

February 2026 Environmental Quality Board meeting

Wednesday, February 18 from 1 – 4:00 p.m.

Join in person or online

- In person: [520 Lafayette Road, St. Paul, MN 55155](#), lower level conference rooms
- Online: For the meeting link and more information, visit the [board meeting webpage](#)

Participating in board meetings

Attending in person

The Environmental Quality Board (EQB) will convene its meeting in person at the Minnesota Pollution Control Agency St. Paul office building. All visitors must sign in at the front desk.

Transportation options:

- Bicycle: Visit the [Saint Paul Bike Map](#) webpage for route information. Outdoor bicycle parking is available to the left of the front doors near the loading dock.
- Transit: Use [Metro Transit's Trip Planner](#) to determine the best routes and times.
- Car: You may park in a Visitor Parking space in the parking lot just outside the front door, or park in one of the visitor lots. The visitor lots are the Blue Lot (Olive St. and University Ave.) and the Jupiter Lot (on Grove St. across from the Ramsey County Law Enforcement Center); please see the [parking map](#). Parking in these lots is free of charge. You must register your vehicle at the front desk upon arrival.

Attending virtually

Members of the public may join the meeting virtually using the Teams link at the board meeting webpage link above. Please review the [Guide to Teams Participation](#) for additional information.

Accessibility

Please contact Environmental Quality Board (EQB) staff at least one week prior to the event at info.EQB@state.mn.us to arrange an accommodation. Meeting materials can be provided in different forms, such as large print, braille, or on a recording.

Public engagement opportunities at EQB meetings

EQB encourages public input and appreciates the opportunity to build shared understanding with members of the public. The opportunities for public engagement for this meeting are below.

Public comment opportunities at EQB meetings

EQB encourages public engagement and appreciates the opportunity to build shared understanding with members of the public. There are multiple ways to engage with staff and board members. One important way is to provide public comment at a board meeting.

The public comment period(s) at a board meeting provide an opportunity for members of the public to inform the board about their views related to the specific item under discussion or something related to the board's purview or authority. Tips for providing comments:

- Ensure that your comments are relevant and specific to the topic you are addressing.
- Say what you want the board to know or consider in moving forward with a piece of work.
- Identify a specific action that you want the Board to take.

If you have a question for the board or EQB staff, it will be noted by staff who will get back to you at a later time. This ensures that we have enough time at a meeting for all commenters to provide input to the board and that your questions can be fully considered.

Oral public comment



At each meeting, the agenda will show when the board will accept oral public comment. The chair will use their discretion to direct public comment and ensure the board's ability to effectively conduct business.

Procedure for giving oral public comment:

- **Virtual:** when prompted, use the "raise hand" feature in Teams, located at the top of your screen.
- **In person:** sign up at the welcome table before the meeting starts.
- When the chairperson calls on you to speak:
 - Introduce yourself before beginning your comment.
 - Please keep your remarks to the agenda item at hand.
 - Please be respectful of board members, staff, and other meeting participants. The chair, vice-chair, or other presiding officer will not tolerate personal attacks.
- The chairperson may limit commenters' time for remarks to ensure there is equal opportunity for the public to comment. Generally, your remarks will be limited to two (2) minutes.
- The chairperson may discontinue a commenter's time to speak if the comments are not reasonably related to the agenda item at hand.

Written public comment



You may submit written comment to EQB by emailing your letter to info.EQB@state.mn.us or mailing to: Environmental Quality Board, 520 Lafayette Road, Saint Paul, MN 55155. Comments must be received by EQB staff **by noon the day before the meeting**.

Staff will compile letters, make them available to members and the public, and attach them to the public record. Any written comments received after this deadline will be included in the next meeting packet.

Please only submit information that you wish to make available publicly. EQB does not edit or delete submissions that include personal information. We reserve the right to not publish any comments we deem offensive, intimidating, belligerent, harassing, bullying, or that contain any other inappropriate or aggressive behavior.

Agenda

Note that all listed times are estimates and are advisory only.

1. Welcome and roll call (1:00 pm)

Nancy Daubenberger – Chair, EQB; Commissioner, Department of Transportation

2. Approval of consent agenda (1:10 pm)

- Meeting minutes from the January 21, 2026, Environmental Quality Board meeting on packet page 5
- Preliminary agenda for the February 18, 2026, Environmental Quality Board meeting

3. Executive Director's report (1:15 pm)

Catherine Neuschler – Executive Director, EQB

4. Election of Vice Chair (1:25 pm)

Type of item: Decision

Summary: Under the board's operating rules, a vice chairperson is to be elected at the first meeting in February each year. The Vice Chair presides at board meetings and can fulfill the duties of the Chair when the Chair is absent or not available.

