

## Environmental review continuous improvement: Compilation of previously received ideas

EQB staff are working to continuously improve the Minnesota Environmental Review program’s effectiveness (as defined by the [continuous improvement process](#)). This document compiles all potential improvement ideas over time. The goal of this compilation is to provide transparency, assist with comprehensive planning and accounting of ideas, and to support future CI solicitations. Ideas come from many sources including the continuous improvement solicitation (2023), the mandatory category report feedback (2024), EQB staff experience and technical assistance calls, conversations with Tribal staff, stakeholder meetings, the Board, the Legislature, and more.

If your previously submitted idea is not represented below, that could mean it was out of scope, too vague, already accomplished, contradicted the Minnesota Environmental Policy Act’s (MEPA’s) objectives, scored zero points in 2023, or is already on EQB’s workplan. Ideas below will be scored again in 2026. EQB staff combined and summarized similar ideas based on topic and/or method for implementation. Please note this compilation is for transparency and record-keeping only; EQB has not committed to the immediate or long-term implementation of any of the following ideas. EQB’s workplan is determined by the Board, based on multiple factors in addition to the continuous improvement process contributions.

### Compilation of previously received ideas

The first column below indicates if an idea is a “new policy,” “policy change,” or “process change.” A new policy would represent a shift in the program’s overall operating framework and would require a statute change or large rule change. A policy change would require rulemaking to update or change an existing rule. A process change is one that influences programmatic operations like guidance or form updates. Staff attributed a “program component” each idea seeks to improve. Finally, staff also identified which statutes or rules provide jurisdiction for a change or which the idea wishes to change.

<b>New policy; Policy change; or Process change</b>	<b>Program component</b>	<b>Implicated statute or rule</b>	<b>Improvement idea provided to EQB</b>
Policy change	Oversight/Appeals	116D.04 Subd. 10. Review.	MEPA should be amended to improve the judicial appeals process, clearly stating that AUAR decisions can be appealed, adding that EIS scoping decisions can be appealed, and allowing the process to be held in the same county as the project location, if desired. For example, MEPA could say, "Decisions by an RGU on the need for an EAW, the need for an EIS, the adequacy of an EIS, or the need for or adequacy of an AUAR are final decisions and may be reviewed as provided in Minn. Stat. 116D.04, subd. 10."
New policy	Tribal sovereignty	116D.04 Subd. x	EQB should revise 116D (MEPA) to highlight and explicitly state MEPA's relation to Tribes and Tribal Sovereignty
New policy	Decision criteria (Tribal sovereignty)	4410.0200 DEFINITIONS AND ABBREVIATIONS.	Environmental review rules use and define both "cumulative impacts" and "cumulative potential effects." The consideration of "cumulative impacts" in permitting, particularly air permitting, is an ongoing topic of interest and development. EQB should consider changes to the definitions in 4410.0200 to more clearly outline criteria or explicitly determine what is included when using cumulative impacts/cumulative potential effects (especially in deciding the need for an EIS). This promotes consistency with the state's needs for information and data to support environmental decision-making. Cumulative potential effects should examine psychological impacts to Tribal communities and how the project relates to the community.
New policy	Oversight/Appeals	4410.0400 GENERAL RESPONSIBILITIES.	Create a new administrative appeals process where an administrative law judge may hear an appeal of an RGU's decision on petitions, need for an EIS, and EIS adequacy so that a costly judicial appeal is not the only available option to re-visit an RGU's decision. Evaluate what role EQB should play to provide independent advisory (only) review for ER challenges to reduce unnecessary legal challenges, costs, wasted time, resources and divisiveness.
Policy change	Oversight/Appeals (Tribal sovereignty)	4410.0400 GENERAL RESPONSIBILITIES.	Revise 4410.0400 to allow Tribes to appeal an RGU decision directly to the Board.

