



A Citizen's Guide: The Petition Process

The Environmental Quality Board (EQB) draws together the Governor's Office, five citizens and the heads of 9 state agencies in order to develop policy, create long-range plans and review proposed projects that would significantly influence Minnesota's environment. The Board staff is housed in the State and Community Services Division of the Department of Administration.

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This document is not intended as a substitute for Environmental Quality Board rules and should be used in conjunction with the rule provision parts 4410.1000 to 4410.1700. Copies of the rules are available from Minnesota's Bookstore, www.minnesotasbookstore.com, 651-297-3000 or 800-657-3757, or at the Revisor of Statutes homepage at www.revisor.leg.state.mn.us. Further information about the environmental review process is available in the Guide to Minnesota Environmental Review Rules, also located on the EQB website. Upon request, this document will be made available in an alternate format, such as Braille, large print or audiotape. For TTY, contact Minnesota Relay Service at 800-282-5077 and ask for the Minnesota Environmental Quality Board.

Updates and corrections to this document and all its accompanying links, forms, or examples will be posted on the EQB homepage at <http://www.eqb.state.mn.us/review.html>.

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This document is available as a PDF document on the Environmental Quality Board's Internet site at www.eqb.state.mn.us.



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Objectives

By the end of this document, you will learn:

- The major steps of the petition process.
- How to create and submit a petition for environmental review.
- How to research development projects in your community.
- How to learn about the decision of a Responsible Governmental Unit (RGU) regarding a citizen petition.

Introduction

Many people do not realize the environmental review process exists until they are personally affected by a development project. They may see signs on a property near their home, read a permitting notice in the local newspaper, or hear about the project from friends and neighbors.

In most of these cases, individuals concerned about new projects are able to get information from their local government (typically city or county planning or zoning offices), or they are able to talk with local government staff to get their concerns addressed through the project's planning and permitting processes. There are occasions, however, in which projects may have the potential for significant environmental effects and an understanding of these effects may not be known before construction starts. Through the environmental review process, affected citizens may file a petition requesting additional environmental analysis of the project.

If you think you might want to start a petition for environmental review, it is important to understand a couple of key points about the environmental review process:

1. Environmental review is an information gathering process and its purpose is not to stop projects from being built. It is designed to collect information about the likelihood of significant environmental effects and how they can be avoided or mitigated.
2. The petition process does not create an additional source of approval for projects. The Environmental Quality Board (EQB) is not empowered to supersede or overrule local government or state agency decisions.

If you have concerns about a project that are not related to the environment (such as property taxes), you should contact your local government staff officials about addressing your concerns in some other way.

Process Overview

How does the petition process work?

The petition process provides a standard procedure for citizens to request that a Responsible Governmental Unit (RGU) complete an Environmental Assessment Worksheets (EAW) on a proposed project.

Here is an example of how the petition process works:

1. A citizen or citizen's group is concerned about a project that has the potential for significant environmental effects.
2. A citizen or citizen's group contacts their local government to find out more about the project, and then consults with EQB staff to determine whether the project qualifies for environmental review.
3. If the project qualifies for environmental review, the citizen or citizen's group writes a petition and gathers at least 25 signatures.
4. The citizen or citizen's group submits the completed petition to the EQB. The citizen or citizen's group is also required to write a letter to the project proposer, informing them that a petition for environmental review has been filed.
5. The EQB reviews the petition and determines whether it is complete. If the petition is not complete, the EQB will send it back, indicating what is missing. Once completed, the petition can be resubmitted to the EQB.
6. If the petition is complete and meets all requirements, the EQB determines the RGU for the project.
7. The EQB contacts the RGU by phone, informing them that a petition has been received for a project under their jurisdiction. The EQB then sends the petition to the RGU by mail and a notice regarding the submitted petition is placed in the next issue of the EQB Monitor publication.

