

Office of the Revisor of Statutes

Administrative Rules



TITLE: Exempt Permanent Rules Relating to Scoping Documents for Environmental Review

AGENCY: Environmental Quality Board

REVISOR ID: R-4978

MINNESOTA RULES: Chapter 4410

The attached rules are approved as to form

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1.1 **Environmental Quality Board**

1.2 **Exempt Permanent Rules Relating to Scoping Documents for Environmental Review**

1.3 **4410.0200 DEFINITIONS AND ABBREVIATIONS.**

1.4 *[For text of subparts 1 to 23, see Minnesota Rules]*

1.5 Subp. 24. **Environmental assessment worksheet.** "Environmental assessment
1.6 worksheet" means a brief document which is designed to set out the basic facts necessary
1.7 to determine whether an EIS is required for a proposed project ~~or to~~ and may initiate the
1.8 scoping process for an EIS.

1.9 *[For text of subparts 25 to 77, see Minnesota Rules]*

1.10 Subp. 77a. **Scoping document.** "Scoping document" means a brief document
1.11 containing information about a proposed project that is necessary for the EIS scoping process
1.12 under part 4410.2100. A scoping document can be an EAW or a different document
1.13 containing the information necessary for the scoping process.

1.14 *[For text of subparts 78 to 96, see Minnesota Rules]*

1.15 **4410.1000 PROJECTS REQUIRING EAW.**

1.16 Subpart 1. **Purpose of EAW.** The EAW is a brief document prepared in worksheet
1.17 format which is designed to rapidly assess the environmental effects which may be associated
1.18 with a proposed project. The EAW ~~serves primarily to:~~

1.19 A. ~~aid~~ aids in the determination of whether an EIS is needed for a proposed project;
1.20 and

1.21 B. may serve as a basis to begin the scoping process for an EIS.

1.22 Subp. 2. **Mandatory EAW categories.** An EAW shall be prepared for any project
1.23 that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300
1.24 ~~or any of the EIS categories listed in part 4410.4400.~~

2.1 [For text of subparts 3 to 5, see Minnesota Rules]

2.2 **4410.2100 EIS SCOPING PROCESS.**

2.3 [For text of subpart 1, see Minnesota Rules]

2.4 Subp. 2. ~~EAW as~~ **Scoping document.**

2.5 A. All projects requiring an EIS must have an EAW a scoping document filed
2.6 with the RGU. The An EAW shall be the basis for the may serve as a scoping process
2.7 document.

2.8 B. For projects which fall within a mandatory EIS category for which an EIS is
2.9 mandatory under part 4410.2000, subpart 2, or other applicable law or if a voluntary EIS
2.10 is planned, the EAW will be used solely as a scoping document. For such projects under
2.11 part 4410.2000, subpart 3, item B, the RGU shall prepare and circulate with the EAW a
2.12 scoping document. The scoping document must include or be accompanied by a draft scoping
2.13 decision document that addresses the contents specified by subpart 6 to the extent that
2.14 information is already available. The purpose of the draft scoping decision document is to
2.15 facilitate the delineation of issues and analyses to be contained in the EIS. The information
2.16 in a draft scoping decision document shall be considered as preliminary and subject to
2.17 revision based on the entire record of the scoping process.

2.18 C. If the need for an EIS has not been determined under part 4410.2000, subpart
2.19 3, item A, the EAW will have two functions: is the basis for the scoping process and is used

2.20 A. to identify the need for preparing an EIS pursuant to part 4410.1700; and

2.21 B. to initiate discussion concerning the scope of the EIS if an EIS is ordered
2.22 pursuant to part 4410.1700.

2.23 Subp. 3. **Scoping period.** If the EIS is being prepared pursuant to part 4410.2000,
2.24 subpart 2 or 3, item B, the following schedule applies:

3.1 A. The 30-day scoping period will begin when the notice of the availability of the
3.2 EAW scoping document is published ~~in accord with~~ in the same manner as for an EAW
3.3 under part 4410.1500, items A and B to C. This notice and press release shall include the
3.4 time, place, and date of the scoping meeting.

3.5 B. The RGU shall provide the opportunity for at least one scoping meeting during
3.6 the scoping period. This meeting shall be held not less than 15 days after publication of the
3.7 notice of availability of the EAW scoping document. All meetings shall be open to the
3.8 public.

3.9 C. A final scoping decision shall be issued within 15 days after the close of the
3.10 30-day scoping period and, for an EIS being prepared under part 4410.2000, subpart 2, no
3.11 later than 280 days after publication of the notice of availability of a scoping document in
3.12 the EQB Monitor.

