

1 Environmental Quality Board

2 Adopted Permanent Rules Relating to Environmental Review Program

3 4410.0200 DEFINITIONS AND ABBREVIATIONS.

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

5 Subp. 1a. [See repealer.]

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

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

10 A. one project would directly induce the other;

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

13 C. neither project is justified by itself.

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

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

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

20 [For text of subps 70a to 80, see M.R.]

21 Subp. 81. **Sewered area.** [Withdrawn at .. SR ....]

22 [For text of subps 82 to 91, see M.R.]

23 Subp. 92. **Wastewater treatment facility.** "Wastewater  
24 treatment facility" means a facility for the treatment of  
25 municipal or industrial waste water.

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

1 4410.1000 PROJECTS REQUIRING AN EAW.

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

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

11 4410.1100 PETITION PROCESS.

12 [For text of subs 1 to 5, see M.R.]

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

26 [For text of subs 7 to 9, see M.R.]

## 1 4410.1200 EAW CONTENT.

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

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

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

9 G. if the project will be carried out by a  
10 governmental unit, a brief explanation of the need for the  
11 project and an identification of those who will benefit from the  
12 project; and

13 H. an assessment of the compatibility of the project  
14 with approved plans of local units of government.

## 15 4410.1400 PREPARATION OF AN EAW.

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

19 When an EAW is to be prepared, the proposer shall submit  
20 the completed data portions of the EAW to the RGU. The RGU  
21 shall determine whether the proposer's submittal is complete  
22 within 30 days or such other time period as agreed upon by the  
23 RGU and proposer. If the RGU determines that the submittal is  
24 incomplete, the RGU shall return the submittal to the proposer  
25 for completion of the missing data. If the RGU determines that  
26 the submittal is complete, the RGU shall notify the proposer of  
27 the acceptance of the submittal within five days. The RGU shall

1 have 30 days from notification to add supplementary material to  
2 the EAW, if necessary, and to approve the EAW for distribution.  
3 The RGU shall be responsible for the completeness and accuracy  
4 of all information.

5 4410.1500 PUBLICATION AND DISTRIBUTION OF AN EAW.

6 A. The RGU shall provide one copy of the EAW to the  
7 EQB staff within five days after the RGU approves the EAW. This  
8 copy shall serve as notification to the EQB staff to publish the  
9 notice of availability of the EAW in the EQB Monitor. At the  
10 time of submission of the EAW to the EQB staff, the RGU shall  
11 also submit one copy of the EAW to:

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

13 (7) the state archaeologist;

14 (8) the Indian Affairs Council;

15 (9) the Environmental Conservation Library;

16 (10) the regional development commission and

17 regional development library for the region of the project site;

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

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

22 (13) any other person upon written request.

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

24 4410.1700 DECISION ON NEED FOR EIS.

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

26 Subp. 2a. Insufficient information. If the RGU determines

1 that information necessary to a reasoned decision about the  
2 potential for, or significance of, one or more possible  
3 environmental impacts is lacking, but could be reasonably  
4 obtained, the RGU shall either:

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

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

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

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

22 4410.2100 EIS SCOPING PROCESS.

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

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

27           A. At least ten days but not more than 20 days after

1 notice is published in the EQB Monitor, a public meeting shall  
2 be held to review the scope of the EIS. Notice of the time,  
3 date, and place of the scoping meeting shall be published in the  
4 EQB Monitor within 15 days of receipt of the proposer's scoping  
5 cost payment pursuant to part 4410.6500, subpart 1, item A, and  
6 a press release shall be provided to a newspaper of general  
7 circulation in the area where the project is proposed. All  
8 meetings shall be open to the public.

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

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

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

1 summary of the amendment shall be published in the EQB Monitor  
2 within 30 days of the amendment. The notice may be incorporated  
3 into the notice of the availability of the draft or final EIS.

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

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

13 4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.

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

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

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

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

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

1 4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.

2 Subpart 1. **Applicability.** A local unit of government may  
3 use the procedures of this part instead of the procedures of  
4 parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 to  
5 review anticipated residential, commercial, warehousing, and  
6 light industrial development and associated infrastructure in a  
7 particular geographic area within its jurisdiction, if the local  
8 unit has adopted a comprehensive plan that includes at least the  
9 elements in items A to C. The procedures of this part may not  
10 be used to review any project meeting the requirements for a  
11 mandatory EAW in part 4410.4300, subparts 2 to 13, 15 to 17, 18,  
12 item B or C, or 24, or a mandatory EIS in part 4410.4400,  
13 subparts 2 to 10, 12, 13, or 25. The local unit of government  
14 is the RGU for any review conducted under this part.