Outcome: The board elects a Vice Chair to serve until February 2027.

5. EIS scoping rule (1:35 pm)

Type of item: Decision

Summary: In 2025, the Minnesota legislature directed the EQB to amend parts of the environmental review rules related to "scoping" an EIS to remove the requirement that an EAW be prepared as part of the scoping process for mandatory EISs. The legislature also directed inclusion of a deadline for the completion of the scoping process. The EQB is allowed by the legislature to use a shorter rulemaking process (called "good cause exempt"), because the legislature specifically directed the rule changes that need to be made.

EQB staff will present recommended rule revisions for the Board's review and approval. The staff recommend that the Board move forward with amendments to fulfill the legislative directive by proposing rule amendments that: 1) remove the requirement that an EAW be prepared for scoping an EIS and 2) provide that "a scoping process" must be completed no later than 280 days after publication of the notice of availability of "a scoping document" in the EQB Monitor. The Board is also being asked to give the Executive Director the authority to complete the rulemaking process.

The materials for this item include:

- Overview memo on packet page 9
- Board resolution
- Draft Notice of Submission
- Draft Rule (RD4978)
- Rule summary and justification
- Draft proposed order adopting rules

Public comment: EQB will take public comment specifically on this item.

Outcome: The Board approves moving forward with the rulemaking process or directs changes.

Presenter: Catherine Neuschler – Executive Director, EQB

Break (2:15 pm)

6. Gas production rules update (2:20 pm)

Type of item: Informational

Summary: In April 2024, the Board decided to move forward with the process of developing rules to establish mandatory category for environmental review for gas production.

EQB staff have been conducting research, engagement, and collaborating with other state agencies and tribes in order to develop the rules. Staff will present an update, including the current preliminary direction of rule development in the following key areas:

- Thresholds for requiring an EAW (based on size and location)
- Thresholds for requiring an EIS (based on use of certain extraction techniques)
- Responsible governmental unit

A memo on packet page 31 provides a brief overview of the current status.

Public comment: EQB will take public comment specifically on this item.

Outcome: The Board is informed about the progress of rule development and gives input to staff to shape drafting of the rules for formal proposal. The Board is prepared to review rule language and make a decision in April on proposed rule language. (Legislative language requires that the EQB use the expedited rulemaking process for promulgating these rules and formally propose the rules by publishing a Notice of Intent to Adopt rules no later than May 22, 2026.)

Presenter: Jesse Krzenski – Environmental Review Program Director, EQB

7. Data center FAQs (3:05 pm)

Type of item: Informational

Summary: EQB staff, in conjunction with staff of other agencies, have developed a “frequently asked questions” document to address the application of the environmental review rules to data center development. The FAQs are on packet page 34.

Data center developers are increasingly interested in Minnesota as a potential location. The construction and operation of a large data center has the potential to require environmental review and certificates, permits, or authorizations from multiple state agencies.

EQB convened an internal work group consisting of EQB staff and agency technical representatives from DEED, DNR, MnDOT, MPCA, and PUC. The work group met multiple times from October 2025 through January 2026 to develop the new FAQ, which helps answer common legislative, public, and project proposer questions about the ER process and data centers. The FAQ will serve to assist in the implementation of the review process and inform the public on when and if environmental review is needed for data centers. The FAQs will be posted on the EQB website.

Outcome: Staff provides overview of data center guidance, helping Board members increase their understanding of the issue while supporting two of EQB’s key outcomes – to support program development on priority and emerging environmental issues and to maintain and improve Minnesota’s environmental review program.

Presenter: Sarah Lerohl – Environmental Review Program Administrator, EQB

8. Public comment (3:20 pm)

The board welcomes any additional oral public comment. Please see guidance and procedures on packet page 2.

9. Closing and adjournment



January 2026 Environmental Quality Board meeting

Wednesday, January 21, 2026 | 1:00-4:00 p.m. | 520 Lafayette Road, St. Paul, MN 55155, lower level conference rooms and online via Teams.

