

## The Environmental Review Process

The Minnesota Environmental Policy Act of 1973 established a formal process for reviewing the environmental impacts of major developmental projects. The purpose of the review is to provide information to units of government on the environmental impacts of a project before approvals or necessary permits are issued. After projects are completed, unanticipated environmental consequences can be very costly to undo, and environmentally sensitive areas can be impossible to restore. Environmental review creates the opportunity to anticipate and correct these problems before projects are built. The process operates according to rules (legally binding regulations) adopted by the Environmental Quality Board, but it is carried out by a local governmental unit or state agency (which is termed the "RGU", for Responsible Governmental Unit). The primary role of the EQB is to advise local units and state agencies on the proper procedures for environmental review and to monitor the effectiveness of the process in general.

### The EIS and EAW

Prior to any governmental approval of a project with "potential for significant environmental effects," an Environmental Impact Statement (EIS) must be prepared. An EIS identifies the likely environmental impacts of the project along with ways to lessen or avoid significant impacts either through alternative means of accomplishing the project or by redesigning aspects of the project.

There are two routes to an EIS -- it may be mandatory or it may be ordered by a unit of government upon the determination that a project has "potential for significant environmental effects." EISs are mandatory for projects whose nature, size, or location makes it inevitable that there is the potential for significant environmental effects. When not mandatory, case-by-case decisions on the need for an EIS are based on a six-page questionnaire about the project and its potential environmental effects called an Environmental Assessment Worksheet (EAW).

An Environmental Assessment Worksheet (EAW) may be prepared for two reasons. Most are required by mandatory categories in the rules, which cover projects of a nature, size, or location which "may have the potential for significant environmental effects." Other EAWs are ordered by governmental units either on their own initiative or as a result of a citizen petition when the facts indicate the project "may have the potential for significant environmental effects".

### Exemptions

Some projects are automatically exempted from review under this program. If a project is exempted, no EAW or

EIS can be prepared. The EQB's rules specify the projects and situations to which the exemption applies.

**The EAW process contains the following steps.** The process typically requires 2-3 months to complete.

1. The RGU determines if an EAW is needed for the project.
2. The RGU obtains data needed for the completion of the EAW form from the project's proposer.
3. The RGU completes the EAW form and distributes it to reviewing agencies. The member agencies of the EQB receive and review all EAWs as do other local, state and federal agencies.
4. Notice of the EAW is published in the EQB Monitor and a press release is given to a local newspaper.
5. Any interested person can review the EAW and submit written comments to the RGU for 30 days following the Monitor notice. Comments may address the accuracy and completeness of information, additional environmental effects or corrective actions that should be considered and the potential for significant environmental effects due to the project.
6. The RGU considers the EAW information and the comments received and officially decides if the project "has the potential for significant environmental effects." If not, the environmental review process is over. (Any appeal of this decision must be made in district court within 30 days.)

**The EIS process contains the following steps.**

1. The RGU determines if an EIS is needed.
2. An EAW form is completed by the RGU and the project's proposer as an aid in 'scoping' the EIS. The EAW is distributed to reviewing agencies and noticed in the EQB Monitor. A press release is provided to a local newspaper.
3. A 30-day scoping period follows the notice allowing for public review of the EAW and input into a decision on the issues to be analyzed. A public meeting is held during this period to receive verbal comments. The purpose of the scoping is to focus the EIS analysis on the pertinent issues and to determine what "reasonable alternatives" will be compared to the project.
4. The RGU makes an official scoping decision which outlines the contents of the EIS.
5. A summary of the scoping decision is published in the EQB Monitor and a press release is supplied to a local newspaper. (The Monitor notice is termed an EIS Preparation Notice.)
6. The scoped issues are analyzed with economic and sociological impacts being considered in addition to environmental impacts. The results of the analysis are compiled into a draft EIS document. Frequently, a consulting firm is hired to assist the RGU with the analysis and the document.