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Policy change	RGU Selection	4410.0500 RGU SELECTION PROCEDURES.	Develop criteria to help potential responsible governmental units determine whether they have sufficient expertise and experience to conduct an environmental review, especially in the context of re-designating RGUs.
Policy change	RGU Selection	4410.0500 RGU SELECTION PROCEDURES.	Change rule to no longer require an RGU to be the government unit with greatest permitting authority over the project if that creates a real or perceived conflict of interest and EQB receives a request to change the RGU.
Policy change	RGU Selection (Tribal sovereignty)	4410.0500 RGU SELECTION PROCEDURES.	Revise Minn. R. 4410.0500 to explicitly state that Tribes can directly request an RGU re-designation from the Board.
Policy change	Petitions	4410.1100 PETITION PROCESS.	Petitions should be automatically granted if a certain number of residents in a small radius of the project sign the petition.
Policy change	EAW/EIS Content	4410.1200 EAW CONTENT.	Amend rule to require EAWs include some method of analysis of a specified range of alternatives to the project that would be scoped and further developed in an EIS, if required.
Process change	EAW Form	4410.1300 EAW FORM.	Add a question on the EAW form that asks project proposers and RGUs to describe the public engagement process. The form should also specify opportunities for public participation in other approval processes.
Policy change	EAW Process	4410.1500 PUBLISHING AND DISTRIBUTING EAW.	Modify Minn. R. 4410.1500 to include a mechanism requiring all RGUs to notify local/state agencies when a proposed project will be undergoing environmental review to ensure agencies do not make final governmental decisions on the proposed project until environmental review has been completed.
Policy change	EAW Process (Tribal sovereignty)	4410.1500 PUBLISHING AND DISTRIBUTING EAW.	Add “Tribes” (all Tribal contacts and affiliations) to the EAW distribution list required in rule.

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Policy change	Public participation	4410.1600 EAW COMMENT PERIOD.	Change rule to require RGUs send a postcard to all residents within 10 miles of a project under review, sharing project details, public comment opportunities, and a process timeline.
Policy change	Public participation	4410.1600. EAW COMMENT PERIOD.	Update rule 4410.1600 to provide a minimum of 60 days for public comment from when notice is given for the EAW comment period instead of 30 days.
Policy change	Decision criteria	4410.1700 DECISION ON NEED FOR EIS.	While balancing RGUs' ability to exercise discretion, improve the existing decision criteria to aid in RGUs' decisions on whether a proposed project may have or has the potential for significant environmental effects. Update rule (and then guidance) to clarify existing criteria or define existing terms. This aims to standardize decision-making across documents.
Policy change	Decision criteria (Tribal sovereignty)	4410.1700 DECISION ON NEED FOR EIS.	While balancing RGUs' ability to exercise discretion, improve the existing decision criteria to aid in RGUs' decisions on whether a proposed project may or has the potential for significant environmental effects. Update rule to add a specific threshold for extremely high greenhouse gas emissions. Or, add a definition or set of standards for considering "cumulative potential effects" of individual projects contextualized in the overall pollution burdens in watersheds, lands, and air nearby. Cumulative potential effects should examine psychological impacts to Tribal communities and how the project relates to the community.
Policy change	EAW/EIS Content	4410.2000 PROJECTS REQUIRING EIS.	Improve rule language to specify the range of alternatives to be examined in an environmental impact statement, the depth of examination, and the format of such analysis.
Policy change	Public participation	4410.2600 DRAFT EIS.	Add a rule requirement that the RGU hold a public hearing in the county where a project is being proposed to take official public comment and answer questions about the proposal.

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Policy change	Oversight/Appeals	4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.	Rules should be updated to clearly state that construction on a project does not begin until all judicial appeals under MEPA or MERA have been decided. Courts should be instructed to give preference to such cases to prevent undue delay.
Process change	GEIS	4410.3800 GENERIC EIS.	EQB should initiate a generic environmental impact statement for project types such as anaerobic digesters, ethanol production, nuclear projects, noise from wind turbines, gas production projects, etc.
Policy change	When review is required	4410.4300 MANDATORY EAW CATEGORIES & 4410.4400 MANDATORY EIS CATEGORIES	Modify mandatory categories to ensure consistent use of the terms, “expansion, modification, existing, replacement, and construction of new/existing” throughout. Also, add definitions in 4410.0200 if necessary.
Policy change	When review is required	4410.4300 MANDATORY EAW CATEGORIES. Subp 1. Threshold test.	Minnesota Rule 4410.4300, Subp. 1 is often referred to as the “three-year look-back” rule, but it is commonly used to allow very large projects to piecemeal expansions every three years without requiring new review or applying the entirety of its connected and phased actions to determine if the project exceeds a mandatory category threshold. RGUs have asked for clarifications to this subpart to ensure it accomplishes its intended purposes and is easily interpretable for all categories. This may include defining terms like “cumulative total” or clarifying if an RGU should consider decommissioning components of an existing project.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 5. Fuel conversion facilities.	Evaluate if changes to all thresholds in the fuel conversion category should be measured based on projects’ outputs rather than material inputs as it is currently written.