Minutes

1. Welcome and roll call

Chair Nancy Daubenberger called to order the regular meeting of the Environmental Quality Board.

Members present: Grace Arnold, Peter Bakken, Joseph Bauerkemper, Ed Brands, Nancy Daubenberger, Tamar Gronvall, Rylee Hince, Daniel Katzenberger, Katrina Kessler, Nicholas Martin, Paul Nelson, Angie Smith

Members excused: Brooke Cunningham, Todd Holman, Robin Hutcheson, Thom Petersen, Sarah Strommen, Matt Varilek

Proxies present: Kevin McKinnon (for Varilek), Melissa Kuskie (for Strommen), Peter Lindstrom (for Hutcheson)

EQB staff present: Catherine Neuschler, Stephanie Aho, Rebeca Gutierrez-Moreno, Hazel Houle, Jesse Krzenski, Sarah Leroohl, Priscilla Villa-Watt, Kayla Walsh

Approval of consent agenda

- Meeting minutes from November 19, 2025, Environmental Quality Board meeting
- Proposed agenda for January 21, 2026, Environmental Quality Board meeting

Motion: Board Member Arnold moved to approve the consent agenda; Board Member Bakken seconded.

In favor: Arnold, Bakken, Bauerkemper, Brands, Daubenberger, Gronvall, Hince, Katzenberger, Kessler, Martin, Nelson, Smith

Opposed: none

Excused: Cunningham, Holman, Petersen, Strommen, Varilek

2. Executive Director's report

Catherine Neuschler – Executive Director, EQB

- Public members – Applications for five EQB public board seats (Congressional Districts 1, 2, 6, 7, 8) remain open via the [Secretary of State's Board/Commissions page](#); hope to have applications in by mid to late February. We anticipate Board appointments being made after the April meeting, so staff are beginning to work on plans for public board member onboarding in May. All public board members will be invited, as there has not been public member onboarding in recent years.
- Economic interest reminder – Board members, as public officials, need to annually recertify their statement of economic interest. Board members should have gotten an email from the Campaign Finance Board indicating the annual recertification is due by January 26, 2026.
- Upcoming meetings – Reminder that there will be several Board decision items in the next few months, all related to rulemaking. Today is the adoption of the energy infrastructure rulemaking, and likely the EIS scoping rulemaking next month, and then approval to move forward with the gas production rules in April. Rulemaking has key timelines.
- Packet comments – The January board packet contains comments received after the November meeting, related to data centers. Staff are continuing to explore the needs around this issue and expect to have some more information at the February meeting. In addition, the AUAR guidance update is continuing; staff have a preliminary draft and are reaching out to some LGUs to review it to make sure it is useful and helpful to them.
- East Side/Owatonna EAW – Staff have been receiving a lot of questions and information from residents of Owatonna that are concerned about construction of the Owatonna East Side Corridor, and about the EAW that is in progress (comment period ended December 31). Staff have advised the public about the process. There isn't EQB action available/expected, but if anyone wants to learn more about the concerns, please get in touch with me or the environmental review team.

3. Energy rulemaking – adoption

Presenter: Kayla Walsh – Environmental Review Program Administrator, EQB

Type of item: Decision

Summary: The 2024 legislature directed EQB to revise the provisions of Minn. R. 4410 to conform with legislative changes, including the creation of the Minnesota Energy Infrastructure Permitting Act and related statutes governing the environmental review of certain energy projects.

The proposed rule amendments went on public notice on October 6, 2025, with a comment period ending November 14, 2025. Two public comments were received. EQB staff have reviewed the comments and do not recommend rule changes. The staff recommend that the Board adopt the rules as proposed, and delegate authority to the Executive Director to complete the process of adopting the rule changes.

Public comment:

- Bonnie Matter: Raised questions about how the PUC informs the public about projects that are undergoing review, if they have met MEPA, and the use of the EQB Monitor. She then commented about the large number of projects at PUC and the importance of the PUC's understanding of the process

Motion: Board Member Katzenberger moved to adopt the resolution for Expedited Permanent Rules Relating to Energy Infrastructure in the Revisor of Statutes draft, file number AR4944, dated October 6, 2025. Board Member Kessler seconded.

In favor: Arnold, Bakken, Bauerkemper, Brands, Daubenberger, Gronvall, Hince, Katzenberger, Kessler, Martin, Nelson, Smith

Opposed: none

Excused: Cunningham, Holman, Petersen, Strommen, Varilek

Outcome: The Board adopted the resolution.