(Continued on the following page)



8. The RGU receives and reviews the petition.
9. The RGU must make a decision about the petition within 30 working days of the day it was received. The RGU makes one of two decisions: (1) to grant the petition and require that the proposer complete an EAW, or (2) to deny the petition and decide that environmental review is unnecessary.
10. The RGU notifies the EQB, the petitioner's representative and the project proposer of its decision. The EQB posts the RGU's decision regarding the petition in the next issue of the EQB Monitor.

Can I petition for an Environmental Impact Statement (EIS)?

No, you cannot petition for an EIS or for an Alternative Urban Areawide Review (AUAR). It is only possible for citizens to petition for an EAW. While an RGU may determine that further environmental review may be necessary and require an EIS after an EAW is completed, this occurs infrequently.

How does the RGU decide whether to grant a petition?

Regarding the RGU decision-making process, Minnesota Rules state that:

“The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers and other persons otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects.”

Before filing a petition, you should also think about whether any potential impacts on the environment are noteworthy. Every development project has some impacts on environmental conditions. Environmental review is only appropriate, however, when there may be the potential for significant environmental impacts. Unless there is something out of the ordinary about the project or its setting, an EAW will not be ordered.

Does the project I'm worried about qualify for environmental review?

It is important to review the information you have gathered about the project to determine whether it qualifies for environmental review. Some projects are exempt from the process because they are considered very small and the likelihood for significant environmental effects is rare. You can review the types of exemptions by reading “Guide to Minnesota Environmental Review Rules” on the EQB's web site at: www.eqb.state.mn.us/review.html

An example of a mandatory category with thresholds, from the EQB's guidance materials, is reprinted on page 3 of this brochure.

If you still have environmental concerns about an exempted project, talk with your local government officials or send them a letter outlining the issues you think need to be examined. You could also testify at hearings or public meetings to make sure your concerns are heard. Your local government staff will not be able to force the project through environmental review. But they may be able to address your concerns through other vehicles.

On the other hand, you may have noticed in the mandatory thresholds table (next page) that there are mandatory environmental review requirements for an EAW or EIS. This means that any project that meets these characteristics require environmental review regardless of whether a petition has been filed or not. If you believe a project you are concerned about might qualify for mandatory environmental review, contact the EQB office at 651-757-2873.

How to Write and Submit a Complete Petition

Overview - Writing a Petition

Writing and submitting a complete petition involves six steps:

- Step 1: Research the project
- Step 2: Write a project description
- Step 3: Write about the project's potential environmental effects
- Step 4: Attach supporting evidence
- Step 5: Gather signatures
- Step 6: Submit the petition



MANDATORY THRESHOLDS EXAMPLE: HIGHWAY PROJECTS

MANDATORY EAW	MANDATORY EIS	EXEMPTION CATEGORIES
<p>4410.4300, subpart 22</p> <p>A. Construction of a road on a new location over one mile in length that will function as a collector roadway, local governmental unit or State Department of Transportation (DOT)</p> <p>B. For construction of additional travel lanes on an existing road for a length of one or more miles, local governmental unit or DOT</p> <p>C. For the addition of one or more new inter-changes to a completed limited access highway, local governmental unit or DOT</p>	<p>4410.4300, subpart 16</p> <p>Construction of a road on a new location which is four or more lanes in width and two or more miles in length, local governmental unit or DOT</p>	<p>4410.4300, subpart 14</p> <p>A. Highway safety improvement projects</p> <p>B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones and access and egress lanes for transit and para-transit vehicles</p> <p>C. Modernization of an existing roadway or bridge by resurfacing, restoration or rehabilitation that may involve the acquisition of minimal amounts of right-of-way</p> <p>D. Roadway landscaping, construction of bicycle and pedestrian lanes, paths and facilities within existing right of way</p> <p>E. Any stream diversion or channelization within the right of way of an existing public roadway associated with bridge or culvert replacement</p> <p>F. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that may involve the acquisition of minimal amounts of right of way</p>

NOTES

Collector roadway is a road that provides access to minor arterial roadways from local roadways and adjacent land uses.

