

# **(Revised Proposed) Order Adopting Exempt Rules**

## **Minnesota Environmental Quality Board**

### **Adoption of Rules Relating to the Environmental Review program, governing scoping of mandatory Environmental Impact Statements, Minnesota Rules, Chapter 4410, Revisor's ID Number R-4978, CAH Docket Number 21-9008-41465**

#### **BACKGROUND INFORMATION**

1. In 2025, the Legislature required the Minnesota Environmental Quality Board (EQB) to adopt amendments to rules governing the environmental review program in Minn. R., ch. 4410. (Minn. Laws 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5 (a)).
2. The legislation authorized the EQB to use the Good Cause Exempt rulemaking process under Minn. Stat. § 14.388, subdivision 1, clause (3) to make these changes. (Minn. Laws 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5 (b)).
3. The Legislature required the EQB to amend Minnesota Rules, part 4410.2100, the EQB rule governing the scoping process for an environmental impact statement (EIS) in cases where an EIS is mandatory. The Legislature required amendment of the rule “to provide that an environmental assessment worksheet does not need to be prepared for a project that falls within a mandatory environmental impact statement category under Minnesota Rules, part 4410.4400, or other applicable law.” (Minn. Laws 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5 (a)(1)).
4. The Legislature also required the EQB to amend Minn. Rules, part 4410.2100 “to provide that a scoping process undertaken under Minnesota Rules, part 4410.2100, for a project that falls within a mandatory environmental impact statement category must be completed no later than 280 days after publication of the notice of availability of a scoping document in the EQB Monitor.” (Minn. Laws 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5 (a)(2)).
5. The EQB has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law, that are applicable to Good Cause Exempt rules under Minn. Stat. § 14.388.
6. The EQB authorized the proposed amended rules to proceed to Good Cause Exempt rulemaking at its meeting on February 18, 2026. A quorum was present. The undersigned was authorized to sign this order and to modify the rules as needed to obtain approval from the Revisor of Statutes or Court of Administrative Hearings (CAH), and to perform other necessary acts to give the rules the force and effect of law. A copy of the EQB's authorization to propose the rules is attached.

7. On or before March 10, in accordance with Minnesota Statutes, section 14.388, subdivision 2, the EQB director provided a Notice of Submission to the CAH and all persons who have registered their name with the EQB under Minnesota Statutes, section 14.14, subdivision 1a to receive notice of rule proceedings.

8. The Rule Summary and Justification memorandum describes the rule changes and why the changes are consistent with the Good Cause Exemption rulemaking statute.

9. The Court of Administrative Hearings received six written comments on the rules.

10. On March 20, 2026, the EQB provided its responses to the comments received by the Court of Administrative Hearings but did not propose any changes to the proposed amendments.

11. On March 24, 2026, Administrative Law Judge Kimberly Middendorf issued an Order on Review of Rules approving the following proposed rules: Minn. R. 4410.0200, subp. 24; Minn. R. 4410.0200, subp. 77a; Minn. R. 4410.1000, subp. 1; Minn. R. 4410.1000, subp. 2; Minn. R. 4410.2100, subp. 2(A); Minn. R. 4410.2100, subp. 3(C); Minn. R. 4410.2100, subp. 5; Minn. R. 4410.2800, subp. 1a(A); Minn. R. 4410.6200, subp. 1(e); and Minn. R. 4410.6500, subp. 1(A). The Order on Review of Rules disapproved the following proposed rules: Minn. R. 4410.2100, subp. 2(B), (C); Minn. R. 4410.2100, subp. 3(A), (B); Minn. R. 4410.3100, subp. 4; and Minn. R. 4410.3610, subp. 5a(B)

12. The EQB made the following changes to the proposed rules that were not approved, to correct the defects identified in the March 24, 2026, Order on Review of Rules:

- a. Revised proposed Minn. R. 4410.2100, subp. 2(B) to require an EAW for scoping a voluntary EIS.
- b. Revised proposed Minn. R. 4410.2100, subp. 2(C) by restoring the language to current rule, keeping just the changes to the structure of the subpart and items.
- c. Revised proposed Minn. R. 4410.2100, subp. 3(A), (B) to refer to the notice of availability of the “EAW or scoping document.”
- d. Revised proposed Minn. R. 4410.3100, subp. 4, to recognize that there are times when an EAW is required, allowing an application for a variance following the filing of an EAW or a scoping document where allowed under Minn. R. 4410.2100, subp 2.
- e. Removed the proposed revisions to Minn. R. 4410.3610, subp. 5a(B).

13. The Revisor of Statutes has incorporated these changes into a copy of the proposed rules (RD4978) dated 4/21/26.

14. Administrative Law Judge Middendorf approved these changes by order dated [date].

The rules are needed and reasonable.

**ORDER**

The above-named rules, in the form submitted to CAH on [May 5, 2026] and attached are adopted under the authority of the EQB granted in Minn. Laws 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5.

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Date

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Catherine Neuschler  
Executive Director