4. Public comment

There were no comments.

5. Closing and adjournment

Having reached the end of the agenda, the Chair asked if there was any further business.

Adjournment:

With no further business, the Chair adjourned the meeting.

Memo

Date: February 6, 2026

To: Environmental Quality Board

From: Catherine Neuschler, Executive Director

RE: Adopting exempt EIS scoping rule change

Background

In 2025, the Minnesota legislature passed a law (Minn. Law 2025, 1st Spec. Sess., Chapter 1, Article 6) related to environmental permitting reform. Section 5 of that session law directed the Environmental Quality Board (EQB) to amend parts of the environmental review rules related to “scoping” an environmental impact statement (EIS) to remove the requirement that an environmental assessment worksheet (EAW) be prepared as part of the scoping process for EISs mandated by rule or law. The legislature also directed inclusion of a deadline (280 days) for the completion of the scoping process.

EIS scoping process

Overview

In the early 1980s, the EQB was directed to promulgate rules establishing a scoping process that conforms with Minn. Stat. § 116D.04, subd. 2a, paragraph h, which states, in part *“An early and open process must be used to limit the scope of the environmental impact statement to a discussion of those impacts that, because of the nature or location of the project, have the potential for significant environmental effects.”* The process described in this law is called “scoping.”

The EQB adopted a rule—Minn. R. 4410.2100 – which requires that a scoping process be completed prior to preparing any EIS. The scoping process uses public input to help the RGU decide what impacts and alternatives will be covered and the extent of effort and depth of analysis to be devoted to each topic. The scoping process was established as a first step in EIS preparation so that only relevant issues are analyzed, providing a shorter, more timely and less expensive document that is more relevant and usable for decision makers.

The existing EIS process requires that RGUs use an EAW for scoping an EIS. Under the rule, for projects where the RGU ordered an EIS following review with an EAW, that existing EAW could serve the purpose of scoping the EIS. However, for projects where it is known at the start that an EIS will be prepared – because they fall within a mandatory EIS category, an EIS process has been agreed upon by the RGU and proposer, or other law requires an EIS using the Minn. R. 4410 procedures – an EAW is created for use solely as a scoping document.

Under the rule, the RGU is directed to publish the EAW and a proposed scoping decision document for public comment, and the RGU is required to hold a public meeting. At the end of the comment process, the RGU issues its final decision regarding the scope of the EIS.

Proposed changes

The legislation directs elimination of the requirement that an EAW be created solely for scoping those EISs mandated by rule or law. EIS projects are still required to undergo a scoping process, but EQB rules must now allow RGUs to provide the information needed for scoping in a document other than an EAW.

The staff recommend that the Board move forward with amendments to fulfill the legislative directive by proposing rule amendments that: 1) remove the requirement that an EAW be prepared for scoping an EIS and 2) provide that “a scoping process” must be completed no later than 280 days after publication of the notice of availability of “a scoping document” in the *EQB Monitor*.

The EQB staff recommended draft rule amendments are described below and shown in the (Revisor’s Draft)

Changes to scoping process and related definitions

Minn. R. 4410.2100 includes the substantive components of the EIS scoping process.

Subpart 2 is currently titled “EAW as a scoping document;” proposed changes to this subpart delete the language mandating that all projects requiring an EIS have an EAW filed with the RGU. The new language requires a “scoping document” be filed with the RGU. The staff recommend that the rules still *allow* an EAW to be used as a scoping document if the RGU chooses to do so; the legislation did not prohibit the use of an EAW for scoping and many RGUs and project proposers are already familiar with this process. Therefore, this subpart proposes to retain the option for an EAW to serve as a scoping document.

To further implement this change, Minn. R. 4410.0200 (definitions) is recommended to be amended to include a definition of “scoping document.” A “scoping document” will be defined as “a brief document containing information about a proposed project necessary for the EIS scoping process under part 4410.2100. A scoping document can be an EAW or a different document containing the information necessary for the scoping process.”

Subpart 3 sets out the scoping period. The proposed amendments include an additional deadline for the final scoping decision, which must be made no later than 280 days after publication of the notice of availability of a scoping document in the *EQB Monitor*, as required by the legislation. The staff note that there are multiple deadlines already included in this rule that should result in decisions being made much sooner than 280 days after the publication of the notice of availability. A brief review of projects since May 2023 shows eight projects that have completed the EIS scoping process. The average time is 120 days from the publication of the scoping EAW to the publication of EIS preparation notice, which includes the scoping decision.

