type, excluding public waters wetlands, if
12.20 any part of the wetland is within a shoreland area, a delineated floodplain, a state or federally
12.21 designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or
12.22 the Mississippi headwaters area, the local governmental unit is the RGU. This item does
12.23 not apply to projects exempted by part 4410.4600, subpart 14.

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

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

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

14.4 A. For golf courses, residential development where the lot size is less than five
14.5 acres, and other projects resulting in the permanent conversion of 80 or more acres of
14.6 agricultural, native prairie, forest, or naturally vegetated land, the local governmental unit
14.7 is the RGU, except that this subpart does not apply to agricultural land inside the boundary
14.8 of the Metropolitan Urban Service Area established by the Metropolitan Council.

14.9 B. For projects resulting in the conversion of 640 or more acres of forest or
14.10 naturally vegetated land to a different open space land use, the local governmental unit is
14.11 the RGU.

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

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

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

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

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

15.1 A. Constructing a trail at least 25 miles long on forested or other naturally vegetated
15.2 land for a recreational use, unless exempted by part 4410.4600, subpart 14, item D.

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 total length of the newly constructed and newly designated segments is at least 25 miles.

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

15.14 **4410.4400 MANDATORY EIS CATEGORIES.**

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

15.16 Subp. 2. **Nuclear fuels and nuclear waste.** Items A to E designate the RGU for the
15.17 type of project listed:

15.18 A. For the construction or expansion of a nuclear fuel or nuclear waste processing
15.19 facility, including fuel fabrication facilities, reprocessing plants, and uranium mills, the
15.20 DNR is the RGU for uranium mills; otherwise, the PCA is the RGU.

15.21 B. For construction of a high level nuclear waste disposal site, the EQB is the

15.22 RGU.

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

16.1 D. For construction of an away-from-reactor facility for temporary storage of
16.2 spent nuclear fuel, the PUC is the RGU.

16.3 E. For construction of a low level nuclear waste disposal site, the MDH is the
16.4 RGU.

16.5 Subp. 3. **Electric-generating facilities.** For construction of a large electric power
16.6 generating plant, as defined in Minnesota Statutes, section 216E.01, subdivision 5, the PUC
16.7 is the RGU. Environmental review must be conducted according to parts 7849.1000 to
16.8 7849.2100 and 7850.1000 to 7850.5600.

16.9 Subp. 4. **Petroleum refineries.** For construction of a new petroleum refinery facility,
16.10 the PCA is the RGU.

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

16.13 A. For construction of a new fuel conversion facility for converting coal, peat, or
16.14 biomass sources to gaseous, liquid, or solid fuels if the facility has the capacity to use
16.15 250,000 dry tons or more per year of input, the PCA is the RGU.

16.16 B. For construction of a new or expansion of an existing fuel conversion facility
16.17 for the production of alcohol fuels that would have or would increase the facility's capacity
16.18 by 50,000,000 or more gallons per year of alcohol produced if the facility will be in the
16.19 seven-county Twin Cities metropolitan area or by 125,000,000 or more gallons per year of
16.20 alcohol produced if the facility will be outside the seven-county Twin Cities metropolitan
16.21 area, the PCA is the RGU.

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

16.24 Subp. 6. **Transmission lines.** For construction of a high-voltage transmission line
16.25 and associated facilities, as defined in part 7850.1000, the PUC is the RGU. Environmental

17.1 review must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to
17.2 7850.5600.

17.3 *[For text of ~~subp~~ subps 7 and 8, see M.R.]*

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

17.6 A. For development of a facility for the extraction or mining of peat which will
17.7 utilize 320 acres of land or more during its existence, the DNR is the RGU.

17.8 B. For development of a facility for the extraction or mining of sand, gravel, stone,
17.9 or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or
17.10 more to a mean depth of ten feet or more during its existence, the local governmental unit
17.11 is the RGU.

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

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

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

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

- 17.19 (1) unincorporated area, 375,000 square feet;
- 17.20 (2) third or fourth class city, 750,000 square feet;
- 17.21 (3) second class city, 1,000,000 square feet; and
- 17.22 (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 governmental unit is the RGU:

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

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

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

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

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

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

C. For construction or expansion of a facility for hazardous waste 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 is the RGU.

Subp. 13. **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 in a water-related land use management district 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 or incinerator or use of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel with a permitted capacity of 250 tons or more per day of input, the PCA is the RGU.

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

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

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

19.8 Subp. 15. **Airport runway projects.** For construction of a paved and lighted airport
19.9 runway of 5,000 feet of length or greater, the DOT or local governmental unit is the RGU.

19.10 Subp. 16. **Highway projects.** For construction of a road on a new location which is
19.11 four or more lanes in width and two or more miles in length, the DOT or local governmental
19.12 unit is the RGU.

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

19.14 Subp. 19. **Marinas.** For construction of a new or expansion of an existing marina,
19.15 harbor, or mooring project on a state or federally designated wild and scenic river, the local
19.16 governmental unit is the RGU.

19.17 Subp. 20. **Public waters and public water wetlands.** For projects that will eliminate
19.18 a public water or public waters wetland, the DNR or the local governmental unit is the RGU.

