

1 **4410.0200 DEFINITIONS AND ABBREVIATIONS.**

2 [For text of subpart 1, see M.R.]

3 Subp. 1a. [Repealed, 31 SR 539]

4 [For text of subps 2 to 9a, see M.R.]

5 Subp. 9b. **Connected actions.** Two projects are "connected actions" if a responsible
6 governmental unit determines they are related in any of the following ways:

7 A. one project would directly induce the other;

8 B. one project is a prerequisite for the other and the prerequisite project is not
9 justified by itself; or

10 C. neither project is justified by itself.

11 [For text of subps 10 to 68, see M.R.]

12 Subp. 69. **Public waters.** "Public waters" has the meaning given in Minnesota
13 Statutes, section 103G.005.

14 Subp. 70. **Public waters wetland.** "Public waters wetland" has the meaning given in
15 Minnesota Statutes, section 103G.005, subdivision 15a.

16 [For text of subps 70a to ⁹¹~~80~~, see M.R.]

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19 Subp. 92. **Wastewater treatment facility.** "Wastewater treatment facility" means a
20 facility for the treatment of municipal or industrial waste water.

21 [For text of subps 92a to 96, see M.R.]

22 **4410.1000 PROJECTS REQUIRING AN EAW.**

23 [For text of subps 1 to 4, see M.R.]

24 Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has
25 been issued but before the proposed project has received all approvals or been

1 implemented, the RGU determines that a substantial change has been made in the
2 proposed project or has occurred in the RGU's circumstances, which change may affect
3 the potential for significant adverse environmental effects that were not addressed in
4 the existing EAW, a new EAW is required.

5 **4410.1100 PETITION PROCESS.**

6 [For text of subps 1 to 5, see M.R.]

7 Subp. 6. **EAW decision.** The RGU shall order the preparation of an EAW if the
8 evidence presented by the petitioners, proposers, and other persons or otherwise known
9 to the RGU demonstrates that, because of the nature or location of the proposed project,
10 the project may have the potential for significant environmental effects. The RGU shall
11 deny the petition if the evidence presented fails to demonstrate the project may have the
12 potential for significant environmental effects. In considering the evidence, the RGU
13 must take into account the factors listed in part 4410.1700, subpart 7. The RGU shall
14 maintain, either as a separate document or contained within the records of the RGU, a
15 record, including specific findings of fact, of its decision on the need for an EAW.

16 [For text of subps 7 to 9, see M.R.]

17 **4410.1200 EAW CONTENT.**

18 The EAW shall address at least the following major categories in the form provided
19 on the worksheet:

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

21 F. known governmental approvals, reviews, or financing required, applied for, or
22 anticipated and the status of any applications made, including permit conditions that
23 may have been ordered or are being considered;

24 G. if the project will be carried out by a governmental unit, a brief explanation of
25 the need for the project and an identification of those who will benefit from the project;
26 and

1 H. an assessment of the compatibility of the project with approved plans of local
2 units of government.

3 **4410.1400 PREPARATION OF AN EAW.**

4 The EAW shall be prepared as early as practicable in the development of the
5 proposed project. The EAW shall be prepared by the RGU or its agents.

6 When an EAW is to be prepared, the proposer shall submit the completed data
7 portions of the EAW to the RGU. The RGU shall determine whether the proposer's
8 submittal is complete within 30 days or such other time period as agreed upon by the
9 RGU and proposer. If the RGU determines that the submittal is incomplete, the RGU
10 shall return the submittal to the proposer for completion of the missing data. If the RGU
11 determines that the submittal is complete, the RGU shall notify the proposer of the
12 acceptance of the submittal within five days. The RGU shall have 30 days from
13 notification to add supplementary material to the EAW, if necessary, and to approve the
14 EAW for distribution. The RGU shall be responsible for the completeness and accuracy
15 of all information.

