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meeting to receive comments on the analysis if it determines that a meeting is necessary or useful. The meeting may be combined with any other meeting or hearing for a permit or other approval for the project. Public notice of the meeting to receive comments on the analysis shall be provided at least ten days before the meeting.

Section 4. Decision. In issuing any permits or granting any other required approvals for a project subject to review under this ordinance, the (board) (council) shall consider the analysis and the comments received on it. The (board) (council) shall, whenever practicable and consistent with other laws, require that mitigation measures identified in the analysis be incorporated in the project's design and construction.

Statutory Authority: *MS s 116D.04*

Posted: *November 30, 2009*

4410.3800 GENERIC EIS.

Subpart 1. **Order for.** A generic EIS may be ordered by the EQB to study types of projects that are not adequately reviewed on a case-by-case basis.

Subp. 2. **RGU.** The EQB may be the RGU for the generic EIS or may designate another governmental unit to be the RGU, if that governmental unit consents to be the RGU. In determining which governmental unit should be the RGU for a generic EIS, the EQB shall consider the following factors with respect to each prospective RGU:

- A. the nature and extent of the permit or approval authority;
- B. expertise in the subject matter of the generic EIS, including the ability to address any complex issues;
- C. available resources to complete the generic EIS; and
- D. ability to provide an objective appraisal of potential impacts.

Whether the generic EIS is done by the EQB or another governmental unit, the document must be prepared using an interdisciplinary approach in accordance with part 4410.2200.

Subp. 3. **Public requests for generic EIS.** A governmental unit or any other person may request the EQB to order a generic EIS.

Subp. 4. **Timing.** Time deadlines for the preparation of a generic EIS shall be set at the scoping meeting.

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

- A. if the review of a type of action can be better accomplished by a generic EIS than by project specific review;

- B. if the possible effects on the human environment from a type of action are highly uncertain or involve unique or unknown risks;
- C. if a generic EIS can be used for tiering in a subsequent project specific EIS;
- D. the amount of basic research needed to understand the impacts of such projects;
- E. the degree to which decision makers or the public have a need to be informed of the potential impacts of such projects;
- F. the degree to which information to be presented in the generic EIS is needed for governmental or public planning;
- G. the potential for significant environmental effects as a result of the cumulative impacts of such projects;
- H. the regional and statewide significance of the impacts and the degree to which they can be addressed on a project-by-project basis;
- I. the degree to which governmental policies affect the number or location of such projects or the potential for significant environmental effects;
- J. the degree to which the cost of basic information ought to be borne by the public rather than individual project proposers;
- K. the need to explore issues raised by a type of project that go beyond the scope of review of individual projects; and
- L. the need to understand the long-term past, present, and future effects of a type of action upon the economy, environment, and way of life of the residents of the state.

Subp. 6. **Scoping.** The generic EIS shall be scoped. Scoping shall be coordinated by the RGU and shall identify the issues and geographic areas to be addressed in the generic EIS. Scoping procedures shall follow the procedures in part 4410.2100 except for the identification of permits for which information is to be gathered concurrently with the EIS preparation, the preparation and circulation of the EAW, and the time requirements.

Subp. 7. **Content.** In addition to content requirements specified by the scoping process, the generic EIS shall contain the following:

- A. any new data that has been gathered or the results of any new research that has been undertaken as part of the generic EIS preparation;
- B. a description of the possible impacts and likelihood of occurrence, the extent of current use, and the possibility of future development for the type of action;
- C. alternatives including recommendations for geographic placement of the type of action to reduce environmental harm, different methods for construction and operation, and different types of actions that could produce the same or similar results as the subject type of action but in a less environmentally harmful manner; and
- D. if appropriate, a description of an alternative form of review that is proposed to be used to review specific projects whose impacts have been considered in the generic EIS. An alternative review proposal contained in a generic EIS must be approved by the EQB under part 4410.3600 prior to use.

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

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Subp. 9. **Relationship to projects.** The fact that a generic EIS is being prepared shall not preclude the undertaking and completion of a specific project whose impacts are considered in the generic EIS.

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

History: *13 SR 1437; 31 SR 539*

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4410.3900 JOINT FEDERAL AND STATE ENVIRONMENTAL DOCUMENTS.

Subpart 1. **Cooperative processes.** Governmental units shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code 1976, title 42, sections 4321 to 4361.

Subp. 2. **Joint responsibility.** Where a joint federal and state environmental document is prepared, the RGU and one or more federal agencies shall be jointly responsible for its preparation. Where federal laws have environmental document requirements in addition to but not in conflict with those in Minnesota Statutes, section 116D.04, governmental units shall cooperate in fulfilling these requirements as well as those of state laws so that one document can comply with all applicable laws.

Subp. 3. **Federal EIS as draft EIS.** If a federal EIS will be or has been prepared for a project, the RGU shall utilize the draft or final federal EIS as the draft state EIS for the project if the federal EIS addresses the scoped issues and satisfies the standards set forth in part 4410.2300.

Statutory Authority: *MS s 116D.04*

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4410.4000 TIERED EIS.

An RGU may use a series of tiered EISs to fulfill environmental review requirements for an action where decisions on which alternative to select must be made in stages, progressing from the general to the specific. Prior to each decision which would eliminate from further consideration any alternatives under consideration, a tiered EIS must be completed which addresses the issues and alternatives relevant to the decisions to be made in that tier, at a level of detail appropriate to that tier. The level of detail in earlier tiers need not be as great as that in later tiers, provided that it is sufficient to reasonably inform decision makers of the significant environmental, economic, employment, and sociological impacts of the choices made in that tier.

The procedures for preparing tiered EISs shall be the same as those for a regular EIS, as specified in parts 4410.2100 to 4410.3000.

A tiered EIS may incorporate by reference material developed in an earlier tier.

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

History: *21 SR 1458*

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