



2020 Minnesota Environmental Review Program Performance Report

Introduction

The Environmental Quality Board (EQB or Board) oversees the state's Environmental Review Program (ER Program), as authorized in Minnesota statutes 116D and outlined in Minnesota Rules chapter 4410. Under these laws, Board members have responsibility for monitoring ER Program effectiveness and authority to make program improvements. The EQB works with state and local governments, businesses, and the public to foster a process that is efficient and sustains a healthy environment and strong economy for Minnesota.

EQB's role in environmental review is focused on program consistency and assisting governmental units and interested persons with understanding and implementing environmental review rules, as well as program continuous improvement. EQB staff also publish environmental review-related notices in the *EQB Monitor* weekly publication. The EQB delegates the authority to other state and local governments (Responsible Governmental Unit or RGU) to apply the rules to individual projects. RGUs are assigned responsibility for verifying the accuracy of environmental documents and complying with environmental review processes.

In 2020, EQB staff developed a Data Management Plan that establishes a standardized methodology for collecting and assessing data using metrics of accountability, efficiency and transparency. EQB staff track ER Program data primarily through the *EQB Monitor* notices. Some examples of these data include:

- the types of review performed,
- the frequency of project types that require review,
- the time between comment periods and decisions, and
- the types of governmental units most frequently performing the review.

Data collected as part of the Data Management Plan is limited to what EQB staff can reasonably and consistently track on a year-over-year basis. EQB staff do not collect data about environmental outcomes of regulatory decisions made by RGUs; that may result from the environmental review processes.

Data collected as part of the Data Management Plan are just one source of information EQB uses to understand the need for ER Program improvement. Additionally, feedback on the program is collected from Board and Environmental Review Implementation Subcommittee meetings, education and outreach activities, advisory panels, periodic rulemaking, the Mandatory Category Report (compiled every three years), one-on-one conversations during technical assistance, and interagency conversations.

Purpose of annual ER Program Performance Report

Annually, EQB staff produce an ER Program Performance Report that assesses the data collected for that year, compares the annual data to previous years to identify trends, and reports ER Program metrics.. The purpose of the Performance Report is to interpret data identified in the Data Management Plan, consider the data's implications, and share its findings with Board members and members of the public. The ER Program Performance Report is organized into three sections 1) accountability, 2) efficiency, and 3) transparency, which are thematically aligned with objectives of the ER Program identified in MR 4410.0300 and values expressed in the 2018 Strategic Plan. Recommendations presented in these sections will guide program improvements as well as updates to the Data Management Plan designed to further understanding of the ER Program.

Outcomes of Annual ER Program Performance Report

1. Provide meaningful interpretation of data annually to assess ER Program Effectiveness.
2. Identify recommendations for the EQB to:
 - a. improve ER Program effectiveness;
 - b. adjust the data management plan;
 - c. develop and revise ER Program guidance; and
 - d. inform ER Program improvement initiatives.

Performance Report Conclusions

In spite of the COVID-19 pandemic, the environmental review data collected in 2020 was comparable to previous years.

Conclusions for Accountability metric

The data collected to meet the intended objective of accountability showed minimal variations compared to 2019; EQB staff have no recommendations for changes to the ER Program based on the information provided by these metrics.

Conclusions for Efficiency metric

Efficiency of the ER Program is evaluated based on the amount of time and cost to prepare environmental review documents, and the effectiveness of technical assistance provided by staff. The average time for ER processes between initial and final publication of ER documents in the EQB Monitor fluctuated slightly in 2020 compared to previous years, while the volume of technical assistance provided by EQB staff significantly increased. As a result, staff recommend updating guidance documents and ER webpages to ensure information is effectively and clearly communicated. This recommendation will take a significant amount of time to implement; however the updates are timely with respect to other on-going program improvement efforts.

Conclusions for Transparency metric

Recommendations from the 2019 Performance Report were implemented in 2021 for the metrics used to track and report program transparency. EQB staff have no recommendations for changes based on the preliminary information provided by the transparency metrics. Because the 2019 Performance Report was finalized mid-2020, staff were unable to implement all recommendations until 2021. The data collected in 2021 will serve as a baseline for metrics under the accountability and transparency sections of this report in 2022.