16 **4410.1500 PUBLICATION AND DISTRIBUTION OF AN EAW.**

17 A. The RGU shall provide one copy of the EAW to the EQB staff within five days
18 after the RGU approves the EAW. This copy shall serve as notification to the EQB staff
19 to publish the notice of availability of the EAW in the EQB Monitor. At the time of
20 submission of the EAW to the EQB staff, the RGU shall also submit one copy of the
21 EAW to:

22 [For text of subitems (1) to (6), see M.R.]

23 (7) the state archaeologist;

24 (8) the Indian Affairs Council;

25 (9) the Environmental Conservation Library;

1 (10) the regional development commission and regional development library for
2 the region of the project site;

3 (11) any local governmental unit within which the project will take place;

4 (12) the representative of any petitioners pursuant to part 4410.1100; and

5 (13) any other person upon written request.

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

7 **4410.1700 DECISION ON NEED FOR EIS.**

8 [For text of subps 1 and 2, see M.R.]

9 Subp. 2a. **Insufficient information.** If the RGU determines that information necessary
10 to a reasoned decision about the potential for, or significance of, one or more possible
11 environmental impacts is lacking, but could be reasonably obtained, the RGU shall
12 either:

13 A. make a positive declaration and include within the scope of the EIS appropriate
14 studies to obtain the lacking information; or

15 B. postpone the decision on the need for an EIS, for not more than 30 days or such
16 other period of time as agreed upon by the RGU and proposer, in order to obtain the
17 lacking information. If the RGU postpones the decision, it shall provide written notice of
18 its action, including a brief description of the lacking information, within five days to
19 the project proposer, the EQB staff, and any person who submitted substantive
20 comments on the EAW.

21 Subp. 3. **Form and basis for decision.** The RGU's decision shall be either a negative
22 declaration or a positive declaration. The RGU shall base its decision regarding the need
23 for an EIS on the information gathered during the EAW process and the comments
24 received on the EAW.

25 [For text of subps 4 to 9, see M.R.]

1 **4410.2100 EIS SCOPING PROCESS.**

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

3 Subp. 4. **Scoping period for some discretionary EIS's.** If the EIS is being prepared
4 pursuant to part 4410.2000, subpart 3, item A, the following schedule applies:

5 A. At least ten days but not more than 20 days after notice is published in the EQB
6 Monitor, a public meeting shall be held to review the scope of the EIS. Notice of the
7 time, date, and place of the scoping meeting shall be published in the EQB Monitor
8 within 15 days of receipt of the proposer's scoping cost payment pursuant to part
9 4410.6500, subpart 1, item A, and a press release shall be provided to a newspaper of
10 general circulation in the area where the project is proposed. All meetings shall be open
11 to the public.

12 B. Within 15 days of the public scoping meeting, the RGU shall issue its final
13 decision regarding the scope of the EIS. If the decision of the RGU must be made by a
14 board, council, or other similar body which meets only on a periodic basis, the decision
15 may be made at the next regularly scheduled meeting of the body following the scoping
16 meeting but not more than 45 days after the positive declaration is published in the EQB
17 Monitor.

18 [For text of subps 5 to 7, see M.R.]

19 Subp. 8. **Amendments to scoping decision.** After the scoping decision is made, the
20 RGU shall not amend the decision without the agreement of the proposer unless
21 substantial changes are made in the proposed project that affect the potential significant
22 environmental effects of the project or substantial new information arises relating to the
23 proposed project that significantly affects the potential environmental effects of the
24 proposed project or the availability of prudent and feasible alternatives to the project. If
25 the scoping decision is amended after publication of the EIS preparation notice, notice
26 and a summary of the amendment shall be published in the EQB Monitor within 30

1 days of the amendment. The notice may be incorporated into the notice of the
2 availability of the draft or final EIS.

3 Subp. 9. **EIS preparation notice.** An EIS preparation notice shall be published within
4 45 days after the RGU receives the proposer's cash payment pursuant to part 4410.6410,
5 subpart 3, or 4410.6500, subpart 1, item B. The notice shall be published in the EQB
6 Monitor, and a press release shall be provided to at least one newspaper of general
7 circulation in each county where the project will occur. The notice shall contain a
8 summary of the scoping decision.

