

4410.3000 SUPPLEMENTING EIS.

Subpart 1. **Applicability.** An RGU shall supplement an EIS by preparing a supplemental EIS document in accordance with this part.

Subp. 2. **EIS addendum.** An RGU may make minor revisions to a final EIS by use of an EIS addendum. An EIS addendum may not be used to make revisions required under subpart 3. The addendum shall be distributed to the EQB, to any person who received the final EIS document, and to any other person upon written request. The EQB shall publish notice of the availability of the addendum in the EQB Monitor.

Subp. 3. **Supplement to EIS.** An RGU shall prepare a supplement to an EIS under any of the following circumstances:

A. whenever after a final EIS has been determined adequate, but before the project becomes exempt under part 4410.4600, subpart 2, item B or D, the RGU determines that either:

(1) substantial changes have been made in the proposed project that affect the potential significant adverse environmental effects of the project; or

(2) there is substantial new information or new circumstances that significantly affect the potential environmental effects from the proposed project that have not been considered in the final EIS or that significantly affect the availability of prudent and feasible alternatives with lesser environmental effects;

B. whenever an EIS has been prepared for an ongoing governmental action and the RGU determines that the conditions of item A, subitem (1) or (2), are met with respect to the action; or

C. whenever an EIS has been prepared for one or more phases of a phased action or one or more components of a connected action and a later phase or another component is proposed for approval or implementation that was not evaluated in the initial EIS.

Subp. 4. **Request for supplement to EIS.** Any person may request preparation of a supplement to an EIS by submitting a written request to the RGU containing material evidence that a supplement is required under subpart 3. A copy of the request must be sent to the EQB. The RGU shall make a decision on the need for a supplement within 30 days of receipt of the request, and shall notify the requesting person and the EQB staff of its decision within five days. If the RGU denies the request, the notice must explain the basis for its decision and respond to the issues raised by the requesting person. If the RGU orders a supplement, its basis for the decision must be incorporated into the supplement preparation notice.

Subp. 5. **Procedure for preparing supplement to EIS.** A supplement to an EIS shall be prepared, circulated, and reviewed according to the procedures in items A to E.

A. The scope of a supplement to an EIS must be limited to impacts, alternatives, and mitigation measures not addressed or inadequately addressed in the final EIS. The RGU shall adopt a scope for the supplement as part of the preparation notice. The RGU may consult with any person in order to obtain information relevant to the scoping of a supplement, and may hold public meetings

to obtain the information. Reasonable notice must be given of any meetings. All meetings must be open to the public.

B. The RGU shall adopt and distribute a notice of the preparation of the supplement to the EIS. The notice must contain:

- (1) the title of the EIS being supplemented and its approximate date of completion;
- (2) a brief description of the situation necessitating the preparation of the supplement, including a description of how the changes in the proposed project or new information may affect the potential significant environmental effects from the project or the availability of prudent and feasible alternatives;
- (3) the scope of the supplement including issues to be analyzed, alternatives to be examined, and studies to be undertaken; and
- (4) the proposed time schedule for the preparation of the supplement.

The preparation notice must be distributed to all persons who received the final EIS, to all persons on the EAW distribution list under part 4410.1500, and to any person who requested that a supplement be prepared under subpart 4, provided that if more than one person signed a letter or other document requesting a supplement, notice need only be distributed to their representative or to the person whose signature first appears on the document. The EQB shall publish a summary of the preparation notice in the EQB Monitor.

If, within 20 days of publication of the preparation notice in the EQB Monitor, any person submits written comments to the RGU objecting to the scope of the supplement, the RGU shall give due consideration to modifying its scope based on the comments. The RGU shall include in the draft supplement document a copy of any timely comments received objecting to the scope and its response to the comments.

C. The RGU shall prepare a draft supplement for the purposes of receiving public comments. The draft document must conform to the requirements of parts 4410.2300, items D to J, 4410.2400, and 4410.2500. The draft supplement must be distributed and reviewed in accordance with part 4410.2600, subparts 2 to 10, except that the informational meeting must be held not less than ten days after publication of notice in the EQB Monitor.

D. The RGU shall prepare and distribute a final supplement to an EIS in accordance with part 4410.2700.

E. The determination of adequacy of the final supplement to an EIS must be made in accordance with part 4410.2800.

Subp. 6. Time limit for supplement to EIS. A determination of the adequacy of a supplement to an EIS must be made within 120 days of the order for preparation of the supplement, unless the time is extended by the consent of the proposer and RGU or by the governor for good cause.

Subp. 7. Treatment of expansions of a project for which EIS was prepared. Subsequent expansions of, or additions to, implemented projects for which an EIS was prepared must be treated

as independent projects for the determination of the need for environmental review and must be reviewed in accordance with parts 4410.1000 to 4410.2800 rather than according to this part, unless the expansion or addition is part of a phased action or connected action requiring review under subpart 3, item C. Tiering of information from the original EIS may be used to minimize duplication of paperwork, provided that the original EIS is reasonably available for public and agency review.

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

History: *13 SR 1437*

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