Other conforming changes

Additional changes are needed throughout Minn. R. ch. 4410 to 1) eliminate references to a mandatory EAW prior to an EIS mandated by rule or law, and 2) correct and conform references to a “scoping EAW”. Generally, these changes involve replacing the word “EAW” with “scoping document” as appropriate.

A complete discussion of the staff-recommended proposed rule changes is provided in the attached rule summary and justification memo.

Coordination and engagement

EQB staff began the rule development process by reviewing the new session law and then reviewing chapter 4410 for all instances where the rules referred to scope or scoping to ensure that those parts were consistent with the change to the scoping requirements mandated by statute. EQB staff also reviewed historical rule versions and SONARs related to the promulgation of the requirements for scoping EISs.

A draft version of potential rules was shared with the EQB’s technical representatives – staff of the state agencies who are members of the Board. Many of these technical representatives work in the environmental review programs of those state agencies that serve as RGUs.

Next steps

The EQB was allowed by the legislature to use the Minn. Stat. § 14.388 “good cause exemption” process for this rulemaking, because the legislature specifically directed the changes that need to be made and no interpretation of law is required. The Board is being asked to give the Executive Director the authority to complete the rulemaking process. That process includes:

- Drafting an Order Adopting Rules
- Sending a Notice of Submission to the Court of Administrative Hearings that contains
 - The proposed rules;
 - An explanation of why the rules meet the requirements of the good cause exemption;
 - A statement that interested parties have five business days after the date of the notice to submit comments to CAH
- Notifying the EQB’s rulemaking mailing list that the rules were submitted to the CAH for review

After the comment period, the CAH has 14 days to review the rules. If they are approved, the Order Adopting Rules can be finalized, signed, and sent to CAH. If they are disapproved, changes may be made (and often the CAH suggests such changes). Once approved and the Order signed, the rules are published in the State Register as adopted.



RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD

Amendment to Rules Governing the Environmental Review Program, Minnesota Rules, part 4410.2100

The Minnesota Environmental Policy Act, Minnesota Statutes § 116D.04, authorizes the Environmental Quality Board (EQB) to adopt rules governing the Environmental Review Program, including establishment of a process to scope Environmental Impact Statements (EISs). Minn. R. 4410.2100 establishes that an environmental assessment worksheet (EAW) serves as a scoping document for each EIS.

In 2025, the Minnesota legislature (Laws of Minnesota 2025, 1st Spec. Sess., Chapter 1, Article 6) directed the Environmental Quality Board to amend Minn. R., part 4410.2100 to provide that an EAW does not need to be prepared for a project that falls within a mandatory EIS category. The session law authorized EQB to use procedures set forth in the Administrative Procedure Act, Minn. Stat. §14.388, Good Cause Exemption, which provides in part that an agency may use this rulemaking procedure to “incorporate specific changes set forth in applicable statutes when no interpretation of law is required.” (Minn. Stat. § 14.388, subd. 1(3)).

Under the Good Cause Exempt rulemaking process, the EQB must draft a notice of submission to the Court of Administrative Hearings that includes the proposed rules, an explanation of why the rules meet the requirement of the good cause exemption, and a statement that interested parties have five business days to submit comments to the Court of Administrative Hearings. Concurrent with the submittal to the Court of Administrative Hearings, the EQB must notify interested parties about the rules.

The EQB staff have developed amendments to Minn. R. 4410 to implement the specific changes set forth by the legislature, along with a supporting Rule Summary and Justification memo.

The board resolves that Catherine Neuschler, the Executive Director of the Environmental Quality Board, is hereby granted the authority and directed to proceed with rulemaking under Minn. Stat. § 14.388. The Executive Director is authorized to submit the rule to the Court of Administrative Hearings, sign the Order Adopting Rules, to modify the rules as needed to obtain the Revisor of Statutes' or the Administrative Law Judge's approval of the rules, and to perform other necessary acts to give the rules the force and effect of law.

The board approved and adopted this resolution on February 18, 2026.