9 [For text of subps 10 to 12, see M.R.]

10 **4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.**

11 Subpart 1. **Prohibitions.** If an EAW or EIS is required for a governmental action
12 under parts 4410.0200 to 4410.6500, or if a petition for an EAW is filed under part
13 4410.1100 that complies with the requirements of subparts 1 and 2 of that part, a project
14 may not be started and a final governmental decision may not be made to grant a
15 permit, approve a project, or begin a project, until:

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

17 D. a variance is granted under subparts 3 to 7 or the action is an emergency under
18 subpart 8.

19 To start or begin a project includes taking any action within the meaning of
20 "construction," as defined in part 4410.0200, subpart 10.

21 [For text of subps 2 to 9, see M.R.]

22 **4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.**

23 Subpart 1. **Applicability.** A local unit of government may use the procedures of this
24 part instead of the procedures of parts 4410.1100 to 4410.1700 and 4410.2100 to
25 4410.3000 to review anticipated residential, commercial, warehousing, and light
26 industrial development and associated infrastructure in a particular geographic area

4410.3610

1 within its jurisdiction, if the local unit has adopted a comprehensive plan that includes
2 at least the elements in items A to C. The procedures of this part may not be used to
3 review any project meeting the requirements for a mandatory EAW in part 4410.4300,
4 subparts 2 to 13, 15 to 17, 18, item B or C, or 24, or a mandatory EIS in part 4410.4400,
5 subparts 2 to 10, 12, 13, or 25. The local unit of government is the RGU for any review
6 conducted under this part.

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

8
9 [For text of subps²₃ and 4, see M.R.]

10 Subp. 5. **Procedures for review.** The procedures in items A to H must be used for
11 review under this part.

12 A. The RGU shall prepare a draft environmental analysis document addressing
13 each of the development scenarios selected under subpart 3 using the standard content
14 and format provided by the EQB under subpart 4. A draft version of the mitigation plan
15 as described under item C must be included. The draft document must be distributed
16 and noticed in accordance with part 4410.1500.

17 B. Reviewers shall have 30 days from the date of notice of availability of the draft
18 environmental analysis in the EQB Monitor to submit written comments to the RGU.
19 Reviewers that are governmental units shall be granted a 15-day extension by the RGU
20 upon a written request for good cause. A copy of the request must be sent to the EQB.

21 Comments may address the accuracy and completeness of the information provided
22 in the draft analysis and draft mitigation plan, potential impacts that warrant further
23 analysis, further information that may be required in order to secure permits for specific
24 projects in the future, mitigation measures or procedures necessary to prevent
25 significant environmental impacts within the area when actual development occurs, and
26 the need to analyze additional development scenarios as required by this part.

1 Governmental units shall also state in their comments whether or not they wish to be
2 notified by the RGU upon receipt of applications for specific development projects
3 within the area.

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

5 D. The RGU shall distribute the revised environmental analysis document,
6 including the plan for mitigation, in the same manner as the draft document and also to
7 any persons who commented on the draft document and to the EQB staff. State agencies
8 and the Metropolitan Council of the Twin Cities have ten days from the date of receipt
9 of the revised document to file an objection to the document with the RGU. A copy of
10 any letter of objection must be filed with the EQB staff. An objection may be filed only if
11 the agency filing the objection has evidence that the revised document contains
12 inaccurate or incomplete information relevant to the identification and mitigation of
13 potentially significant environmental impacts, that the review has not analyzed
14 sufficient development scenarios as required by this part, or that the proposed plan for
15 mitigation will be inadequate to prevent potentially significant environmental impacts
16 from occurring.

17 E. Unless an objection is filed in accordance with item D, the RGU shall adopt the
18 revised environmental analysis document, including the plan for mitigation, at its first
19 regularly scheduled meeting held 15 or more days after the distribution of the revised
20 document. The RGU shall submit evidence of the adoption of the document and plan
21 for mitigation to the EQB staff and all agencies that have stated that they wish to be
22 informed of any future projects within the area as part of their comments on the draft
23 environmental analysis document. The EQB shall publish a notice of the adoption of the
24 document and the completion of the review process in the EQB Monitor.

