

CHAPTER 4410

ENVIRONMENTAL QUALITY BOARD

ENVIRONMENTAL REVIEW

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4410.0200 DEFINITIONS AND ABBREVIATIONS.

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

Subp. 9a. **Common open space.** "Common open space" means a portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

Subp. 9b. **Compost facility.** "Compost facility" means a facility used to compost or co-compost solid waste, including:

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

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

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

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

Subp. 11a. **Cumulative potential effects.** "Cumulative potential effects" means the effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid, regardless of what person undertakes the other projects or what jurisdictions have authority over the projects. Significant cumulative potential effects can result from individually minor projects taking place over a period of time. In analyzing the contributions of past projects to cumulative potential effects, it is sufficient to consider the current aggregate effects of past actions. It is not required to list or analyze the impacts of individual past actions, unless such information is necessary to describe the cumulative potential effects. In determining if a basis of expectation has been laid for a project, an RGU must determine whether a project is reasonably likely to occur and, if so, whether sufficiently detailed information is available about the project to contribute to the understanding of cumulative potential effects. In making these determinations, the RGU must consider: whether any applications for permits have been filed with any units of government; whether detailed plans and specifications have been prepared for the project; whether future development is indicated by adopted comprehensive plans or zoning or other ordinances; whether future development is indicated by historic or forecasted trends; and any other factors determined to be relevant by the RGU.

[For text of subps 12 to 55, see M.R.]

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Subp. 55a. **Ordinary high water level.** "Ordinary high water level" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 14.

Subp. 55b. **Organism.** "Organism" has the meaning given in part 4420.0010, subpart 18.

[For text of subps 56 to 79, see M.R.]

Subp. 79a. **Sensitive shoreland area.** "Sensitive shoreland area" means shoreland designated as a special protection district pursuant to part 6120.3200 or shoreland riparian to any of the following types of public waters:

A. lakes or bays of lakes classified as natural environment pursuant to part 6120.3000;

B. trout lakes and streams designated pursuant to part 6264.0050;

C. wildlife lakes designated pursuant to Minnesota Statutes, section 97A.101, subdivision 2;

D. migratory waterfowl feeding and resting lakes designated pursuant to Minnesota Statutes, section 97A.095, subdivision 2; or

E. outstanding resource value waters designated pursuant to part 7050.0180.

[For text of subp 80, see M.R.]

Subp. 81. **Sewered area.** "Sewered area" means an area:

A. that is serviced by a wastewater treatment facility or a centralized septic system servicing the entire development; or

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

Subp. 81a. **Shore impact zone.** "Shore impact zone" has the meaning given in part 6120.2500, or in a local ordinance, if the ordinance specifies a greater size for the zone.

[For text of subps 82 to 96, see M.R.]

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

History: *34 SR 721*

4410.0400 GENERAL RESPONSIBILITIES.

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

Subp. 4. **Appeal of final decisions.** Decisions by a RGU on the need for an EAW, the need for an EIS, the adequacy of an EIS, and the adequacy of an alternative urban areawide review document are final decisions and may be reviewed by a declaratory judgment action initiated within 30 days of the RGU's decision in the district court of the county where the proposed project, or any part thereof, would be undertaken.

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

History: *34 SR 721*

4410.1000 PROJECTS REQUIRING AN EAW.

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

Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the project's circumstances, which change may affect the potential for significant adverse environmental effects that were not addressed in the existing EAW, a new EAW is required.

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

History: *34 SR 721*

4410.1100 PETITION PROCESS.*[For text of subpart 1, see M.R.]*

Subp. 2. **Content.** The petition shall also include:

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

E. material evidence indicating that, because of the nature or location of the proposed project, there may be potential for significant environmental effects. The material evidence must physically accompany the petition. It is not sufficient to merely provide a reference or citation to where the evidence may be found.

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

Subp. 5. **Determination of RGU.** The EQB's chair or designee shall determine whether the petition complies with the requirements of subparts 1 and 2. If the petition complies, the chair or designee shall designate an RGU pursuant to part 4410.0500 and forward the petition to the RGU within five days of receipt of the petition. If the petition fails to comply, the chair or designee shall return the petition to the petitioner's representative within five days of receipt of the petition with a written explanation of why it fails to comply.