Highway safety improvement projects are those at specific hazardous locations, including geometric corrections with minimal additional right of

What is included in a complete petition?

A complete petition should include a project description; the project proposer's name and address; the petitioner's representative's name, address and phone number; a list of possible environmental effects from the project; supporting evidence; and the names, signatures and addresses of at least 25 people.

Step 1: Research the project

How do I find out more information about the project?

Project information is typically available from a number of sources including:

- Signs on the project site
- Public notices
- Newspaper articles
- Planning commission meetings
- Your local planning and zoning office
- Your friends and neighbors
- Permit applications

Your initial choice for more information might be to contact the planning and zoning office of the local government in which the project will be located. If possible, ask them if they have the project plans available and if you could schedule a time to review them. If the project was discussed at a recent planning commission meeting, ask them for a copy of the meeting minutes. Since almost all government applications are public information, you could also request an inspection of the proposer's permit applications. (Note: By law, government entities cannot charge a fee for the inspection of public documents, but can assess a "reasonable" fee for copies of documents.)

Step 2: Write a project description

What should I include in a project description?

In general, you should try to research and include the following types of information in your petition:

- The type of project: residential, industrial, etc.
- The estimated size of the project in acres
- The estimated size of the project in other units (such as single family housing units, gallons per day, etc.)
- Whether the project is part of a phased development project or whether it is part of several smaller projects being developed by the same owner



- Whether an EAW, EIS or AUAR has been completed previously on this specific project
- The project location: city, county and nearby streets or other landmarks
- The natural resource features (lakes, rivers, wetlands, etc.) that are located on or near the site
- The current land-use or cover type (forest, farmland, etc.) on and/or nearby the site
- The name and address of the project proposer (whoever is building the project)
- Whether the RGU has already decided in favor of requiring an EAW for the project

You should try to accurately describe the project and its location as much as possible. This will assist the RGU with differentiating the project from others in its jurisdiction, and so that local officials can sensibly be aware of the types of environmental impacts that could result from it.

What does a complete project description look like?

Here is a sample project description:

Heritage Acres is a proposed residential development on 60 acres. The project is located in the City of Jamesville, which is in Scott County. It is located along a stretch of Highway 169, about 5 miles from the center of town. As far as we know, the project will construct up to 100 detached dwelling units, and 150 attached dwelling units in the form of condominiums, townhouses and apartments. The project is located on Green Lake. Most of the site is forested.

Step 3: Write about the project's potential environmental effects

What should I include in the environmental impacts portion of the petition?

This section does not require an in-depth analysis or elaborate evidence. You simply need to identify the types of environmental impacts one could reasonably say would result from the proposed project. It's best to brainstorm a list, starting with your most important concerns. After you have these written down, review the examples provided below and think about whether there could be any significant impacts related to:

- Wetlands
- Lakes
- Rivers
- Erosion

- Stormwater run-off
- Flooding-related concerns
- Wildlife impacts
- Rare, threatened or endangered species impacts
- Native plants
- Wastewater treatment or septic system issues
- Increased boat traffic
- Ground water contamination
- Soil contamination
- Increased car traffic
- Decreased air quality
- Impacts to historic and archaeological resources
- Noise
- Odors
- Visual impacts

Should I include things like decreased property values, increased taxes or infringements on my property rights?

Environmental review is not the best place for raising these concerns because the review process was not designed to address them. If your only concerns are about decreased property values or increased taxes, including these issues will not enhance the possibility of an RGU ordering an EAW. The best place for addressing these concerns is through local government council/board meetings, talking with members of the local government's planning department or speaking directly with the project proposer.