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

16 Subp. 2. **Relationship to specific development**  
17 **projects.** [Withdrawn at .. SR ....]

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

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

21 A. The RGU shall prepare a draft environmental  
22 analysis document addressing each of the development scenarios  
23 selected under subpart 3 using the standard content and format  
24 provided by the EQB under subpart 4. A draft version of the  
25 mitigation plan as described under item C must be included. The  
26 draft document must be distributed and noticed in accordance  
27 with part 4410.1500.



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

7           Comments may address the accuracy and completeness of the  
8 information provided in the draft analysis and draft mitigation  
9 plan, potential impacts that warrant further analysis, further  
10 information that may be required in order to secure permits for  
11 specific projects in the future, mitigation measures or  
12 procedures necessary to prevent significant environmental  
13 impacts within the area when actual development occurs, and the  
14 need to analyze additional development scenarios as required by  
15 this part.

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

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

21           D. The RGU shall distribute the revised environmental  
22 analysis document, including the plan for mitigation, in the  
23 same manner as the draft document and also to any persons who  
24 commented on the draft document and to the EQB staff. State  
25 agencies and the Metropolitan Council of the Twin Cities have  
26 ten days from the date of receipt of the revised document to  
27 file an objection to the document with the RGU. A copy of any

1 letter of objection must be filed with the EQB staff. An  
2 objection may be filed only if the agency filing the objection  
3 has evidence that the revised document contains inaccurate or  
4 incomplete information relevant to the identification and  
5 mitigation of potentially significant environmental impacts,  
6 that the review has not analyzed sufficient development  
7 scenarios as required by this part, or that the proposed plan  
8 for mitigation will be inadequate to prevent potentially  
9 significant environmental impacts from occurring.

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

22 Upon adoption of the environmental analysis document,  
23 including the plan for mitigation, residential, commercial,  
24 warehousing, and light industrial projects and associated  
25 infrastructure within the area that are consistent with the  
26 assumptions of the document and that comply with the plan for  
27 mitigation are exempt from review under parts 4410.1100 to

1 4410.1700 and 4410.2100 to 4410.2800.

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

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

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

17 H. If the matter is referred to the EQB under item G,  
18 the EQB shall determine whether the environmental analysis  
19 document, including the plan for mitigation, is adequate,  
20 conditionally adequate, or inadequate. If the EQB finds the  
21 document conditionally adequate or inadequate, the EQB shall  
22 specify the revisions necessary for adequacy. The EQB shall  
23 only find the document inadequate if ~~it~~ the EQB determines that  
24 it contains inaccurate or incomplete information necessary to  
25 the identification and mitigation of potentially significant  
26 environmental impacts, that the review ~~has-not-analyzed~~  
27 sufficient of development scenarios as-required-by is not in

1 compliance with this part, or that the proposed plan for  
2 mitigation will be inadequate to prevent the occurrence of  
3 potentially significant environmental impacts.

4 If the EQB finds the document adequate or conditionally  
5 adequate, the RGU shall adopt the document under item E. If the  
6 document is found conditionally adequate by the EQB, the RGU  
7 shall first revise the document as directed by the EQB. If the  
8 EQB finds the document inadequate, the RGU has 30 days to revise  
9 the document and circulate it for review in accordance with  
10 items D to H.

11 Subp. 5a. Additional procedures required when certain  
12 specific projects are reviewed. [Withdrawn at .. SR ....]

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

14 4410.3800 GENERIC EIS.

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

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

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

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

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

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

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

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

8 [For text of subs 6 and 7, see M.R.]

9 Subp. 8. Relationship to project-specific review.

10 Preparation of a generic EIS does not exempt specific activities  
11 from project-specific environmental review.

12 [For text of sub 9, see M.R.]

13 4410.4300 MANDATORY EAW CATEGORIES.