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Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 8. Metallic mineral mining and processing.	Metallic mines currently only require an EAW for certain mineral deposit evaluations, new construction, or new disposal of tailings. EQB should add thresholds applicable to project expansions because mines are typically only permitted once and therefore expansions are often significant or happen after many years, but they are not evaluated in an EAW.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 9. Nonmetallic mineral mining.	EQB should determine thresholds for expansions in both the EAW and EIS category for nonmetallic mineral mining by either percent increase in permitted capacity, acreage, or tons processed or disposed of.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 15. Air pollution.	Consider changing the EAW threshold in air pollution item A from 250 tons per year to a lower amount; consider adding an item to establish separate thresholds for hazardous air pollutants.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 17. Solid waste.	Consider updating the solid waste EAW category terminology to include all waste types, like 'construction and demolition' waste and better align with the MPCA solid waste program's existing definitions for terms like 'design capacity.'
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 18 Wastewater systems.	Clarify terms in the wastewater systems mandatory EAW category. For example, items C and D refer to municipal or domestic facilities, but wastewater is defined as municipal or industrial (not domestic). Terms should be reviewed for consistency and clarity. EQB should also consider adding definitions for the following terms: "design average daily flow," "average wet weather design flow capacity," and "design flow capacity" and modify the definition for "sewage collection system" to include a lift station.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 19. Residential development.	Consider updating the residential development EAW category by simplifying computations in rule; consider defining terms like "attached units" and "unattached units" in Minn. R. 4410.0200 to clarify when projects meet the threshold.

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Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area.	Define terms in Minn. R. 4410.0200, such as clarifying the difference between “permanent” and “potentially permanent” and refining the definition of “common open space” to help clarify when projects meet the threshold for residential development in shoreland outside the metro.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 20a. Resorts, campgrounds, and RV parks in shorelands.	Simplify the "Resorts, campgrounds, and RV parks in shorelands" category calculation for better readability in rule, revise the definition for “common open space” in Minn. R. 4410.0200, and evaluate the effectiveness of measuring the threshold using a marker of lake carrying capacity so the threshold is proportional to lake size, sensitivity, wildlife impacts, etc. Evaluate if there is a need to adjust thresholds and if there is a need to add a mandatory EIS category.

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Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 24. Water appropriation and impoundments.	Consider changing the EAW category for new water appropriations to: (1) revise the category for appropriations for commercial or industrial purposes to projects that use an average of 5 million gallons of water per month (instead of the current 30 million gallons per month), and (2) revise the category for appropriations for irrigation so it is not limited to projects in one continuous parcel or from one source of water. The 2021 Mandatory Category Report suggests that "'continuous parcel' warrants definition since it has been interpreted historically to indicate a parcel that contains no breaks/subdivisions (such as multiple parcels divided by a road). Considering parcels are routinely smaller than 540 acres, this threshold is rarely surpassed though there are many large irrigation facilities. Also, because the category is limited to 'new appropriations,' large water users that modify existing permits or use multiple wells might never surpass the current threshold due to cumulative totals of water usage by a single entity/owner/user. Consider lowering the EAW threshold for water appropriations due to environmental impacts resulting from commercial users that propose to transport appropriated water offsite for consumptive uses. Consider adding a new threshold for dams to Mn. Rules Ch. 4410.4300, subp. 24, requiring a mandatory EAW for construction of a dam with an upstream drainage area of 50 square miles or more.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 25. Marinas.	When interpreting the EAW mandatory category for marinas, RGUs ask how to calculate areas for 'maneuvering' and for 'an increase in water surface area.' EQB can provide definitions or clarity in rule so that there is consistent application of these terms. If research shows that no rule is needed, EQB can provide guidance.

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Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 26. Stream diversion and Subp. 27. Public waters, public waters wetlands, and wetlands.	Update MN Rule 4410.4300 Subpart 26 and Subpart 27 to define terms like "diversion, realignment, or channelization" for clearer and more consistent interpretation of thresholds.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 27. Public waters, public waters wetlands, and wetlands.	Revise threshold for wetlands to require mandatory EAWs for 1) wetland impacts greater or equal to 1 acre that are within 500 ft of the ordinary high-water mark of recreational development, natural environment, and general development lakes, and 2) cumulative impacts to 5 or more wetland basins and or cumulative wetland impacts equal to or greater than 1 acre. The 2021 Mandatory Category Report identified the following suggestion which remains relevant: "Overlay districts should be examined and investigated for historical purpose and effectiveness in current context." Revise thresholds so EAWs may be required when there are cumulative impacts to five or more wetland basins or wetland impacts of a certain acreage; this is important to document cumulative impacts to water quality.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 28. Forestry.	Item A of the Forestry mandatory EAW category subpart should include private lands. It currently, specifically mentions timber harvesting on public lands, but deforestation activities on private lands should also apply because the designation of lands does not change the impacts. Potential impacts include greenhouse gas emissions, groundwater contamination with herbicides, pesticides, fungicides, and fertilizers, and risks associated with widespread loss of fire-adapted forest and habitat.