The differences between environmental issues and non-environmental issues are hard to distinguish sometimes, but it is important to keep several key issues in mind. If the RGU believes that non-environmental issues are your only motivation for petitioning, they may not order an EAW. Sometimes it is in your best interest to exclude non-environmental issues from your petition.

Step 4: Attach supporting evidence What is "supporting evidence"?

With environmental review, petitioners bear the burden of demonstrating that the project warrants an EAW despite the fact that the Mandatory EAW thresholds have not been crossed. The petition must do more than raise questions or concerns; it must present facts that demonstrate that something about the location and nature of the project makes it more deserving of review than other typical development projects of the same size. Examples of such types of evidence include: maps, newspaper articles, site plans, photographs, testimonial letters, letters from expert agencies and environmental reports.



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The petition should also explain how the evidence demonstrates that there may be the potential for significant environmental effects. Including a short paragraph about the materials and how they support your case is important, otherwise the RGU might not understand your reasons for including the materials with the petition.

How much supporting evidence do I need?

This is a difficult question to answer because each project and situation is unique. You should always try to include at least some supporting evidence relevant to the circumstances of the project. Remember, when writing the petition, you are trying to persuade decision-makers to support your case. You should include as much evidence as you think it will take to convince them that the project is capable of causing significant environmental effects, but yet avoid overloading them with unessential information.

Step 5: Gather signatures

Who should be the petitioners' representative?

If you are reading this document, you might be thinking about organizing a petition. In this is the case, you may be the most appropriate person to assume the role of petitioners' representative. It is important to know, though, that when an RGU makes a decision regarding a citizens' petition for environmental review, the RGU is not required to notify all petitioners of the outcome. According to the environmental review rules, the only petitioner the RGU is required to notify is the petitioners' representative. If you are planning on being out of town when the RGU makes its decision, you may want to list someone else as the petitioners' representative so they can watch for the decision and inform petitioners of the results. The petitioner's representative should be someone as concerned about the project as you and who accepts this responsibility.

In some cases, concerned citizens hire a lawyer to help them with their case and list the lawyer as the petitioners' representative. The EQB strongly recommends against this, because legal counsel should not serve as the petitioners' representative. You can include your lawyer's contact information in the petition, but list this information separately from the petitioners' representative contact information.

Who should sign the petition and what do I tell them?

Anyone who is concerned about the project and its potential for significant environmental effects should sign the petition. While there are no requirements regarding where the petitioners live, you should remember that decision-makers

may not be influenced by petitioners from outside the local community.

If you are requesting signatures from complete strangers, you should provide them with as much information about environmental review as you can. EQB has prepared a four-page document, included in Appendix I, that you can distribute for this purpose. You should also be ready to share any information with potential petitioners that you have discovered regarding the type of project being built and the possible impacts it could cause.

What personal information do petitioners need to include?

Every person who signs the petition should also include their name and complete mailing address. A complete mailing address includes a street address, city (completely spelled out) and zip code. You might also ask petitioners to include their E-mail address along with their required information. That way, when you find out about the RGU's decision, you can send all interested parties a quick E-mail.

In case someone asks me, how will petitioners learn about the results of the petition?

The RGU is not required to inform all of the petitioners regarding the results of their petition – only the petitioners' representative. It then becomes the responsibility of the petitioners' representative's to inform everyone else involved. The petitioners' representative could do this by E-mail, U.S. Mail, phone or other means. Ask petitioners if they want to be notified about the RGUs decision and inform them about how this will be accomplished (E-mail, phone, etc.).

Step 6: Submit the petition

Who do I send the petition to?

Once the petition is complete, you should mail or fax it to the EQB at:

Environmental Quality Board
658 Cedar St.
300 Centennial Building
St., Paul, MN 55155
Phone: 651-757-2873
Fax: 651-296-3698

You are also required to send the project proposer a letter notifying them that a petition for an EAW has been filed with



Helpful Tip

The EQB uses a newsletter called the EQB Monitor to communicate information about environmental review projects to the general public. The EQB Monitor is published every other Monday and is available on the EQB's web site at:

<http://www.eqb.state.mn.us/monitor.html>

What does the EQB do with the petition?