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

15 Subp. 15. Air pollution. For construction of a stationary  
16 source facility that generates 250 tons or more per year or  
17 modification of a stationary source facility that increases  
18 generation by 250 tons or more per year of any single air  
19 pollutant after installation of air pollution control equipment,  
20 the PCA shall be the RGU.

21 [For text of subs 16 and 17, see M.R.]

22 Subp. 18. Wastewater systems. Items A to C designate the  
23 RGU for the type of project listed:

24 A. For expansion, modification, or replacement of a  
25 municipal sewage collection system resulting in an increase in  
26 design average daily flow of any part of that system by  
27 1,000,000 gallons per day or more if the discharge is to a

1 wastewater treatment facility with a capacity less than  
2 20,000,000 gallons per day or for expansion, modification, or  
3 replacement of a municipal sewage collection system resulting in  
4 an increase in design average daily flow of any part of that  
5 system by 2,000,000 gallons per day or more if the discharge is  
6 to a wastewater treatment facility with the capacity of  
7 20,000,000 gallons or greater, the PCA shall be the RGU.

8           B. For expansion or reconstruction of an existing  
9 municipal or domestic wastewater treatment facility which  
10 results in an increase by 50 percent or more and by at least  
11 200,000 gallons per day of its average wet weather design flow  
12 capacity, or construction of a new municipal or domestic  
13 wastewater treatment facility with an average wet weather design  
14 flow capacity of 200,000 gallons per day or more, the PCA shall  
15 be the RGU.

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

17           Subp. 19. Residential development. An EAW is required for  
18 residential development if the total number of units that may  
19 ultimately be developed on all contiguous land owned or under an  
20 option to purchase by the proposer, ~~and that is zoned for~~  
21 ~~residential development or is identified for residential~~  
22 ~~development~~ except land identified by an applicable  
23 comprehensive plan, ordinance, resolution, or annexation  
24 agreement of a local governmental unit for a future use other  
25 than residential development, equals or exceeds a threshold of  
26 this subpart. In counting the total number of ultimate units,  
27 the RGU shall include the number of units in any plans of the

1 proposer; for land for which the proposer has not yet prepared  
2 plans, the RGU shall use as the number of units the product of  
3 the number of acres multiplied by the maximum number of units  
4 per acre allowable under the applicable zoning ordinance or, if  
5 the maximum number of units allowable per acre is not specified  
6 in an applicable zoning ordinance, by the overall average number  
7 of units per acre indicated in the plans of the proposer for  
8 those lands for which plans exist. If the total project  
9 requires review but future phases are uncertain, the RGU may  
10 review the ultimate project sequentially in accordance with part  
11 4410.1000, subpart 4.

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

18 The local governmental unit is the RGU for construction of  
19 a permanent or 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  
23 designate the RGU for the type of project listed:

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

1 103G, the local government unit shall be the RGU.

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

10 [For text of subs 28 to 30, see M.R.]

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



1 noncontributing.

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

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

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

10 4410.4400 MANDATORY EIS CATEGORIES.

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

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

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

15 B. For construction or expansion of a facility for  
16 the production of alcohol fuels which would have or would  
17 increase its capacity by 50,000,000 or more gallons per year of  
18 alcohol produced if the facility will be in the seven-county  
19 Twin Cities metropolitan area or by 125,000,000 or more gallons  
20 per year of alcohol produced if the facility will be outside the  
21 seven-county Twin Cities metropolitan area, the PCA shall be the  
22 RGU.

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

24 Subp. 14. **Residential development.** An EIS is required for  
25 residential development if the total number of units that the  
26 proposer may ultimately develop on all contiguous land owned by  
27 the proposer or for which the proposer has an option to

1 purchase, ~~and that is zoned for residential development or is~~  
2 ~~identified for residential development~~ except land identified by  
3 an applicable comprehensive plan, ordinance, resolution, or  
4 annexation agreement of a local governmental unit for a future  
5 use other than residential development, equals or exceeds a  
6 threshold of this subpart. In counting the total number of  
7 ultimate units, the RGU shall include the number of units in any  
8 plans of the proposer; for land for which the proposer has not  
9 yet prepared plans, the RGU shall use as the number of units the  
10 product of the number of acres multiplied by the maximum number  
11 of units per acre allowable under the applicable zoning  
12 ordinance, or if the maximum number of units allowable per acre  
13 is not specified in an applicable zoning ordinance, by the  
14 overall average number of units per acre indicated in the plans  
15 of the proposer for those lands for which plans exist. If the  
16 total project requires review but future phases are uncertain,  
17 the RGU may review the ultimate project sequentially in  
18 accordance with part 4410.2000, subpart 4.

