



Environmental Quality Board
Mandatory Categories Rulemaking
Preliminary Rule

Minnesota Rule Chapter 4410.4600, Exemptions

The proposed changes to Minnesota Rules 4410.4600 herein are preliminary.

The Environmental Quality Board (EQB) staff have made the preliminarily proposed changes available for public comment. For more information on how to comment and the Mandatory Categories Rulemaking, please visit [EQB Mandatory Categories Rulemaking](#) webpage.

The preliminary rules are formatted as such:

- ~~Strikethrough~~ indicates a deletion
- Underline indicates new language
- **DISCUSSION** boxes follow the proposed rule changes and provide a brief description of the purpose of the deletion or addition of rule language
- Footnotes are intended to assist the reader in the preliminary rules and will not be included in the file rule

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.

Subp. 2. Standard exemptions.

The following projects are standard exemptions:

- A. projects for which no governmental decisions are required;
- B. projects for which all governmental decisions have been made. However, this exemption does not in any way alter the prohibitions on final governmental decisions to approve a project under part 4410.3100;
- C. projects for which, and so long as, a governmental unit has denied a required governmental approval;
- D. projects for which a substantial portion of the project has been completed and an EIS would not influence remaining construction; and
- E. projects for which environmental review has already been completed or for which environmental review is being conducted pursuant to part 4410.3600 or 4410.3700.

Subp. 3. Electric generating facilities.

Construction of an electric generating plant or combination of plants at a single site with a combined capacity of less than five megawatts is exempt.

Subp. 4. Fuel conversion facilities.

Expansion of a facility for the production of alcohol fuels that would have or would increase its capacity by less than 500,000 gallons per year of alcohol produced is exempt.

Subp. 5. Transmission lines.

Construction of a transmission line with a nominal capacity of 69 kilovolts or less is exempt.

Subp. 6. Transfer facilities.

Construction of a facility designed for or capable of transferring less than 30 tons of coal per hour or with an annual throughput of less than 50,000 tons of coal from one mode of transportation to a similar or different mode of transportation, or the expansion of an existing facility by these respective amounts, is exempt.

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.

Subp. 8. Mining.

The following projects are exempt:

- A. General mine site evaluation activities that do not result in a permanent alteration of the environment, including mapping, aerial surveying, visual inspection, geologic field reconnaissance, geophysical studies, and surveying, but excluding exploratory borings, are exempt.
- B. Expansion of metallic mineral plant processing facilities that are capable of increasing production by less than ten percent per year, provided the increase is less than 100,000 tons per year in the case of facilities for processing natural iron ore or taconite, is exempt.
- C. Scram mining operations are exempt.

Subp. 9. Paper or pulp processing facilities.

Expansion of an existing paper or pulp processing facility that will increase its production capacity by less than ten percent is exempt.

43 **Subp. 10. Industrial, commercial, and institutional facilities.**

44 The following projects are exempt:

- 45 ~~A. Construction of a new or expansion of an existing warehousing, light industrial, commercial, or institutional~~
46 ~~facility of less than the following thresholds, expressed as gross floor space:~~
47 ~~(1) third or fourth class city or unincorporated area, 50,000 square feet,~~
48 ~~(2) second class city, 75,000 square feet, or~~
49 ~~(3) first class city, 100,000 square feet, if no part of the development is within a shoreland area, delineated flood~~
50 ~~plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area,~~
51 ~~or the Mississippi headwaters area, is exempt.~~
- 52 B-A. _____ The construction of a warehousing, light industrial, commercial, or institutional facility with less than
53 4,000 square feet of gross floor space, and with associated parking facilities designed for 20 vehicles or less, is
54 exempt.
- 55 B. Construction of a new parking facility for less than 100 vehicles if the facility is not located in a shoreland area,
56 delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project
57 Riverbend area, or the Mississippi headwaters area is exempt.

58 **DISCUSSION: Subp. 10. Industrial, commercial, and institutional facilities.**

59 Deletion corresponds with the changes in Minn. R. 4410.4300, subpart 14 and 4410.4400, subpart 11.

60 **Subp. 11. Sewage systems.**

61 Construction of a new wastewater treatment facility with a capacity of less than 5,000 gallons per day average wet
62 weather flow or the expansion of an existing wastewater treatment facility by less than 5,000 gallons per day average wet
63 weather flow or the expansion of a sewage collection system by less than 5,000 gallons per day design daily average flow
64 or a sewer line of 1,000 feet or less and eight-inch diameter or less, is exempt.