Accountability in Environmental Review

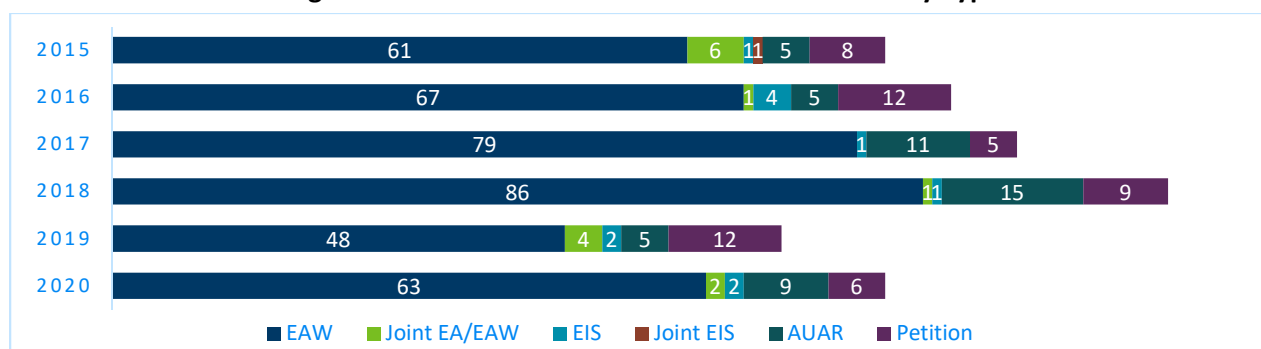
EQB staff assess the effectiveness of the ER Program in meeting the intended objective of accountability by tracking and reporting four fields of data:

- Frequency of ER Program Process Types;
- Frequency of Processes by Mandatory Category and Responsible Governmental Unit (RGU);
- Frequency of Mandatory Review by Geographic Location;
- Frequency and Completeness of Citizen Petitions; and
- Frequency of Positive EAW Need Decisions for Citizen Petitions.

Frequency of ER Program Process Types

In 2020, 82 final decisions were made on environmental review documents (**Figure 1**).

Figure 1: Environmental Review Trends over Years by Types



Frequency of Processes by Mandatory Category and RGU

In 2020, 53 different RGUs were designated for environmental review projects. Local units of government completed 74% of environmental reviews, and state agencies completed 26% in 2020 (**Figure 2**).

Proposed projects triggered review under 15 EAW and 2 EIS mandatory categories (**Table 1**). Four of the EAW mandatory categories account for 64% of the 56 mandatory EAWs completed including: residential development, wetlands and public waters, animal feedlots, and mixed residential and industrial-commercial projects. Two EISs completed in 2020 triggered review by exceeding a mandatory category threshold (Subp. 9. Nonmetallic mineral mining – Local RGU – Twin Cities Metro, Subp. 24. Pipelines – PUC – Greater Minnesota).

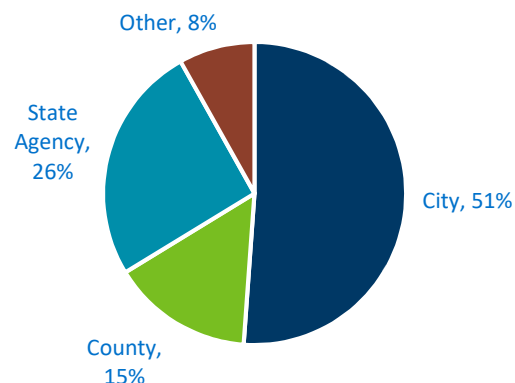


Figure 2: 2020 RGUs Conducting Environmental Review

Table 1: 2020 EAW Mandatory Categories That Required Review	Number of Projects	State RGU Projects	Local RGU Projects	Located in Greater MN	Located in Twin Cities Metro
Subp. 10, Storage facilities	1		1		1
Subp. 12, Nonmetallic mineral mining	3		3	2	1
Subp. 14, Industrial, commercial	3		3	2	1
Subp. 17, Solid waste	1	1 – MPCA		1	
Subp. 18, Wastewater	2	2 – MPCA		1	1
Subp. 19, Residential Development	12		12	4	8

Table 1: 2020 EAW Mandatory Categories That Required Review	Number of Projects	State RGU Projects	Local RGU Projects	Located in Greater MN	Located in Twin Cities Metro
Subp. 20, Campgrounds and RV parks	1		1	1	
Subp. 22, Highway Projects	3		3	1	2
Subp. 26, Stream diversion	1		1	1	
Subp. 27, Wetlands and Public Waters	11	2 – DNR 1 – MPCA	8	8	3
Subp. 29, Animal feedlots	6	6 – MPCA		6	
Subp. 30, Natural Areas	1	1 – DNR		1	
Subp. 32, Mixed residential and industrial-commercial projects	7		7	1	6
Subp. 36a, Land conversions in shoreland	3		3	2	1
Subp. 37, Recreational trails	1		1	1	
Sub-Total	----	13	43	32	24
Total	56	56		56	

Frequency of Mandatory Review by Geographic Location

Of the 56 mandatory EAWs and 2 mandatory EISs completed for proposed projects in 2020, 57% of the proposed projects were located in Greater Minnesota, and 43% were in the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington) (**Table 1**). In Greater Minnesota, Subp. 27, Wetlands and Public Waters was triggered most frequently, whereas in the Twin Cities metropolitan area Subp. 19, Residential Development was triggered more often.