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

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

History: *34 SR 721*

4410.1200 EAW CONTENT.

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

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

E. major issues sections identifying potential environmental impacts and issues that may require further investigation before the project is commenced, including identification of cumulative potential effects;

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

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

History: *34 SR 721*

4410.1700 DECISION ON NEED FOR EIS.*[For text of subps 1 to 4, see M.R.]*

Subp. 5. **Distribution of decision.** The RGU's decision shall be provided, within five days, to all persons on the EAW distribution list pursuant to part 4410.1500, to all persons that commented in writing during the 30-day review period, and to any person upon written request. All persons who submitted timely and substantive comments on the EAW shall be sent a copy of the RGU's response to those comments prepared under subpart 4. Upon notification, the EQB staff shall publish the RGU's decision in the EQB Monitor.

[For text of subp 6, see M.R.]

Subp. 7. **Criteria.** In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

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

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

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C. the extent to which the environmental effects are subject to mitigation by on-going public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

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

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

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

History: *34 SR 721*

4410.2300 CONTENT OF EIS.

An EIS shall be written in plain and objective language. An RGU shall use a format for an EIS that will encourage good analysis and clear presentation of the proposed action including alternatives to the project. The standard format shall be:

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

H. Environmental, economic, employment, and sociological impacts: for the proposed project and each major alternative there shall be a thorough but succinct discussion of potentially significant adverse or beneficial effects generated, be they direct, indirect, or cumulative. Data and analyses shall be commensurate with the importance of the impact and the relevance of the information to a reasoned choice among alternatives and to the consideration of the need for mitigation measures; the RGU shall consider the relationship between the cost of data and analyses and the relevance and importance of the information in determining the level of detail of information to be prepared for the EIS. Less important material may be summarized, consolidated, or simply referenced. The EIS shall identify and briefly discuss any major differences of opinion concerning significant impacts of the proposed project on the environment.

[For text of items I and J, see M.R.]

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

History: *34 SR 721*

4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.

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

Subp. 2a. **Concurrent review of draft permits not prohibited.** Subpart 1 does not prohibit a governmental unit from issuing notice of and receiving public comments on a draft permit prior to completion of environmental review.

[For text of subps 3 to 9, see M.R.]

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

History: *34 SR 721*

4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.

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

Subp. 2. Relationship to specific development projects.

A. Upon completion of review under this part, residential, commercial, warehousing, and light industrial development projects and associated infrastructure within the boundaries established under subpart 3 that are consistent with development assumptions established under subpart 3 are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 as long as the approval and construction of the project complies with the conditions of the plan for mitigation developed under subpart 5.

B. The prohibitions of part 4410.3100, subparts 1 and 2, apply to all projects for which review under this part substitutes for review under parts 4410.1100 to 4410.1700 or 4410.2100 to 4410.3000. These prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation under subpart 5.

C. If a specific residential, commercial, warehousing, light industrial, or associated infrastructure project, that is subject to an EAW or EIS, is proposed within the boundaries of an area for which an alternative review under this part is planned or is in preparation but has not yet been completed, the RGU may, at its discretion, review the specific project either through the alternative areawide review procedures or through the EAW or EIS procedures. If the project is reviewed through the alternative areawide review procedures, at least one set of development assumptions used in the process must be consistent with the proposed project, and the project must incorporate the applicable mitigation measures developed through the process.

D. The ordering of a review pursuant to subpart 3 does not constitute a finding by the RGU that each potential project within the designated boundary has or may have the potential for significant environmental effects. After an order for review has been adopted under subpart 3, if a specific project for which an EAW or EIS is not mandatory is proposed within the boundaries of the review area, the RGU may exclude the project from the review process and proceed with its approval by using the following process. The RGU must provide notice of the intended exclusion and the reasons for the intended exclusion in the same manner as for distribution of an EAW pursuant to part 4410.1500. Agencies and interested persons shall have ten days from the date of the notice in the *EQB Monitor* to file comments with the RGU about the proposed removal of the project from the review. If no adverse comments are received within the comment period, the project is automatically excluded from the review and the prohibitions under part 4410.3100 do not apply to the project without further action by the RGU. If adverse comments are received, the RGU must consider the comments and determine whether to include the project in the review or to exclude it within 30 days of the end of the comment period based on whether the project may have the potential for significant environmental effects, taking into account the comments received and the interaction of the project with other anticipated development in its surrounding area.

E. If a specific project will be reviewed through the procedures of this part rather than through the EAW or EIS procedures and the project itself would otherwise require preparation of an EIS pursuant to part 4410.4400 or will comprise at least 50 percent of the geographic area to be reviewed, the RGU must follow the additional procedures of subpart 5a in the review.

[For text of subp 3, see M.R.]