65 **Subp. 12. Residential development.**

66 The following projects are exempt:

- 67 A. Construction of a sewer residential development, of:
68 (1) less than ten units in an unincorporated area,
69 (2) less than 20 units in a third or fourth class city,
70 (3) less than 40 units in a second class city, or
71 (4) less than 80 units in a first class city, no part of which is within a shoreland area, delineated flood plain state
72 or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the
73 Mississippi headwaters area, is exempt.
- 74 B. Construction of less than ten residential units located in shoreland, provided all land in the development that lies
75 within 300 feet of the ordinary high water level of the lake or river, or edge of any wetland adjacent to the lake or
76 river, is preserved as common open space.
- 77 C. Construction of a single residence or multiple residence with four dwelling units or less and accessory
78 appurtenant structures and utilities is exempt.

79 **Subp. 13. Airport projects.**

80 The following projects are exempt:

- 81 A. Runway, taxiway, apron, or loading ramp construction or repair work including reconstruction, resurfacing,
82 marking, grooving, fillets, and jet blast facilities is exempt, except where the project will create environmental
83 impacts off airport property.
- 84 B. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems, is
85 exempt.
- 86 C. Construction or expansion of passenger handling or parking facilities, including pedestrian walkway facilities, is
87 exempt.
- 88 D. Grading or removal of obstructions and erosion control projects on airport property is exempt, except where the
89 projects will create environmental impacts off airport property.

90 **Subp. 14. Highway projects.**

91 The following projects are exempt:

- 92 A. Highway safety improvement projects are exempt.
- 93 B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones, and access
94 and egress lanes for transit and paratransit vehicles is exempt.
- 95 C. Modernization of an existing roadway or bridge by resurfacing, restoration, ~~or~~ rehabilitation, [reconstruction](#),
96 [adding shoulders or adding auxiliary lanes](#), that may involve the acquisition of minimal amounts of right-of-way
97 is exempt.
- 98 D. Roadway landscaping, construction of bicycle and pedestrian lanes, paths, and facilities within existing right-of-
99 way are exempt.
- 100 E. Any stream diversion, [realignment](#), or channelization within the right-of-way of an existing public roadway
101 associated with bridge or culvert replacement is exempt.
- 102 F. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that
103 may involve the acquisition of minimal amounts of right-of-way is exempt.

104 **DISCUSSION: Subp. 14. Highway projects.**

105 During the 1997 EQB rulemaking, “realignment” was added as an activity that requires an EAW (Minn. R. 4410.4300,
106 Subpart 26). Prior to the amendment, both parts 4410.4300, subp. 26 and part 4410.2600, subp. 14, item E, were
107 consistent in language when each part referenced “diversion or channelization” for the EAW threshold and the project
108 highway exemption. Neither the 1997 SONAR or historical comments explain why the term “realignment” was also not
109 incorporated into the corresponding Highway Exemption, Minn. R. 4410.4600, subp 14, item E. The omission of the word
110 “realignment” from the highway exemption category appears to be an oversight which the department seeks to correct.
111 MnDOT has worked with the DNR on this proposed amendment.

112 **Subp. 15. Water impoundments.**

113 A new or additional permanent impoundment of water creating a water surface of less than ten acres is exempt.

114 **Subp. 16. Marinas.**

115 Construction of private residential docks for use by four or less boats and utilizing less than 1,500 square feet of water
116 surface is exempt.

117 **Subp. 17. Ditch maintenance or repair.**

118 Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed
119 within 20 years of construction or major repair, is exempt.

120 **Subp. 18. Agriculture and forestry.**

121 The following projects are exempt:

- 122 A. Harvesting of timber for maintenance purposes is exempt.
- 123 B. Public and private forest management practices, other than clearcutting or the application of pesticides, that
124 involve less than 20 acres of land, are exempt.

125 **Subp. 19. Animal feedlots.**

126 The activities in items A to D are exempt.

- 127 A. Construction of an animal feedlot facility with a capacity of less than 1,000 animal units or the expansion of an
128 existing animal feedlot facility to a total cumulative capacity of less than 1,000 animal units, if all of the following
129 apply:
 - 130 (1) the feedlot is not in an environmentally sensitive location listed in part [4410.4300](#), subpart 29, item B;
 - 131 (2) the application for the animal feedlot permit includes a written commitment by the proposer to design,
132 construct, and operate the facility in full compliance with PCA feedlot rules; and
 - 133 (3) the county board holds a public meeting for citizen input at least ten business days prior to the PCA or county
134 issuing a feedlot permit for the facility, unless another public meeting for citizen input has been held with
135 regard to the feedlot facility to be permitted.