Total Number of Comment Letters Submitted on ER Projects

On January 1, 2021 the EQB began tracking the total number of comment letters submitted on ER projects. RGUs submitting final decisions on ER documents to the *EQB Monitor* were asked provide the number of comment letters received. From the nine final decisions on ER documents submitted in January and February 2021, a minimum of one and a maximum of 10 comment letters were received. On average six letters were submitted per project with eight letters being received most frequently. The full set of data will be included in the 2021 Performance Report.

Citizen Petitions

The number of petitions EQB received was 15 in 2020; 92% of petitions included the required components (Minn. R. 4410.1100 Subp. 1 and 2) and were assigned to an RGU (**Figure 3**). From the petitions assigned to RGUs, one citizen petition had a positive EAW need decision (**Figure 4**).

Figure 3: Annual citizen petitions deemed complete and RGU assigned

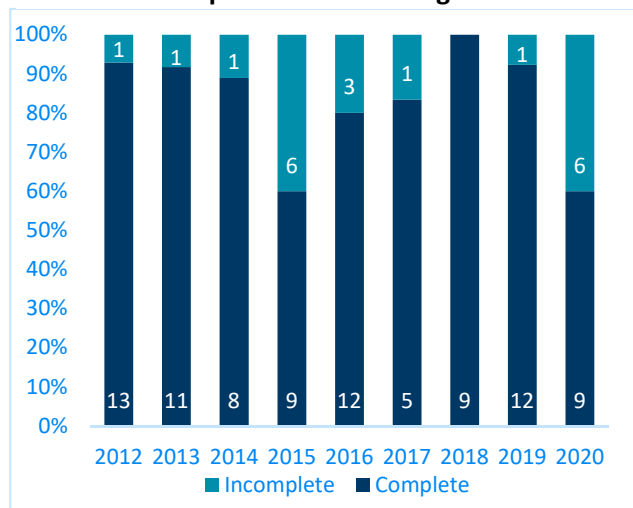
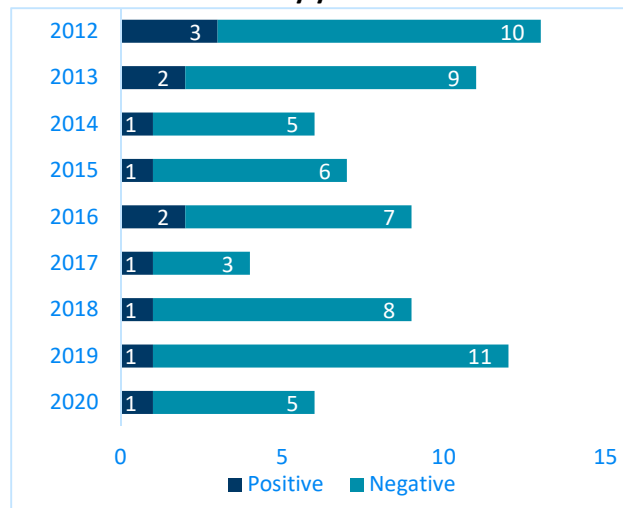


Figure 4: EAW need decisions on citizen petitions by year



Discussion

The total number of proposed projects reviewed through environmental review and the frequency of environmental review processes completed varies from year to year, the 2020 data was similar in relation to previous years. In 2020, the number of responsible governmental units designated to complete environmental review, mandatory categories that trigger environmental review, and the proposed project locations fluctuated compared to 2019. This fluctuation is expected and occurs annually. The volume of citizen petitions received by the EQB in 2020 was consistent with previous years. This indicates people were able to prepare petitions and collect signatures in spite of challenges they may have faced as a result of the COVID-19 pandemic. Overall, the environmental review data collected in 2020 was comparable to previous years. There is no indication of a cause for concern in the dataset with regards to accountability in the ER Program.

Efficiency in Environmental Review

The data used to track and report ER Program efficiency include the:

- Average time necessary for project review, for each process type;
- Financial cost of environmental review; and
- Effectiveness of technical support and guidance, provided by EQB staff.

Environmental Review: Cost and Time

In 2020, the average number of days between an initial EAW decision and Decision on Need for an EIS in the *EQB Monitor* was 101 days (**Table 2**). The average time between initial and final notice of ER documents for AUARs and Citizen Petitions in 2020 was 170 and 44 days, respectively. The average time between initial and final notice of ER documents for EIS was 1,945 days.