19 The RGU may review an initial stage of the project, that  
20 may not exceed ten percent of the applicable EIS threshold, by  
21 means of the procedures of parts 4410.1200 to 4410.1700 instead  
22 of the procedures of parts 4410.2000 to 4410.2800. If the RGU  
23 determines that this stage requires preparation of an EIS under  
24 part 4410.1700, it may be reviewed through a separate EIS or  
25 through an EIS that also covers later stages of the project.

26 If a project consists of mixed unattached and attached  
27 units, an EIS must be prepared if the sum of the quotient

1 obtained by dividing the number of unattached units by the  
2 applicable unattached unit threshold, plus the quotient obtained  
3 by dividing the number of attached units by the applicable  
4 attached unit threshold, equals or exceeds one.

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

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

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

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

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

13 4410.4600 EXEMPTIONS.

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

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

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

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

21 E. projects for which environmental review has  
22 already been completed or for which environmental review is  
23 being conducted pursuant to part 4410.3600 or 4410.3700.

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

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

27 A. Construction of an animal feedlot facility with a

1 capacity of less than 1,000 animal units or the expansion of an  
2 existing animal feedlot facility to a total cumulative capacity  
3 of less than 1,000 animal units, if all of the following apply:

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

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

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

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

27 C. The construction or expansion of an animal feedlot

1 facility with a resulting capacity of less than 50 animal units  
2 regardless of location.

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

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

7 4410.5200 EQB MONITOR PUBLICATION REQUIREMENTS.

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

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

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

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

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

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

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

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

2 4410.5600 COST AND DISTRIBUTION.

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

4 Subp. 2. Distribution. The EQB Monitor may be published  
5 by electronic means, including by posting at the EQB Internet  
6 Web site and by electronic mail to persons who have registered  
7 with the EQB to receive the EQB Monitor.

8 4410.6100 DETERMINING EIS ASSESSED COST.

9 Subpart 1. Proposer and RGU agreement. Within 30 days  
10 after the RGU's scoping decision has been issued, the RGU shall  
11 submit to the proposer a draft cost agreement. The agreement  
12 shall include the EIS estimated cost and a brief description of  
13 the tasks and the cost of each task to be performed by each  
14 party in preparing and distributing the EIS. Those items  
15 identified in part 4410.6200 may be used as a guideline in  
16 determining the EIS estimated cost. The proposer may request  
17 changes in the cost agreement. If, within 30 days after the  
18 proposer receives the draft cost agreement, the RGU and proposer  
19 have not signed a cost agreement, either party may refer the  
20 matter to the EQB according to part 4410.6410. If the RGU and  
21 proposer sign the cost agreement, the RGU shall submit a copy to  
22 the EQB.

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

24 4410.6200 DETERMINING EIS COST.

25 Subpart 1. EIS cost inclusions. In determining the  
26 reasonable cost of preparing and distributing an EIS, the

1 following items shall be included:

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

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

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

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

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

11 4410.6500 PAYMENT OF EIS COST.

12 Subpart 1. Schedule of payments. The proposer shall make  
13 all cash payments to the RGU according to the following schedule:

14 A. The proposer shall pay the RGU for the full cost  
15 estimated by the RGU to be necessary for the scoping of the EIS  
16 not later than the date of submission by the proposer of the  
17 completed data portions of the scoping EAW or within five days  
18 of issuance of a positive declaration. The RGU shall not  
19 proceed with the scoping process until this payment is made.  
20 Upon issuance of the scoping decision, the RGU shall provide the  
21 proposer with a written accounting of the scoping expenditures.  
22 If the payment made by the proposer exceeds the expenditures,  
23 the balance shall be credited against the cash payments required  
24 from the proposer for preparation of the draft EIS. If the  
25 RGU's reasonable expenditures for scoping exceed the cash  
26 payment received, the proposer shall pay the balance before the  
27 RGU commences preparation of the draft EIS.

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

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

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

12 REPEALER. Minnesota Rules, part 4410.0200, subpart 1a, is  
13 repealed.