- 136 B. The construction of an animal feedlot facility of less than 300 animal units or the expansion of an existing facility
137 by less than 100 animal units, no part of either of which is located within a shoreland area; delineated flood plain;
138 state or federally designated wild and scenic rivers district; the Minnesota River Project Riverbend area; the
139 Mississippi headwaters area; an area within a drinking water supply management area designated under chapter
140 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or 1,000 feet
141 of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.
- 142 C. The construction or expansion of an animal feedlot facility with a resulting capacity of less than 50 animal units
143 regardless of location.
- 144 D. The modification without expansion of capacity of any feedlot of no more than 300 animal units if the
145 modification is necessary to secure a Minnesota feedlot permit.

146 **Subp. 20. Utilities.**

147 Utility extensions are exempt as follows:

- 148 A. water service mains of 500 feet or less and 1-1/2 inches diameter or less;
149 B. local electrical service lines;
150 C. gas service mains of 500 feet or less and one inch diameter or less; and
151 D. telephone services lines.

152 **Subp. 21. Construction projects.**

153 The following projects are exempt:

- 154 A. Construction of accessory appurtenant structures including garages, carports, patios, swimming pools, agricultural
155 structures excluding feedlots, or other similar buildings not changing land use or density is exempt.
- 156 B. Accessory signs appurtenant to any commercial, industrial, or institutional facility are exempt.
- 157 C. Operation, maintenance, or repair work having no substantial impact on existing structures, land use, or natural
158 resources is exempt.
- 159 D. Restoration or reconstruction of a structure is exempt, provided that the structure is not of historical, cultural,
160 architectural, archaeological, or recreational value.
- 161 E. Demolition or removal of buildings and related structures is exempt, except where they are of historical,
162 archaeological, or architectural significance.

163 **Subp. 22. Land use.**

164 The following projects are exempt:

- 165 A. Individual land use variances, including minor lot line adjustments and side yard and setback variances not
166 resulting in the creation of a new subdivided parcel of land or any change in land use character or density, are
167 exempt.
- 168 B. Minor temporary uses of land having negligible or no permanent effect on the environment are exempt.
- 169 C. Maintenance of existing landscaping, native growth, and water supply reservoirs, excluding the use of pesticides,
170 is exempt.

171 **Subp. 23. Research and data collection.**

172 Basic data collection, training programs, research, experimental management, and resource evaluation projects that do not
173 result in an extensive or permanent disturbance to an environmental resource, and do not constitute a substantial
174 commitment to a further course of action having potential for significant environmental effects, are exempt.

175 **Subp. 24. Financial transactions.**

176 The following projects are exempt:

- 177 A. Acquisition or disposition of private interests in real property, including leaseholds, easements, right-of-way, or
178 fee interests, is exempt.
- 179 B. Purchase of operating equipment, maintenance equipment, or operating supplies is exempt.

180 **Subp. 25. Licenses.**

181 The following decisions are exempt:

- 182 A. Licensing or permitting decisions related to individual persons or activities directly connected with an individual's
183 household, livelihood, transportation, recreation, health, safety, and welfare, such as motor vehicle licensing or
184 individual park entrance permits, are exempt.
185 B. All licenses required under electrical, fire, plumbing, heating, mechanical and safety codes and regulations, but
186 not including building permits, are exempt.

187 **Subp. 26. Governmental activities.**

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

193 **Subp. 27. Recreational trails.**

194 The projects listed in items A to F are exempt. For purposes of this subpart, "existing trail" means an established corridor
195 in current legal use.

- 196 A. Rerouting less than one continuous mile of a recreational trail if the reroute is necessary to avoid sensitive areas or
197 to alleviate safety concerns. Multiple reroutes on the same trail must be treated as independent projects, except
198 that where the cumulative length of currently proposed reroutes exceeds one mile on any five-mile segment of
199 trail, as measured along the rerouted trail, those reroutes are not exempt.
200 B. Reconstructing, rehabilitating, or maintaining an existing trail involving no changes in designated use.
201 C. Constructing less than one continuous mile of trail for use by snowmobiles or cross-country skiers.
202 D. Constructing a trail for winter-only use across agricultural land or across frozen water.
203 E. Designating an existing trail for use by snowmobiles or cross-country skiers.
204 F. Constructing or rehabilitating a nonmotorized trail within the Twin Cities Metropolitan Regional Park System.
205 G. Paving a trail located on an abandoned railroad grade.
206 H. Adding a new motorized use to an existing motorized trail or trail segment where the trail is located only an
207 abandoned railroad grade.

208 **DISCUSSION: Subp. 27. Recreational trails.**

209 Insertion for greater clarity.

210
211 Statutory Authority:

212 *MS s 116D.04; 116D.045; L 1998 c 401 s 54*

213 *History: 11 SR 714; 13 SR 1437; 21 SR 1458; 24 SR 517; 30 SR 319; 31 SR 539; 34 SR 721*

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