Subp. 4. **Environmental analysis document; form and content.** The content and format must be similar to that of the EAW, but must provide for a level of analysis comparable to that of an EIS for direct, indirect, and cumulative potential effects typical of urban residential, commercial, warehousing, and light industrial development and associated infrastructure. The content and format must provide for a certification by the RGU that the comprehensive plan requirements of subpart 1 are met.

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

A. The RGU shall prepare a draft environmental analysis document addressing each of the development scenarios selected under subpart 3 using the standard content and format provided by the EQB under subpart 4. A draft version of the mitigation plan as described under item C must be included. The geographic extent of the analyses of direct, indirect, and cumulative potential effects conducted in preparing the document is not to be limited by the boundaries set in the order for review under subpart 3. The draft document must be distributed and noticed in accordance with part 4410.1500.

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

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

A. The procedures of this subpart must be followed in addition to those of subpart 5 if a specific project will be reviewed according to this part and the project would otherwise

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require preparation of an EIS pursuant to part 4410.4400 or will comprise at least 50 percent of the geographic area to be reviewed.

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

C. Government units and interested persons shall participate in the public comment process in accordance with part 4410.1600, except that the purpose of the comments is to suggest additional development scenarios and relevant issues to be analyzed in the review. Comments may suggest additional development scenarios that include alternatives to the specific large project or projects proposed to be included in the review, including development at sites outside of the proposed geographic boundary. The comments must provide reasons why a suggested development scenario or alternative to a specific project is potentially environmentally superior to those identified in the RGU's draft order.

D. The RGU must consider all timely and substantive comments received when finalizing the order for review. The RGU shall apply the criteria for excluding an alternative from analysis found under part 4410.2300, item G, in determining if a suggested additional scenario or alternative to a specific project should be included or excluded and must explain its reasoning in a written record of decision.

E. The RGU shall adopt the final order for review within 15 days of the end of the comment period. A copy of the order and the RGU's record of decision must be sent within ten days of the decision to the EQB and to anyone who submitted timely and substantive comments.

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

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

History: *34 SR 721*

4410.4300 MANDATORY EAW CATEGORIES.

[For text of subps 1 to 11, see M.R.]

Subp. 12. **Nonmetallic mineral mining.** 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 development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 20 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 40 acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit shall be the RGU.

[For text of subps 13 to 19, see M.R.]

Subp. 19a. **Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.**

A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development located wholly or partially in shoreland outside the seven-county Twin Cities metropolitan area of a type listed in items B to E. For purposes of this subpart, "riparian unit" means a unit in a development that abuts a public water or, in the case of a development where units are not allowed to abut the public water, is located in the first tier of the development as provided under part 6120.3800, subpart 4, item A. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EAW must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive

shoreland area threshold, plus the quotient obtained by dividing the number of units in non-sensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EAW must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.

B. A development containing 15 or more unattached or attached units for a sensitive shoreland area or 25 or more unattached or attached units for a nonsensitive shoreland area, if any of the following conditions is present:

- (1) less than 50 percent of the area in shoreland is common open space;
- (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or
- (3) if any portion of the project is in an unincorporated area, the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b.

C. A development containing 25 or more unattached or attached units for a sensitive shoreland area or 50 or more unattached or attached units for a nonsensitive shoreland area, if none of the conditions listed in item B is present.

D. A development in a sensitive shoreland area that provides permanent mooring space for at least one nonriparian unattached or attached unit.

E. A development containing at least one unattached or attached unit created by the conversion of a resort, motel, hotel, recreational vehicle park, or campground, if either of the following conditions is present:

- (1) the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or
- (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b.

F. An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer. For land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plan of the proposer for those lands for which plans exist.

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

Subp. 20a. **Resorts, campgrounds, and RV parks in shorelands.** The local government 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:

A. construction or addition of 25 or more units or sites in a sensitive shoreland area or 50 units or sites in a nonsensitive shoreland area if at least 50 percent of the area in shoreland is common open space; or

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B. construction or addition of 15 or more units or sites in a sensitive shoreland area or 25 or more units or sites in a nonsensitive shoreland area, if less than 50 percent of the area in shoreland is common open space.

If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EAW must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EAW must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.

[For text of subps 21 to 36, see M.R.]

Subp. 36a. Land conversions in shoreland.

A. For a project 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 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.

C. For a project that permanently converts 20 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 40 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.

[For text of subp 37, see M.R.]

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

History: *34 SR 721*

4410.4400 MANDATORY EIS CATEGORIES.

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

Subp. 9. **Nonmetallic mineral mining.** 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 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 forested or other naturally vegetated land in a sensitive shoreland area or 80 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.

[For text of subps 10 to 14, see M.R.]

Subp. 14a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.