7. Any person can review and comment on the draft EIS for a period of at least 25 working days after a notice of the draft EIS is published in the EQB Monitor. A press release is sent to a local newspaper. A public meeting must be held to receive verbal comments.

8. The EIS is revised into final form based on the comments received.

9. The RGU makes an official decision on the adequacy of the EIS. A notice of the impending decision is published in the Monitor at least 10 working days in advance. The adequacy decision is based on three criteria: (1) were all issues for which information was reasonably available addressed? (2) were all legitimate comments on the draft responded to? and (3) were proper procedures followed? In exceptional circumstances, this decision may be made by the EQB instead of the RGU.

#### **WHO DECIDES IF AN EAW OR EIS IS NEEDED?**

Responsibility for making case-by-case decisions on the need for EISs and EAWs and for determining if an EIS or an EAW is mandatory lies with local governments and state agencies. For almost any project, the rules identify the governmental unit which has this responsibility. This unit is termed the Responsible Governmental Unit, or "RGU". Appeals of the decision of the RGU must be made in district court. The EQB provides assistance to governmental units in interpreting the rules and carrying out their responsibilities, but the EQB is not involved in the decisions, except in specific, limited circumstances.

Environmental Review is intended to be used as an information source in the decision-making processes. In order to serve its purpose, Environmental Review must be built into decision-making processes at an early stage, before approvals are given for the project. For this reason, the rules prohibit governmental units from making a final decision to grant any permit or approval necessary until the Environmental Review is completed. However, decisions to deny permits can be made before Environmental Review is completed since these decisions stop the project and eliminate the need for Environmental Review.

#### **TYPES OF PROJECTS WHICH REQUIRE EAWs OR EISs**

Projects of the following category types may require an EAW or EIS. Whether or not a given project requires environmental review depends on the magnitude and location of the project as well as its type.

- Airport Projects
- Animal Feedlots
- Commercial Developments
- Electric Generating Facilities
- Fuel Conversion Facilities
- Hazardous Waste Facilities
- Highway Projects
- Industrial Developments

- Marinas
- Metallic mineral Mining and Processing
- Nonmetallic Mineral Mining
- Nuclear Fuels Processing
- Paper and Pulp Processing Mills
- Parking Facilities
- Petroleum Refineries
- Pipelines
- Recreational Developments
- Residential Developments
- Sewage Systems, including sewer extensions
- Solid Waste Facilities
- Sports/Entertainment Facilities
- Stream Diversions
- Transfer Facilities
- Transmission Lines
- Underground Storage
- Impoundments

#### **❖ Projects Which Would:**

Convert land use from agriculture or forest to a more developed use  
Affect Natural Areas  
Affect Protected Waters or Wetlands  
Appropriate Water

The environmental review program rules detail the circumstances in which an EAW or EIS is mandatory for each project type.

#### **Citizen Participation**

Interested citizens may participate in the environmental review of projects. A section of this brochure explains how citizens can petition for an EAW when one is not mandatory. A second way for citizens to participate is to make suggestions for issues to be studied in an EIS during the scoping process. A third way for citizens to participate is to review and comment on EAWs and EISs. By commenting on these documents, citizens can assure that the governmental units responsible for permitting the project are aware of their environmental concerns, and can suggest ways in which potential problems can be resolved. Additionally, citizens can offer their opinions on the need for an EIS or on its adequacy.

Environmental review documents can be reviewed at the office of the RGU or the EQB, at a designated regional library (in the metropolitan area, this is the Minneapolis Public Library's ECOL Library), and in some cases, at other public libraries. A copy of an EAW can be obtained from the RGU by submitting a written request.

#### **The EQB Monitor**

EQB distributes a bi-weekly publication, known as the EQB Monitor, which provides official notice of public comment periods, public meetings, decisions by governmental units on petitions, EAWs and EISs, and other events occurring pursuant to the environmental

review program. Other environmentally related governmental actions are also noticed in the Monitor, from time to time.