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Policy change	Mandatory categories (Tribal sovereignty)	4410.4300 MANDATORY EAW CATEGORIES. Subp. 29. Animal feedlots.	Lower feedlot EAW thresholds (consider 400 animal units), add an EIS threshold, clarify connected actions exemptions only apply to hogs (per the SONAR), and make housekeeping updates. Environmental concerns include the potential for nitrate pollution resulting from feedlots and their related activities (like manure land application), especially in (or land applied to) sensitive areas. The threshold currently only relates to construction or expansion of a facility but should be expanded to encompass common practices like manure land application to avoid agriculture-related pollution of waterways. Add the following language to the list of sensitive locations in order to capture projects impacting Tribal Nations: ‘...delineated under chapter 4720 or federally delineated under similar criteria’.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 31. Historical places.	Remove the "historical places" mandatory EAW and EIS category and handle review solely of "loss of historical knowledge" in a different way, because often there is no environmental impact in modification or removal of a historic place.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 32. Mixed residential and industrial-commercial projects.	EQB should evaluate changing thresholds and add definitions in Minn. R. 4410.0200 for the terms “permanent” and “potentially permanent”, “private septic systems”, and “incorporated” versus “unincorporated” to clarify when projects meet the threshold for mixed residential and industrial-commercial projects. Simplify computations in rule.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 36a. Land conversions in shoreland.	For mandatory review of land conversions in shorelands, the 2021 Mandatory Category Report said, “Clarification in the shoreline development section could help determine when or if a subdivision might require an EAW.” Shoreline can be measured from flood stage or from a high-water line, so EQB can work with DNR to provide rule change and/or more guidance on how the RGU and project proposer can measure this.

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Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. 37. Recreational trails.	For quality reviews, broaden the scope to include all proposed trails in Minnesota - require at least an environmental worksheet or EIS. The 2021 Mandatory Category Report said that this category, “Warrants further examination and investigation of discrepancy between paved and unpaved trails threshold, as well as how [the] category applies to trails in Twin Cities Metropolitan Area.” Evaluate trails on public lands, an EIS threshold for new trail systems, guaranteed consideration of all connected and phased actions, and for EQB to consider some way of ensuring wildlife movements across trail corridors.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. x	Consider rulemaking for new mandatory categories based on project types. Suggestions include drainage/agricultural drainage, cemeteries/green burials, data centers, cumulative water impacts, public transit, impaired watersheds, PFAS producers and dischargers, energy (battery) storage, wind turbines (specifically EISs), and more.
New policy	Mandatory categories (Tribal sovereignty)	4410.4300 MANDATORY EAW CATEGORIES. Subp. x	Create a mandatory category that means any project impacting Tribes or Tribal Cultural Resources requires review.
New policy	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. x	Update rules to include a location-based mandatory category that requires a mandatory EAW for any project in or in a certain radius of an environmental justice area because reviews should take into account community demographics due to health disparities and socioeconomic effects on vulnerable populations.
Policy change	Mandatory categories	4410.4300 MANDATORY EAW CATEGORIES. Subp. x	EQB should require that reviews include tools that model existing environmental and health impacts in the project's location and use this information alongside community knowledge in assessing potential for significant environmental effects.

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Policy change	When review is required (mandatory categories)	4410.4400 MANDATORY EIS CATEGORIES. Subp. x	Consider creating a mandatory EIS category for air pollution, as it relates to criteria pollutants, air toxics, and greenhouse gas emissions. Requiring an EIS for large emitters of greenhouse gas (GHG) emissions will help project proposers, decision-makers, and the public to understand where the emissions are coming from and provide information about alternatives, mitigations, and new approaches that could decrease emissions.
Policy change	When review is required (exemptions)	4410.4600 EXEMPTIONS.	Environmental review exemptions for highway projects should be clarified by defining "modernization" of an existing roadway or bridge and defining "safety improvement projects" (Supb. 14A). Such exemptions should apply only to specific locations where safety problems exist; they should not be used to exempt entire linear projects from review, as happens currently.
Policy change	When review is required (exemptions)	4410.4600 EXEMPTIONS.	Forestry exemptions for silvicultural roads should be eliminated.
New policy	EAW/EIS Content (Tribal sovereignty)	New	Work with Tribal staff to co-develop a definition or criteria for considering Tribal Ecological Knowledge and considering historic and cultural properties and require its use in reviews. For example, the EAW form asks for information on historic structures, archaeological sites, and/or traditional cultural properties near the site. It is important that project proposers and RGUs are able to assess if the proposed project activities will impact Tribal cultural resources, then work to ensure that any projects impacting those resources receive adequate consideration within environmental review.