A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development located wholly or partially in shoreland outside the seven-county Twin Cities metropolitan area of a type listed in items B to D. For purposes of this subpart, "riparian unit" means a unit in a development that abuts a public water or, in the case of a development where units are not allowed to abut the public water, is located in the first tier of the development as provided under part 6120.3800, subpart 4, item A. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EIS must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an

EIS must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.

B. A development containing 50 or more unattached or attached units for a sensitive shoreland area or 100 or more unattached or attached units for a nonsensitive shoreland area, if any of the following conditions is present:

- (1) less than 50 percent of the area in shoreland is common open space;
- (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or
- (3) any portion of the project is in an unincorporated area.

C. A development of 100 or more unattached or attached units for a sensitive shoreland area or 200 or more unattached or attached units for a nonsensitive shoreland area, if none of the conditions listed in item B is present.

D. A development creating 20 or more unattached or attached units for a sensitive shoreland area or 40 or more unattached or attached units for a nonsensitive shoreland area by the conversion of a resort, motel, hotel, recreational vehicle park, or campground, if either of the following conditions is present:

- (1) the number of nonriparian units in shoreland exceeds by at least 15 percent the number of lots that would be allowable on the parcel calculated according to the applicable lot area and width standards for nonriparian unsewered single lots under part 6120.3300, subparts 2a and 2b; or
- (2) the number of riparian units exceeds by at least 15 percent the number of riparian lots that would be allowable calculated according to the applicable lot area and width standards for riparian unsewered single lots under part 6120.3300, subparts 2a and 2b.

E. An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer. For land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist.

[For text of subps 15 to 25, see M.R.]

Subp. 26. **Resorts, campgrounds, and RV parks in shorelands.** For construction or expansion of a resort or other seasonal or permanent recreational development located wholly or partially in shoreland, accessible by vehicle, adding 100 or more units or sites in a sensitive shoreland area or 200 or more units or sites in a nonsensitive shoreland area, the local governmental unit is the RGU. If a project is located partially in a sensitive shoreland area and partially in nonsensitive shoreland areas, an EIS must be prepared if the sum of the quotient obtained by dividing the number of units in the sensitive shoreland area by the applicable sensitive shoreland area threshold, plus the quotient obtained by dividing the number of units in nonsensitive shoreland areas by the applicable nonsensitive shoreland area threshold, equals or exceeds one. If a project is located partially in shoreland and partially not in shoreland, an EIS must be prepared if the sum of the quotients obtained by dividing the number of units in each type of area by the applicable threshold for each area equals or exceeds one.

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Subp. 27. **Land conversion in shorelands.** For a project that permanently converts 40 or more acres of forested or other naturally vegetated land in a sensitive shoreland area or 80 or more acres of forested or other naturally vegetated land in a nonsensitive shoreland area, the local governmental unit is the RGU.

Subp. 28. **Genetically engineered wild rice.** For the release and a permit for a release of genetically engineered wild rice for which an EIS is required by Minnesota Statutes, section 116C.94, subdivision 1, paragraph (b), the EQB is the RGU.

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

History: *34 SR 721*

4410.4600 EXEMPTIONS.

Subpart 1. **Scope of exemption.** Projects within subparts 2 and 26 are exempt from parts 4410.0200 to 4410.6500. Projects within subparts 3 to 25 and 27 are exempt from parts 4410.0200 to 4410.6500, unless they have characteristics which meet or exceed any of the thresholds specified in part 4410.4300 or 4410.4400.

[For text of subps 2 to 6, see M.R.]

Subp. 7. **Storage facilities.** Construction of a facility designed for or capable of storing less than 750 tons of coal, with an annual throughput of less than 12,500 tons of coal, or the expansion of an existing facility by these respective amounts, is exempt.

[For text of subps 8 to 11, see M.R.]

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

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

B. Construction of less than ten residential units located in shoreland, provided all land in the development that lies within 300 feet of the ordinary high water level of the lake or river, or edge of any wetland adjacent to the lake or river, is preserved as common open space.

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

[For text of subps 13 to 25, see M.R.]

Subp. 26. **Governmental activities.** Proposals and enactments of the legislature, rules or orders of governmental units, adoption and amendment of comprehensive and other plans, zoning ordinances, or other official controls by local governmental units, rezoning actions by a local governmental unit unless the action would be primarily for the benefit of a specific project or projects, adoption and amendment of plans by state agencies, executive orders of the governor or their implementation by governmental units, judicial orders, and submissions of proposals to a vote of the people of the state are exempt.

[For text of subp 27, see M.R.]

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

History: *34 SR 721*