### **Citizen Petitions**

Since only projects in certain categories (based on size, type, and location) will automatically receive environmental review, Minnesota law provides for a public petition process as part of the environmental review program. When 25 citizens are aware of a project which may have the potential for significant environmental impacts, they can use the petition process to initiate consideration of environmental review if the project is not exempted by the EQB's rules.<sup>1</sup>

The petition is a process for formally asking a local governmental unit or a state agency to consider preparing an EAW. The agency or local authority which becomes the RGU on a petition is normally the one which issues the primary permits for a proposed project to be built. For most projects, the RGU is the local government.

**The petition process is not a means for resolving a disagreement with local government over whether a project should be built.** If environmental concerns are involved, people can use the petition to bring their case to the attention of the RGU, but petitioning does not create an additional source of approval for projects, nor does it bring the state government into the dispute.

A second limitation to petitions is that they are generally ineffective when a land use conflict is the principal issue and environmental effects are minor. A decision on whether an EAW is needed must be based on potential environmental impacts.

The rules define "environmental" to mean physical conditions, including: land, air, water, minerals, flora, fauna, ambient noise, energy resources, and artifacts or natural features of historic, geologic or aesthetic significance.

Before filing a petition, concerned citizens should also give thought to whether any potential impacts on the physical environment are noteworthy. Every development project has some impacts on environmental conditions. However, environmental review is only appropriate when there may be the potential for significant environmental impacts. If there is nothing out of the ordinary about the project or its setting, it is unlikely that an EAW will be ordered.

### **The petition must include the following:**

- A description of the proposed project
- The name of the project's proposer. (Also, the petitioners must notify the proposer in writing that a petition has been filed.)
- The name, address, and telephone number of the representative of the petitioners. (The representative will receive notification of the RGU's decision on the need for an EAW and will automatically receive a copy of the EAW if one is prepared.)
- A brief description of the potential environmental effects which may result from the project
- 'Material evidence' indicating that, because of the nature or location of the proposed project, there may be a potential for significant environmental effects.
- Signature and mailing addresses, *including city, state, and zip code*, of at least 25 persons. Only 25 signatures are required because the government agency's decision should be based on the potential for significant environmental impacts. It is not necessary to demonstrate widespread public concern about the project.

The petitioners bear the burden of making a case that the particular project warrants an EAW despite the fact that the Mandatory EAW requirements are not exceeded. The petition must do more than raise questions or concerns - it must present facts that tend to demonstrate that something about the location and nature of the project makes it more deserving of review than most other similar projects. Examples of types of evidence that have been submitted include: maps, site plans, photographs, testimonial letters, letters from expert agencies, existing reports. The petition should also explain how the evidence demonstrates that there may be potential for significant environmental effects.

The complete petition should be sent to the environmental review staff of the EQB at the address listed below. The petitioners must also notify the project proposer in writing that they have filed a petition. The EQB will forward the petition to the designated RGU within five days if it is complete. The RGU must decide whether to prepare an EAW within 30 working days. Petitioners are responsible for contacting the RGU concerning the decision-making procedures for the petition.

<sup>1</sup>As of July 1, 2003, many new and expanding animal feedlots of less than 1,000 animal units will be exempted due to the legislation passed in the 2003 legislative session. Guidance about those feedlot exemptions can be found under the Feedlot Environmental Review section of the webpage <http://www.eqb.state.mn.us/review.html>.

**Further Information**

More information about the environmental review program can be obtained by calling the following telephone numbers: 651-296-8253. Toll-free voice mailbox (leave message and phone number): 1-800-657-3794. Additional questions can be directed to:

Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155  
Web site: [www.mnplan.state.mn.us](http://www.mnplan.state.mn.us)  
E-mail: [env.review@mnplan.state.mn.us](mailto:env.review@mnplan.state.mn.us)