Date: _____

Nancy Daubenberger, Chair
Minnesota Environmental Quality Board

Attachments:

- Draft Notice of Submission of Rules Proposed for Adoption Without a Public Hearing
- Revisor certified copy of Exempt Permanent Rules for EIS Scoping (RD4978)
- Rule summary and justification memo
- Draft Order Adopting Rules (unsigned)



DRAFT Notice of Submission of Rules Proposed for Adoption Without a Public Hearing to the Court of Administrative Hearings

Amendments to Rules Relating to the Environmental Review program, governing scoping of mandatory Environmental Impact Statements, Minnesota Rules, chapter 4410; Revisor's ID Number R-04978, CAH Docket Number 21-9008-41465

Date: *[date]*

To: All Interested Persons

In accordance with Minnesota Statutes, section 14.388, subdivision 2, this Notice is being sent to all persons who have registered their name with the Environmental Quality Board (EQB) under Minnesota Statutes, section 14.14, subdivision 1a. This Notice is also posted on the website of the EQB.

PLEASE TAKE NOTICE that the above-cited rules proposed for adoption will be submitted to the Court of Administrative Hearings on the date of this Notice, *[date]*. A copy of the rule modification is attached to this Notice, along with a rule summary and justification memo.

All interested persons have five business days after the date of this Notice to submit comments to the [Court of Administrative Hearings Rulemaking eComments website](#). If using the eComments website is not possible, you may submit post-hearing comments in person or via United States mail addressed to Judge Middendorf at 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620.

By Laws of Minnesota 2025, 1st Spec. Sess., Chapter 1, Article 6, Section 5, the Minnesota Legislature requires the Environmental Quality Board to amend rules relating to the required scoping process for mandatory environmental impact statements.

The Board is using the good cause exemption process under Minnesota Statutes, section 14.388, subd. 1, clause (3), to make the specific change stated in the laws cited above without additional interpretation.

The agency contact person is Catherine Neuschler, Environmental Quality Board, 520 Lafayette Road North, St. Paul, MN, 55155; phone 651-757-2607; email catherine.neuschler@state.mn.us. Questions concerning the rules should be directed to the agency contact person. For special accommodation, you may contact agency contact person.

Catherine Neuschler
Executive Director, Environmental Quality Board

1.1 **Environmental Quality Board**1.2 **Exempt Permanent Rules Relating to Scoping Documents for Environmental Review**1.3 **4410.0200 DEFINITIONS AND ABBREVIATIONS.**1.4 *[For text of subparts 1 to 23, see Minnesota Rules]*1.5 Subp. 24. **Environmental assessment worksheet.** "Environmental assessment
1.6 worksheet" means a brief document which is designed to set out the basic facts necessary
1.7 to determine whether an EIS is required for a proposed project ~~or to~~ and may initiate the
1.8 scoping process for an EIS.1.9 *[For text of subparts 25 to 77, see Minnesota Rules]*1.10 Subp. 77a. **Scoping document.** "Scoping document" means a brief document
1.11 containing information about a proposed project that is necessary for the EIS scoping process
1.12 under part 4410.2100. A scoping document can be an EAW or a different document
1.13 containing the information necessary for the scoping process.1.14 *[For text of subparts 78 to 96, see Minnesota Rules]*1.15 **4410.1000 PROJECTS REQUIRING EAW.**1.16 Subpart 1. **Purpose of EAW.** The EAW is a brief document prepared in worksheet
1.17 format which is designed to rapidly assess the environmental effects which may be associated
1.18 with a proposed project. The EAW ~~serves primarily to~~:1.19 A. ~~aid~~ aids in the determination of whether an EIS is needed for a proposed project;
1.20 and1.21 B. may serve as a basis to begin the scoping process for an EIS.1.22 Subp. 2. **Mandatory EAW categories.** An EAW shall be prepared for any project
1.23 that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300
1.24 ~~or any of the EIS categories listed in part 4410.4400.~~

2.1 *[For text of subparts 3 to 5, see Minnesota Rules]*

2.2 **4410.2100 EIS SCOPING PROCESS.**

2.3 *[For text of subpart 1, see Minnesota Rules]*

2.4 Subp. 2. **EAW as Scoping document.**

2.5 A. All projects requiring an EIS must have an EAW a scoping document filed
2.6 with the RGU. ~~The An EAW shall be the basis for the~~ may serve as a scoping process
2.7 document.