3.13 *[For text of subpart 4, see Minnesota Rules]*

3.14 Subp. 5. **Procedure for scoping.** Written comments suggesting issues for scoping or
3.15 commenting on the EAW scoping document must be filed with the RGU during the scoping
3.16 period. Interested persons may attend the scoping meeting to exercise their right to comment.

3.17 Governmental units and other persons shall be responsible for participating in the
3.18 scoping process within the time limits and in the manner prescribed in parts 4410.0200 to
3.19 4410.6500.

3.20 *[For text of subparts 6 to 12, see Minnesota Rules]*

3.21 **4410.2800 DETERMINATION OF ADEQUACY.**

3.22 *[For text of subpart 1, see Minnesota Rules]*

4.1 Subp. 1a. **Decision by EQB; information needs.** If the EQB will be determining the
4.2 adequacy of the EIS, the RGU shall submit to the EQB the following information within
4.3 five days of the filing of the final EIS:

4.4 A. evidence of compliance with distribution requirements for the scoping ~~EAW~~
4.5 document, draft EIS, and final EIS;

4.6 *[For text of items B to G, see Minnesota Rules]*

4.7 *[For text of subparts 2 to 6, see Minnesota Rules]*

4.8 **4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.**

4.9 *[For text of subparts 1 to 3, see Minnesota Rules]*

4.10 Subp. 4. **Variance.** Construction may begin on a project if the proposer applies for
4.11 and is granted a variance from subparts 1 and 2. A variance for certain governmental
4.12 approvals to be granted prior to completion of the environmental review process may also
4.13 be requested. A variance may be requested at any time after the commencement of the
4.14 30-day review period following the filing of an EAW or a scoping document. The proposer
4.15 shall submit an application for a variance to the EQB together with:

4.16 *[For text of items A to E, see Minnesota Rules]*

4.17 *[For text of subparts 5 to 9, see Minnesota Rules]*

4.18 **4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.**

4.19 *[For text of subparts 1 to 5, see Minnesota Rules]*

4.20 Subp. 5a. **Additional procedures required when certain large specific projects**
4.21 **reviewed.**

4.22 *[For text of item A, see Minnesota Rules]*

5.1 B. Prior to final approval of the order for review pursuant to subpart 3, the RGU
5.2 must conduct a public process to receive comments about the scope of the review. The RGU
5.3 shall prepare a draft order for review and distribute and provide notice of its availability in
5.4 the same manner as for an EAW pursuant to part 4410.1500. The draft order for review
5.5 must include the information specified in subpart 3 and a description of the specific large
5.6 project or projects to be included in the review comparable to that of a scoping EAW
5.7 document pursuant to part 4410.2100, subpart 2.

5.8 *[For text of items C to E, see Minnesota Rules]*

5.9 *[For text of subparts 6 to 8, see Minnesota Rules]*

5.10 **4410.6200 DETERMINING EIS COST.**

5.11 Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing,
5.12 reviewing, and distributing the EIS, the following items shall be included:

5.13 *[For text of items A to D, see Minnesota Rules]*

5.14 E. the cost of printing and distributing the scoping EAW document and draft
5.15 scoping decision document, draft EIS and the final EIS and of public notices of the
5.16 availability of the documents; and

5.17 *[For text of item F, see Minnesota Rules]*

5.18 *[For text of subparts 2 to 5, see Minnesota Rules]*

5.19 **4410.6500 PAYING EIS COST.**

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

5.22 A. The proposer shall pay the RGU for the full cost estimated by the RGU to be
5.23 necessary for the scoping of the EIS not later than the date of submission by the proposer
5.24 of the completed data portions of the scoping EAW document or within five days of issuance

6.1 of a positive declaration. The RGU shall not proceed with the scoping process until this
6.2 payment is made. Upon issuance of the scoping decision, the RGU shall provide the proposer
6.3 with a written accounting of the scoping expenditures. If the payment made by the proposer
6.4 exceeds the expenditures, the balance shall be credited against the cash payments required
6.5 from the proposer for preparation of the draft EIS. If the RGU's reasonable expenditures
6.6 for scoping exceed the cash payment received, the proposer shall pay the balance before
6.7 the RGU commences preparation of the draft EIS.

6.8 *[For text of items B to D, see Minnesota Rules]*

6.9 *[For text of subparts 2 to 7, see Minnesota Rules]*