25 Upon adoption of the environmental analysis document, including the plan for
26 mitigation, residential, commercial, warehousing, and light industrial projects and

1 associated infrastructure within the area that are consistent with the assumptions of the
2 document and that comply with the plan for mitigation are exempt from review under
3 parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.2800.

4 F. If an objection is filed with the RGU in accordance with item D, within five days
5 of receipt of the objection the RGU shall consult with the objecting agency about the
6 issues raised in the objection and shall advise the EQB staff of its proposed response to
7 the objection. At the request of the RGU, the objecting agency, the EQB staff, and any
8 other affected agency shall meet with the RGU as soon as practicable to attempt to
9 resolve the issues raised in the objection.

10 Within 30 days after receipt of the objection the RGU shall submit a written response
11 to the objecting agency and the EQB chair. The response shall address each of the issues
12 raised in the objection. The RGU may address an issue by either revising the
13 environmental analysis document or plan for mitigation, or by refuting the comment.

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

15 H. If the matter is referred to the EQB under item G, the EQB shall determine
16 whether the environmental analysis document, including the plan for mitigation, is
17 adequate, conditionally adequate, or inadequate. If the EQB finds the document
18 conditionally adequate or inadequate, the EQB shall specify the revisions necessary for
19 adequacy. The EQB shall only find the document inadequate if the EQB determines that
20 it contains inaccurate or incomplete information necessary to the identification and
21 mitigation of potentially significant environmental impacts, that the review of
22 development scenarios is not in compliance with this part, or that the proposed plan for
23 mitigation will be inadequate to prevent the occurrence of potentially significant
24 environmental impacts.

25 If the EQB finds the document adequate or conditionally adequate, the RGU shall
26 adopt the document under item E. If the document is found conditionally adequate by

1 the EQB, the RGU shall first revise the document as directed by the EQB. If the EQB
2 finds the document inadequate, the RGU has 30 days to revise the document and
3 circulate it for review in accordance with items D to H.

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6 [For text of subps 6 to 8, see M.R.]

7 **4410.3800 GENERIC EIS.**

8 [For text of subps 1 to 4, see M.R.]

9 Subp. 5. **Criteria.** In determining the need for a generic EIS, the EQB shall consider:

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

11 H. the regional and statewide significance of the impacts and the degree to which
12 they can be addressed on a project-by-project basis;

13 I. the degree to which governmental policies affect the number or location of such
14 projects or the potential for significant environmental effects;

15 J. the degree to which the cost of basic information ought to be borne by the public
16 rather than individual project proposers;

17 K. the need to explore issues raised by a type of project that go beyond the scope of
18 review of individual projects; and

19 L. the need to understand the long-term past, present, and future effects of a type
20 of action upon the economy, environment, and way of life of the residents of the state.

21 [For text of subps 6 and 7, see M.R.]

22 Subp. 8. **Relationship to project-specific review.** Preparation of a generic EIS does
23 not exempt specific activities from project-specific environmental review.

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

25 **4410.4300 MANDATORY EAW CATEGORIES.**

4410.4300

1 [For text of subps 1 to 14, see M.R.]

2 Subp. 15. **Air pollution.** For construction of a stationary source facility that generates
3 250 tons or more per year or modification of a stationary source facility that increases
4 generation by 250 tons or more per year of any single air pollutant after installation of
5 air pollution control equipment, the PCA shall be the RGU.

6 [For text of subps 16 and 17, see M.R.]

7 Subp. 18. **Wastewater systems.** Items A to C designate the RGU for the type of project
8 listed:

9 A. For expansion, modification, or replacement of a municipal sewage collection
10 system resulting in an increase in design average daily flow of any part of that system
11 by 1,000,000 gallons per day or more if the discharge is to a wastewater treatment
12 facility with a capacity less than 20,000,000 gallons per day or for expansion,
13 modification, or replacement of a municipal sewage collection system resulting in an
14 increase in design average daily flow of any part of that system by 2,000,000 gallons per
15 day or more if the discharge is to a wastewater treatment facility with the capacity of
16 20,000,000 gallons or greater, the PCA shall be the RGU.