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New policy	Oversight/Appeals	New	When a required environmental review is not performed or the required environmental review procedures are not performed correctly, the only current recourse is filing a lawsuit which takes time, money, and civic literacy. To ensure reviews are performed consistently, EQB should enact new policy to enable EQB's ability to enforce environmental review rules, including potential compliance actions up to a monetary penalty to be applied to project proponents who fail to conduct a required environmental review or to RGUs that do not follow the ER process in good faith. This could include EQB helping to provide compliance and enforcement actions in circumstances where a permit is issued during a prohibition, or other process issues arise.
New policy	Oversight/Appeals	New	Fund experts that work as an independent, neutral body (possibly funded by EQB), to peer-review environmental review documents. The intent is to provide a pool of experts to improve the scientific integrity of the information provided in the documents.
New policy	Data and tracking	New	RGU's should annually document how their environmental review informed a project's final permitting (e.g. permitted mitigation measures, alternatives selections). RGU's should report this information back to EQB to track how environmental review influences final environmental outcomes of a project; this improves EQB's access to data on program effectiveness.
New policy	Oversight/Appeals	New	EQB should automatically review all environmental documents—EAWs, EISs, AUARs, etc.—for completeness. Incomplete documents should be returned to RGUs with the missing items identified and the understanding that the review process will not proceed until the missing information is supplied.
New policy	EAW/EIS Content	New	In rule or guidance consider page limits on EAW documents.

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New policy	When review is required	New	EQB rules generally require a project to undergo a new review only if there has been a “substantial change” to the project. The 2006 SONAR explains: “It has been pointed out to the EQB staff that if a project is not built for a long time and there is no time limit on the ‘shelf-life’ of the EAW, there could be substantial changes in the circumstances in which the project would be built that could affect the potential for environmental impacts of the project that were not addressed in the EAW...The EQB considered addressing the issue by adding a time limit on the ‘shelf-life’ of an EAW.” However, a specific timeline applicable to all projects was found to be unreasonable; instead, the clarifying language around “substantial change” was added. We now know that confusion remains, because “substantial change” is difficult for the RGU to interpret. In addition to a “new project” or “substantial change” both decision-makers and the public may benefit from a clear timeline after which certain environmental review documents “expire” and require new review regardless of permit status.
New policy	EAW/EIS Content	New	Any action that requires an EIS under EQB rules should also require an Ecological Risk Assessment performed by a qualified independent contractor that has relevant training and scientific technical and scientific expertise in ecological risk assessments. The contractor must certify they have no connection with the project proposer or other similar entities monetary or otherwise. The assessment shall be paid for by the project proposer.
New policy	Tribal sovereignty	New	Require Tribal consultation on certain environmental reviews.
New policy	EAW/EIS Content (Tribal sovereignty)	New	Design a process for Tribes to disclose that Tribal resources are present without needing to disclose the exact type and location.

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New policy	EAW/EIS Content	new	Require all environmental review documents to include: 1) An assessment of how a proposed project will affect Indigenous people and EJ areas and 2) A determination of whether the adverse effects of the project are disproportionately borne by Indigenous people, people of color, and low-income people.
Process change	EAW/EIS Content	n/a	Update EQB's guidance to state that when DNR requires an aquifer test as part of the water appropriation permit process, the results of that aquifer test should be included in the EAW.
Process change	EAW/EIS Content	n/a	The EAW form should direct RGUs for toxic-related projects to contact the Minnesota Technical Assistance Project regarding the existence of feasible pollution prevention measures for reducing the generation of toxic chemicals.
Process change	Resources and training	n/a	Consider training people at local organizations with regional reach (colleges, extension offices, etc.) so they may also provide help to small LGUs.
Process change	Resources and training	n/a	Convene a practitioners' group of RGUs, specialized consultants, and other interested parties for recurring meetings to increase information sharing and identification of new and emerging issues.
Process change	Resources and training	n/a	Provide guidance or best practices for RGUs on document accessibility and accessing alternative languages and formats for all documents.
Process change	Resources and training	n/a	Improve guidance on EAW Form Item 14 related to the "taking" of federally endangered and threatened species under Section 9 of the Federal Endangered Species Act to adequately discuss impacts to those species.
Process change	Public participation	n/a	Succinctly state a project description in the EQB Monitor with a project's major environmental impacts (i.e. type and quantity of air or water pollutants emitted or discharged, acreage of wetlands or forested diminished, etc.)