

1 **Environmental Quality Board**

2 **Proposed Permanent Rules Relating to Mandatory EAW Categories and Exemptions**

3 **4410.4300 MANDATORY EAW CATEGORIES.**

4 Subpart 1. **Threshold test.** An EAW must be prepared for projects that meet or
5 exceed the threshold of any of subparts 2 to 36 37, unless the project meets or exceeds
6 any thresholds of part 4410.4400, in which case an EIS must be prepared.

7 If the proposed project is an expansion or additional stage of an existing project, the
8 cumulative total of the proposed project and any existing stages or components of the
9 existing project must be included when determining if a threshold is met or exceeded if
10 construction was begun within three years before the date of application for a permit or
11 approval from a governmental unit for the expansion or additional stage but after April
12 21, 1997, except that any existing stage or component that was reviewed under a
13 previously completed EAW or EIS need not be included.

14 Multiple projects and multiple stages of a single project that are connected actions or
15 phased actions must be considered in total when comparing the project or projects to the
16 thresholds of this part and part 4410.4400.

17 [For text of subps 2 to 36, see M.R.]

18 Subp. 37. **Recreational trails.** If a project listed in items A to D will be built on
19 state-owned land or funded, in whole or part, by grant-in-aid funds administered by the
20 DNR, the DNR is the RGU. For other projects, if a governmental unit is sponsoring the
21 project, in whole or in part, that governmental unit is the RGU. If the project is not
22 sponsored by a unit of government, the RGU is the local governmental unit. For
23 purposes of this subpart, "existing trail" means an established corridor in current legal
24 use.

25 A. Constructing a trail at least ten miles long on forested or other naturally
26 vegetated land for a recreational use other than snowmobiling or cross-country skiing,

1 or constructing a trail at least 20 miles long on forested or other naturally vegetated land
2 exclusively for snowmobiling or cross-country skiing.

3 B. Designating at least 25 miles of an existing trail for a new motorized recreational
4 use other than snowmobiling.

5 In applying items A and B, if a proposed trail will contain segments of newly
6 constructed trail and segments that will follow an existing trail but be designated for a
7 new motorized use, an EAW must be prepared if the sum of the quotients obtained by
8 dividing the length of the new construction by ten miles and the length of the existing
9 but newly designated trail by 25 miles, equals or exceeds one.

10 C. Paving ten or more miles of an existing unpaved trail, unless exempted by part
11 4410.4600, subpart 27, item B or F.

12 D. Constructing an off-highway vehicle recreation area of 80 or more acres, or
13 expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural
14 land or forested or other naturally vegetated land, or constructing an off-highway
15 vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle
16 recreation area by 640 or more acres, on land which either is not agricultural or
17 naturally vegetated or has been significantly disturbed by past human activities such as
18 metallic or nonmetallic mineral mining. If a recreation area for off-highway vehicles will
19 be constructed partially on agricultural or naturally vegetated land and partially on
20 land that is not agricultural or naturally vegetated or has been significantly disturbed by
21 past human activities, an EAW must be prepared if the sum of the quotients obtained by
22 dividing the number of acres of agricultural or naturally vegetated land by 80 and the
23 number of acres of land that is not agricultural or naturally vegetated or has been
24 significantly disturbed by past human activities by 640, equals or exceeds one.

25 **4410.4600 EXEMPTIONS.**

26 Subpart 1. **Scope of exemption.** Projects within subparts 2 and ~~26~~ 27 are exempt from

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

4 [For text of subps 2 to 26, see M.R.]

5 Subp. 27. Recreational trails. The projects listed in items A to F are exempt. For
6 purposes of this subpart, "existing trail" means an established corridor in current legal
7 use.

8 A. Rerouting less than one continuous mile of a recreational trail if the reroute is
9 necessary to avoid sensitive areas or to alleviate safety concerns. Multiple reroutes on
10 the same trail must be treated as independent projects, except that where the cumulative
11 length of reroutes exceeds one mile on any five-mile segment those reroutes are not
12 exempt.

13 B. Reconstructing, rehabilitating, or maintaining an existing trail involving no
14 changes in designated use.

15 C. Constructing less than one continuous mile of trail for use by snowmobiles or
16 cross-country skiers.

17 D. Constructing a trail for winter-only use across agricultural land or across frozen
18 water.

19 E. Designating an existing trail for use by snowmobiles or cross-country skiers.

20 F. Constructing or rehabilitating a nonmotorized trail within the Twin Cities
21 Metropolitan Regional Park System.