17 B. For expansion or reconstruction of an existing municipal or domestic
18 wastewater treatment facility which results in an increase by 50 percent or more and by
19 at least 200,000 gallons per day of its average wet weather design flow capacity, or
20 construction of a new municipal or domestic wastewater treatment facility with an
21 average wet weather design flow capacity of 200,000 gallons per day or more, the PCA
22 shall be the RGU.

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

24 Subp. 19. **Residential development.** An EAW is required for residential development
25 if the total number of units that may ultimately be developed on all contiguous land
26 owned or under an option to purchase by the proposer, except land identified by an

1 applicable comprehensive plan, ordinance, resolution, or agreement of a local
2 governmental unit for a future use other than residential development, equals or
3 exceeds a threshold of this subpart. In counting the total number of ultimate units, the
4 RGU shall include the number of units in any plans of the proposer; for land for which
5 the proposer has not yet prepared plans, the RGU shall use as the number of units the
6 product of the number of acres multiplied by the maximum number of units per acre
7 allowable under the applicable zoning ordinance or, if the maximum number of units
8 allowable per acre is not specified in an applicable zoning ordinance, by the overall
9 average number of units per acre indicated in the plans of the proposer for those lands
10 for which plans exist. If the total project requires review but future phases are uncertain,
11 the RGU may review the ultimate project sequentially in accordance with part
12 4410.1000, subpart 4.

13 If a project consists of mixed unattached and attached units, an EAW must be
14 prepared if the sum of the quotient obtained by dividing the number of unattached
15 units by the applicable unattached unit threshold, plus the quotient obtained by
16 dividing the number of attached units by the applicable attached unit threshold, equals
17 or exceeds one.

18 The local governmental unit is the RGU for construction of a permanent or
19 potentially permanent residential development of:

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

21 [For text of subps 20 to 26, see M.R.]

22 **Subp. 27. Wetlands and public waters.** Items A and B designate the RGU for the type
23 of project listed:

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

1 B. For projects that will change or diminish the course, current, or cross-section of
2 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or
3 more, excluding public waters wetlands, if any part of the wetland is within a shoreland
4 area, delineated flood plain, a state or federally designated wild and scenic rivers
5 district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area,
6 the local government unit shall be the RGU.

7 [For text of subps 28 to 30, see M.R.]

8 Subp. 31. **Historical places.** For the destruction, in whole or part, or the moving of a
9 property that is listed on the National Register of Historic Places or State Register of
10 Historic Places, the permitting state agency or local unit of government shall be the
11 RGU, except this does not apply to projects reviewed under section 106 of the National
12 Historic Preservation Act of 1966, United States Code, title 16, section 470, or the federal
13 policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United
14 States Code, title 49, section 303, or projects reviewed by a local heritage preservation
15 commission certified by the State Historic Preservation Office pursuant to Code of
16 Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a
17 property located within a designated historic district if the property is listed as
18 "noncontributing" in the official district designation or if the State Historic Preservation
19 Office issues a determination that the property is noncontributing.

20 [For text of subp 32, see M.R.]

21 Subp. 33. **Communications towers.** For construction of a communications tower
22 equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any
23 public water or public waters wetland or within two miles of the Mississippi,
24 Minnesota, Red, or St. Croix rivers or Lake Superior, the local governmental unit is the
25 RGU.

26 [For text of subps 34 to 37, see M.R.]

1 **4410.4400 MANDATORY EIS CATEGORIES.**

2 [For text of subps 1 to 4, see M.R.]

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

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

6 B. For construction or expansion of a facility for the production of alcohol fuels
7 which would have or would increase its capacity by 50,000,000 or more gallons per year
8 of alcohol produced if the facility will be in the seven-county Twin Cities metropolitan
9 area or by 125,000,000 or more gallons per year of alcohol produced if the facility will be
10 outside the seven-county Twin Cities metropolitan area, the PCA shall be the RGU.

