

4410.0500 RGU SELECTION PROCEDURES.

Subpart 1. **RGU for mandatory categories.** For any project listed in part 4410.4300 or 4410.4400, the governmental unit specified in those rules shall be the RGU unless the project will be carried out by a state agency, in which case that state agency shall be the RGU. For any project listed in both parts 4410.4300 and 4410.4400, the RGU shall be the unit specified in part 4410.4400. For any project listed in two or more subparts of part 4410.4300 or two or more subparts of part 4410.4400, the RGU shall be determined as specified in subpart 5.

Subp. 2. **RGU for discretionary EAW's.** If a governmental unit orders an EAW pursuant to part 4410.1000, subpart 3, item A, that governmental unit shall be designated as the RGU.

Subp. 3. **RGU for petition EAW's.** If an EAW is ordered in response to a petition, the RGU that was designated by the EQB to act on the petition shall be responsible for the preparation of the EAW. The EQB chair or designee shall determine an RGU to act on the petition as follows:

- A. if a state agency proposes to carry out the project, it shall be the RGU;
- B. for any project of a type for which a mandatory category is listed in part 4410.4300, the RGU shall be the governmental unit specified by the mandatory category for projects of that type, unless the project will be carried out by a state agency; or
- C. for any project of a type for which there is no mandatory category listed in part 4410.4300 and which will not be carried out by a state agency, the RGU shall be selected in accordance with subpart 5.

In applying items A, B, and C, the EQB chair or designee shall not designate as the RGU any governmental unit which has already made its final decisions to grant all permits or approvals required from it to construct the project. If as a result, the RGU cannot be designated under item A, B, or C, the RGU shall be designated pursuant to subpart 5, except that no completed data portions of an EAW shall be required for the determination.

Subp. 4. **RGU for EAW by order of EQB.** If the QB 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.

Subp. 5. **RGU selection generally.** For any project where the RGU is not listed in part 4410.4300 or 4410.4400 or which falls into more than one category in part 4410.4300 or 4410.4400, or for which the RGU is in question, the RGU shall be determined as follows:

- A. When a single governmental unit proposes to carry out or has sole jurisdiction to approve a project, it shall be the RGU.

B. When two or more governmental units propose to carry out or have jurisdiction to approve the project, the RGU shall be the governmental unit with the greatest responsibility for supervising or approving the project as a whole. Where it is not clear which governmental unit has the greatest responsibility for supervising or approving the project or where there is a dispute about which governmental unit has the greatest responsibility for supervising or approving the project, the governmental units shall either:

(1) by agreement, designate which unit shall be the RGU within five days of receipt of the completed data portion of the EAW; or

(2) submit the question to the EQB chairperson, who shall within five days of receipt of the completed data portions of the EAW designate the RGU based on a consideration of which governmental unit has the greatest responsibility for supervising or approving the project or has expertise that is relevant for the environmental review.

Subp. 6. **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.

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

History: *11 SR 714; 21 SR 1458*

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