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

19.20 Subp. 25. **Incinerating wastes containing PCBs.** For incinerating wastes containing
19.21 PCBs for which an EIS is required by Minnesota Statutes, section 116.38, subdivision 2,
19.22 the PCA is the RGU.

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

20.1 **4410.4600 EXEMPTIONS.**20.2 *[For text of subps 1 to 9, see M.R.]*20.3 Subp. 10. **Industrial, commercial, and institutional facilities.** The following projects
20.4 are exempt:20.5 *[For text of item A, see M.R.]*20.6 B. Construction of a warehousing, light industrial, commercial, or institutional
20.7 facility with less than 4,000 square feet of gross floor space and with associated parking
20.8 facilities designed for 20 vehicles or fewer.20.9 C. Construction of a new parking facility for fewer than 100 vehicles if the facility
20.10 is not located in a shoreland area, a delineated floodplain, a state or federally designated
20.11 wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi
20.12 headwaters area.20.13 *[For text of subp 11, see M.R.]*20.14 Subp. 12. **Residential development.** The following projects are exempt:

20.15 A. Construction of a sewer residential development, of:

20.16 (1) fewer than ten units in an unincorporated area;

20.17 (2) fewer than 20 units in a third or fourth class city;

20.18 (3) fewer than 40 units in a second class city; or

20.19 (4) fewer than 80 units in a first class city, no part of which is within a
20.20 shoreland area, a delineated floodplain, a state or federally designated wild and scenic rivers
20.21 district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area.20.22 *[For text of item B, see M.R.]*

- 21.1 C. Construction of a single residence or multiple residence with four dwelling
21.2 units or fewer and accessory appurtenant structures and utilities.

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

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

21.5 A. Highway safety improvement projects.

21.6 B. Installation of traffic control devices, individual noise barriers, bus shelters
21.7 and bays, loading zones, and access and egress lanes for transit and paratransit vehicles.

21.8 C. Modernization of an existing roadway or bridge by resurfacing, restoration, or
21.9 rehabilitation that may involve acquiring minimal amounts of right-of-way.

21.10 D. Roadway landscaping or construction of bicycle and pedestrian lanes, paths,
21.11 and facilities within an existing right-of-way.

21.12 E. Any stream diversion, realignment, or channelization within the right-of-way
21.13 of an existing public roadway associated with bridge or culvert replacement.

21.14 F. Reconstruction or modification of an existing bridge structure on essentially
21.15 the same alignment or location that may involve acquiring minimal amounts of right-of-way.

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

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

21.18 A. Harvesting of timber for maintenance purposes.

21.19 B. Public and private forest management practices, other than clearcutting or
21.20 applying pesticides, that involve less than 20 acres of land.

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

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

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

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

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

22.7 **4410.5200 EQB MONITOR; PUBLICATION REQUIREMENTS.**

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

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

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

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

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

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

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

23.1 **4410.7904 LICENSING EXPLORERS.**

23.2 An applicant must comply with Minnesota Statutes, section 103I.601, subdivision 2,
23.3 and parts 4727.0400 to 4727.0860, relating to the regulation of exploratory boring.

23.4 **4410.7906 PROCEDURE FOR ISSUING DRILLING PERMIT.**

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

23.6 Subp. 2. **Content of application for drilling permit.** An application for a drilling
23.7 permit must be filed by the applicant with the EQB and must include:

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

23.9 C. the applicant's explorer's license, issued under Minnesota Statutes, section
23.10 103I.601, subdivision 2, and parts 4727.0400 to 4727.0860;

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

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

23.13 **4410.7926 ABANDONING EXPLORATORY BORINGS.**

23.14 According to Minnesota Statutes, section 116C.724, subdivision 2, clause (1), any
23.15 abandonment, whether temporary or permanent, must comply with the state drilling and
23.16 drill hole abandonment and restoration rules governing exploratory boring under Minnesota
23.17 Statutes, chapter 103I, and parts 4727.1000 to 4727.1250.

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

November 13, 2019

VIA EMAIL ONLY

Nancy Breems
Secretary of State, Elections Division
180 State Office Building
100 Rev Dr Martin Luther King Jr Blvd
St. Paul, Minnesota 55155-1299
official.documents@state.mn.us

Re: *In the Matter of the Rule Amendments to the Environmental Quality Board*
OAH 80-9008-35532; Revisor R-4157

Dear Ms. Breems:

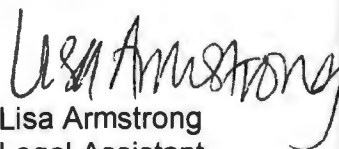
Enclosed for filing is an electronic copy of the above-entitled adopted rules.

Please send the agency copy of the rules to:

Erik Cedarleaf Dahl
Planning Director
Minnesota Environmental Quality Board
520 Lafayette Rd N Fl 4
Saint Paul, MN 55155

If you have any questions regarding this matter, please contact Sheena Denny at (651) 361-7881, sheena.denny@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,


Lisa Armstrong
Legal Assistant

Enclosures

cc: Erik Cedarleaf Dahl (via email)