11 [For text of subps 6 to 13, see M.R.]

12 Subp. 14. **Residential development.** An EIS is required for residential development if
13 the total number of units that the proposer may ultimately develop on all contiguous
14 land owned by the proposer or for which the proposer has an option to purchase, except
15 land identified by an applicable comprehensive plan, ordinance, resolution, or
16 agreement of a local governmental unit for a future use other than residential
17 development, equals or exceeds a threshold of this subpart. In counting the total
18 number of ultimate units, the RGU shall include the number of units in any plans of the
19 proposer; for land for which the proposer has not yet prepared plans, the RGU shall use
20 as the number of units the product of the number of acres multiplied by the maximum
21 number of units per acre allowable under the applicable zoning ordinance, or if the
22 maximum number of units allowable per acre is not specified in an applicable zoning
23 ordinance, by the overall average number of units per acre indicated in the plans of the
24 proposer for those lands for which plans exist. If the total project requires review but
25 future phases are uncertain, the RGU may review the ultimate project sequentially in
26 accordance with part 4410.2000, subpart 4.

1 The RGU may review an initial stage of the project, that may not exceed ten percent
2 of the applicable EIS threshold, by means of the procedures of parts 4410.1200 to
3 4410.1700 instead of the procedures of parts 4410.2000 to 4410.2800. If the RGU
4 determines that this stage requires preparation of an EIS under part 4410.1700, it may be
5 reviewed through a separate EIS or through an EIS that also covers later stages of the
6 project.

7 If a project consists of mixed unattached and attached units, an EIS must be prepared
8 if the sum of the quotient obtained by dividing the number of unattached units by the
9 applicable unattached unit threshold, plus the quotient obtained by dividing the
10 number of attached units by the applicable attached unit threshold, equals or exceeds
11 one.

12 The local governmental unit is the RGU for construction of a permanent or
13 potentially permanent residential development of:

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

15 [For text of subps 15 to 19, see M.R.]

16 Subp. 20. **Wetlands and public waters.** For projects that will eliminate a public water
17 or public waters wetland, the local government unit shall be the RGU.

18 [For text of subps 21 to 25, see M.R.]

19 **4410.4600 EXEMPTIONS.**

20 [For text of subpart 1, see M.R.]

21 Subp. 2. **Standard exemptions.** The following projects are standard exemptions:

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

23 D. projects for which a substantial portion of the project has been completed and
24 an EIS would not influence remaining construction; and

25 E. projects for which environmental review has already been completed or for

1 which environmental review is being conducted pursuant to part 4410.3600 or
2 4410.3700.

3 [For text of subps 3 to 18, see M.R.]

4 Subp. 19. **Animal feedlots.** The activities in items A to D are exempt.

5 A. Construction of an animal feedlot facility with a capacity of less than 1,000
6 animal units or the expansion of an existing animal feedlot facility to a total cumulative
7 capacity of less than 1,000 animal units, if all of the following apply:

8 (1) the feedlot is not in an environmentally sensitive location listed in part
9 4410.4300, subpart 29, item B;

10 (2) the application for the animal feedlot permit includes a written commitment
11 by the proposer to design, construct, and operate the facility in full compliance with
12 PCA feedlot rules; and

13 (3) the county board holds a public meeting for citizen input at least ten
14 business days prior to the PCA or county issuing a feedlot permit for the facility, unless
15 another public meeting for citizen input has been held with regard to the feedlot facility
16 to be permitted.

17 B. The construction of an animal feedlot facility of less than 300 animal units or the
18 expansion of an existing facility by less than 100 animal units, no part of either of which
19 is located within a shoreland area; delineated flood plain; state or federally designated
20 wild and scenic rivers district; the Minnesota River Project Riverbend area; the
21 Mississippi headwaters area; an area within a drinking water supply management area
22 designated under chapter 4720 where the aquifer is identified in the wellhead protection
23 plan as vulnerable to contamination; or 1,000 feet of a known sinkhole, cave, resurgent
24 spring, disappearing spring, Karst window, blind valley, or dry valley.

