

Environmental Quality Board**Proposed Permanent Rules Relating to Environmental Review: Mandatory Categories****4410.0200 DEFINITIONS AND ABBREVIATIONS.**

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

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

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

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

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

B. supplements through-traffic movement.

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

Subp. 9b. **Compost facility.** ~~"Compost facility" means a facility used to compost or co-compost solid waste, including:~~ has the meaning given in part 7035.0300.

~~A. structures and processing equipment used to control drainage or collect and treat leachate; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4410.0500 RGU SELECTION PROCEDURES.

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

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

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

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

4410.4300 MANDATORY EAW CATEGORIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 6. **Transmission lines.** ~~For construction of a transmission line at a new location with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles of its length in Minnesota, the EQB shall be the RGU. For construction of a high-voltage transmission lines line and associated facilities 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. For construction of a new major facility ~~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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 31. **Historical places.** For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local governmental unit ~~of government shall be~~ is the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title ~~46~~ 54, section ~~470~~ 306108, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.

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

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

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

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

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

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

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

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

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

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

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

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

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

4410.4400 MANDATORY EIS CATEGORIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[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 processing facility storage or treatment, if the facility is located in a water-related land use management district; or in an area characterized by soluble bedrock, the PCA ~~shall be~~ is the RGU.

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 ~~the utilization~~ use of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel; with a permitted capacity of 250 ~~or more~~ tons or more per day of input, the PCA is the RGU.

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

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

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

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

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

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

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

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

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

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

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

4410.4600 EXEMPTIONS.

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

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

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

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

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

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

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

A. Construction of a sewer residential development, of:

- (1) ~~less~~ fewer than ten units in an unincorporated area₂;
- (2) ~~less~~ fewer than 20 units in a third or fourth class city₂;
- (3) ~~less~~ fewer than 40 units in a second class city₂; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4410.5200 EQB MONITOR; PUBLICATION REQUIREMENTS.

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

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

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

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

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

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

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

4410.7904 LICENSING OF EXPLORERS.

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

4410.7906 PROCEDURE FOR THE ~~ISSUANCE OF A~~ ISSUING DRILLING PERMIT.

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

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

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

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

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

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

4410.7926 ~~ABANDONMENT OF~~ ABANDONING EXPLORATORY BORINGS.

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

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