EQB staff will review the petition for the required information, as well as the names, complete mailing addresses and signatures of at least 25 people. If anything is missing, the EQB will notify the petitioners' representative that the petition is incomplete and inform them about the information still required. The petition will not be considered valid until it is resubmitted with the necessary improvements.

Once the EQB determines that a petition is complete, it will identify the RGU for the project. In some cases, the appropriate RGU might be unclear and it could take the EQB a few days to identify the correct unit of government. Once the RGU has been identified, the EQB will forward to it a copy of the petition, along with a list of requirements the RGU will need to follow when it makes its decision about the petition.

Finding out the results

When will the RGU make a decision about the petition?

Each RGU is unique and the process it uses is governed by its own rules and procedures. In general, there are two ways a decision is made:

- The petition is announced at the next council/board meeting for a decision.
- The decision is delegated to another entity, such as the planning commission or a RGU staff member to make the decision.

You, the citizen, are actually responsible for contacting the RGU to learn more about when and how it will make its final decision.

How can citizens find out the RGU's decision?

According to the environmental review rules, the RGU must send a copy of its decision to the EQB, the project proposer, the petitioners' representative and anyone else who

Helpful Tip

Many RGUs publish environmental review notices and decisions on their web sites. Talk to the RGU to find out when they will make a decision and how you can find out about the results.

has requested notice of the decision. While the RGU has a deadline of 15 working days to make a decision, it can apply for an extension. In general, a decision regarding the petition is usually made within 10-30 working days from the date the RGU receives it.

What happens if the petition is granted?

If the RGU grants the petition, it has decided to require the preparation of an EAW for the project. The time frame for when the EAW will be completed, though, is highly variable. If a proposer starts work immediately, it might take 2-4 months to complete. Sometimes the proposer will wait before preparing the EAW, in which case it will take longer. If your petition is granted, pay attention to the public notices section of the local newspaper or regularly review the EQB Monitor to find out when the EAW will be available for public comment.

What happens if the petition is denied?

If an RGU denies the petition, the project will not be required to go through environmental review. However, this does not mean that environmental analysis will not take place. Make sure to work with your the RGU staff to ensure your environmental concerns are addressed. While some local governments may not grant the petition, they make ask the proposer to answer some of the questions in the EAW anyway. In other cases, they may include specific conditions in project permits that require the proposer to follow certain environmentally friendly design guidelines.

Review

In some ways, the petition process can be an effective way of making sure a project is evaluated for significant environmental effects, but it is often not the only way of doing so. Because the petition process can take up a lot of your time, you should make an effort to contact the project's RGU first to see if there are other ways that your concerns can be addressed. If you have any additional concerns about a project or unusual circumstances, please contact EQB staff at 651-757-2873



Is there any way to dispute RGU decisions?

If you feel you have a strong case to support the need for an EAW, the RGU's decision can be appealed in the district court where the project will be located. The appeal must be filed within 30 days of the date on which the RGU makes its decision – which is usually the date the council or board takes the action. Note that all environmental review appeals go through the court system; the EQB has no jurisdiction to review an RGU's decision. If you are considering this option, you will likely need an attorney to assist you.

Petition Completion Checklist

If you are writing/coordinating a petition for environmental review, here are some questions that can help you determine whether you've completed all the necessary steps:

- Did you research the project?
- Did you include a project description?
- Did you include information about the potential environmental impacts of the project?
- Did you gather the names, complete mailing addresses, and signatures of at least 25 people?
- Did you include the name, complete mailing address, signature and phone number of the petitioners' representative?
- Did you attach supporting evidence?
- Did you submit the completed petition to the EQB?
- Did you notify the project proposer that an environmental review petition was submitted to the EQB?