25 C. The construction or expansion of an animal feedlot facility with a resulting
26 capacity of less than 50 animal units regardless of location.

1 D. The modification without expansion of capacity of any feedlot of no more than
2 300 animal units if the modification is necessary to secure a Minnesota feedlot permit.

3 [For text of subps 20 to 27, see M.R.]

4 **4410.5200 EQB MONITOR PUBLICATION REQUIREMENTS.**

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

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

14 [For text of subitems (1) to (4), see M.R.]

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

16 P. Notice of the availability of a draft alternative urban areawide review document.

17 Q. Notice of the adoption of a final alternative urban areawide review document.

18 R. Notice of other actions that the EQB may specify by resolution.

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

20 **4410.5600 COST AND DISTRIBUTION.**

21 [For text of subpart 1, see M.R.]

22 Subp. 2. **Distribution.** The EQB Monitor may be published by electronic means,
23 including by posting at the EQB Internet Web site and by electronic mail to persons who
24 have registered with the EQB to receive the EQB Monitor.

25 **4410.6100 DETERMINING EIS ASSESSED COST.**

4410.6100

1 Subpart 1. **Proposer and RGU agreement.** Within 30 days after the RGU's scoping
2 decision has been issued, the RGU shall submit to the proposer a draft cost agreement.
3 The agreement shall include the EIS estimated cost and a brief description of the tasks
4 and the cost of each task to be performed by each party in preparing and distributing
5 the EIS. Those items identified in part 4410.6200 may be used as a guideline in
6 determining the EIS estimated cost. The proposer may request changes in the cost
7 agreement. If, within 30 days after the proposer receives the draft cost agreement, the
8 RGU and proposer have not signed a cost agreement, either party may refer the matter
9 to the EQB according to part 4410.6410. If the RGU and proposer sign the cost
10 agreement, the RGU shall submit a copy to the EQB.

11 [For text of subps 4 and 5, see M.R.]

12 **4410.6200 DETERMINING EIS COST.**

13 Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing and
14 distributing an EIS, the following items shall be included:

15 A. the cost of the RGU's staff time including direct salary and fringe benefit costs,
16 unless the RGU elects to waive these costs;

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

18 D. indirect costs of the RGU not to exceed the RGU's normal operating overhead
19 rate, unless the RGU elects to waive these costs;

20 [For text of items E and F, see M.R.]

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

22 **4410.6500 PAYMENT OF EIS COST.**

23 Subpart 1. **Schedule of payments.** The proposer shall make all cash payments to the
24 RGU according to the following schedule:

25 A. The proposer shall pay the RGU for the full cost estimated by the RGU to be

1 necessary for the scoping of the EIS not later than the date of submission by the
2 proposer of the completed data portions of the scoping EAW or within five days of
3 issuance of a positive declaration. The RGU shall not proceed with the scoping process
4 until this payment is made. Upon issuance of the scoping decision, the RGU shall
5 provide the proposer with a written accounting of the scoping expenditures. If the
6 payment made by the proposer exceeds the expenditures, the balance shall be credited
7 against the cash payments required from the proposer for preparation of the draft EIS. If
8 the RGU's reasonable expenditures for scoping exceed the cash payment received, the
9 proposer shall pay the balance before the RGU commences preparation of the draft EIS.

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

11 **Subp. 6. Prohibition on state agency permits until notice of final payment.** Upon
12 receipt of final payment from the proposer, the RGU shall promptly notify each state
13 agency having a possible governmental permit interest in the project that the final
14 payment has been received.

15 Other laws notwithstanding, a state agency shall not issue any governmental permits
16 for the construction or operation of a project for which an EIS is prepared until the
17 required cash payments of the EIS assessed cost for that project or that portion of a
18 related actions EIS have been paid in full.

19 **REPEALER.** Minnesota Rules, part 4410.0200, subpart 1a, is repealed.