The RGU assesses reasonable costs incurred in preparing, reviewing and distributing environmental review processes (Minn. Statute 116D.045). While not a measure of complete cost, the EQB tracks the environmental review and technical services master contract bids and length of contract. No RGUs used the environmental review and technical services master contract in 2020.

Table 2: Average time for ER process between initial and final publication of ER documents in the *EQB Monitor*

ER Program Process Type	# of Days (2020)	# of Days (2019)
Environmental Assessment Worksheet	101	81
Environmental Impact Statement	1,945	676
Alternative Urban Areawide Review	170	55
Citizen Petition	44	57

Frequency, Type, and Effectiveness of Technical Assistance provided by EQB Staff

In 2020, environmental review staff logged the phone calls and emails answered via the “environmental review helpline” and “environmental review inbox”. In total, 599 calls, emails, and voicemails were logged in 2020, compared to 175 calls in 2019. Calls and emails came from all environmental review user groups but over two thirds of questions came from RGUs and members of the public (**Figure 5**). On average, environmental review staff provided technical assistance by phone and email 50 times per month, an increase from 15 phone calls per month in 2019.

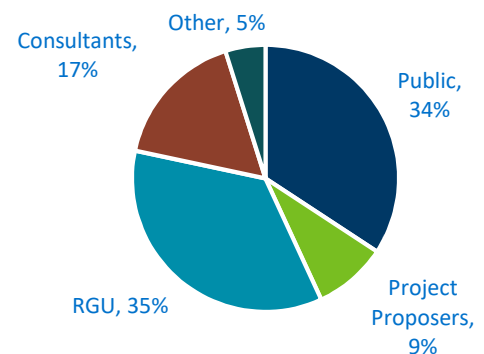


Figure 5: Environmental Review Technical Assistance by User

Discussion

The average time for ER processes between initial and final publication of ER documents in the *EQB Monitor* increased for EAWs, EISs, and AUARs; the time period decreased for citizen petitions. Variation in the amount of time between project submissions could occur due to the complexity of a proposed project, level of interest associated with a proposed project, pace of completion, and extensions of public comment period and decision-making. The volume of technical assistance provided by EQB staff significantly increased in 2020 across all user groups. This can be partially attributed to staff beginning to track follow-up calls in January 2020 and emails in September 2020. Because of the increase in technical assistance, EQB staff recommend updating guidance documents and ER webpages to ensure information is clearly written, effectively communicated, and easy to find. Based on the data collected in 2020, there is no indication of a cause for concern with regards to the efficiency of the ER Program.

Transparency in Environmental Review

In 2021, EQB staff implemented recommendations from the 2019 Performance Report for metrics used to track and report the effectiveness of ER Program transparency. Previously the data was collected from surveys sent to project proposers, RGUs and members of the public, and included questions that identified:

- Perceptions of whether the ER process provided usable information, and
- Opportunities for public participation in the ER process.

In the 2019 Performance Report, the EQB determined passive surveying response rates were low, did not provide objective data, and varied from year to year resulting in inconsistent information. The report recommended EQB begin tracking data for transparency through the *EQB Monitor* submission form. Because the 2019 Performance Report was finalized mid-2020, staff were unable to begin collecting data for this metric until 2021 when an updated *EQB Monitor* submission form was launched.

Usable Environmental Review Information

On January 1, 2021, RGUs submitting final decisions on ER documents to the *EQB Monitor* were asked to affirm or deny the following statements:

“The ER process was useful in identifying the proposed project’s environmental effects that would not have otherwise been identified by required governmental approvals, including permits.”

“The ER process identified mitigation measures for potential environmental effects.”

If RGUs affirmed this statement, the RGUs were asked to indicate the type of environmental effects where mitigation measures were identified.

A full data set is not available for 2021, but will be included in the 2021 Performance Report. Based on the nine final environmental review decisions received in January and February 2021, 88% of RGUs felt the ER process provided usable information and identified mitigation measures for potential environmental effects.

Public Participation in Environmental Review

On January 1, 2021, the EQB began collecting public participation data from the *EQB Monitor* submission form by requiring RGUs submitting final decisions on ER documents to affirm or deny the following statement:

“The ER Process provided public participation that would not have otherwise occurred for the proposed project through required governmental approvals, including permits.”

From the nine final environmental review decisions received in January and February 2021, 67% of RGUs felt the ER process provided public participation that would not have otherwise occurred for the proposed project. The full set of data will be included in the 2021 Performance Report. As noted in the Accountability section above, public engagement is also reflected by the number of comment letters received by an RGU for a proposed project.

Discussion

Recommendations from the 2019 Performance Report were implemented in 2021 for the metrics used to track and report the effectiveness of the ER Program transparency. EQB staff have no recommendations for changes based on the preliminary information provided by the transparency metrics.