2.8 B. For projects ~~which fall within a mandatory EIS category for which an EIS is~~
2.9 mandatory under part 4410.2000, subpart 2, or other applicable law or if a voluntary EIS
2.10 is planned, ~~the EAW will be used solely as a scoping document. For such projects under~~
2.11 part 4410.2000, subpart 3, item B, the RGU shall prepare and circulate ~~with the EAW a~~
2.12 scoping document. The scoping document must include or be accompanied by a draft scoping
2.13 decision document that addresses the contents specified by subpart 6 to the extent that
2.14 information is already available. The purpose of the draft scoping decision document is to
2.15 facilitate the delineation of issues and analyses to be contained in the EIS. The information
2.16 in a draft scoping decision document shall be considered as preliminary and subject to
2.17 revision based on the entire record of the scoping process.

2.18 C. If the need for an EIS has ~~not~~ been determined under part 4410.2000, subpart
2.19 3, item A, the EAW ~~will have two functions: is the basis for the scoping process and is used~~

2.20 A. ~~to identify the need for preparing an EIS pursuant to part 4410.1700; and~~

2.21 B. ~~to initiate discussion concerning the scope of the EIS if an EIS is ordered~~
2.22

~~pursuant to part 4410.1700.~~

2.23 Subp. 3. **Scoping period.** If the EIS is being prepared pursuant to part 4410.2000,
2.24 subpart 2 or 3, item B, the following schedule applies:

3.1 A. The 30-day scoping period will begin when the notice of the availability of the
3.2 ~~EAW scoping document~~ is published ~~in accord with~~ ~~in the same manner as for an EAW~~
3.3 ~~under part 4410.1500, items A and B to C.~~ This notice and press release shall include the
3.4 time, place, and date of the scoping meeting.

3.5 B. The RGU shall provide the opportunity for at least one scoping meeting during
3.6 the scoping period. This meeting shall be held not less than 15 days after publication of the
3.7 notice of availability of the ~~EAW scoping document~~. All meetings shall be open to the
3.8 public.

3.9 C. A final scoping decision shall be issued within 15 days after the close of the
3.10 30-day scoping period ~~and, for an EIS being prepared under part 4410.2000, subpart 2, no~~
3.11 ~~later than 280 days after publication of the notice of availability of a scoping document in~~
3.12 ~~the EQB Monitor.~~

3.13 *[For text of subpart 4, see Minnesota Rules]*

3.14 **Subp. 5. Procedure for scoping.** Written comments suggesting issues for scoping or
3.15 commenting on the ~~EAW scoping document~~ must be filed with the RGU during the scoping
3.16 period. Interested persons may attend the scoping meeting to exercise their right to comment.

3.17 Governmental units and other persons shall be responsible for participating in the
3.18 scoping process within the time limits and in the manner prescribed in parts 4410.0200 to
3.19 4410.6500.

3.20 *[For text of subparts 6 to 12, see Minnesota Rules]*

3.21 **4410.2800 DETERMINATION OF ADEQUACY.**

3.22 *[For text of subpart 1, see Minnesota Rules]*

4.1 Subp. 1a. **Decision by EQB; information needs.** If the EQB will be determining the
4.2 adequacy of the EIS, the RGU shall submit to the EQB the following information within
4.3 five days of the filing of the final EIS:

4.4 A. evidence of compliance with distribution requirements for the scoping ~~EA~~
4.5 document, draft EIS, and final EIS;

4.6 *[For text of items B to G, see Minnesota Rules]*

4.7 *[For text of subparts 2 to 6, see Minnesota Rules]*

4.8 **4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.**

4.9 *[For text of subparts 1 to 3, see Minnesota Rules]*

4.10 Subp. 4. **Variance.** Construction may begin on a project if the proposer applies for
4.11 and is granted a variance from subparts 1 and 2. A variance for certain governmental
4.12 approvals to be granted prior to completion of the environmental review process may also
4.13 be requested. A variance may be requested at any time after the commencement of the
4.14 30-day review period following the filing of an EAW or a scoping document. The proposer
4.15 shall submit an application for a variance to the EQB together with:

4.16 *[For text of items A to E, see Minnesota Rules]*

4.17 *[For text of subparts 5 to 9, see Minnesota Rules]*

4.18 **4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.**

4.19 *[For text of subparts 1 to 5, see Minnesota Rules]*

4.20 Subp. 5a. **Additional procedures required when certain large specific projects
4.21 reviewed.**

4.22 *[For text of item A, see Minnesota Rules]*

5.1 B. Prior to final approval of the order for review pursuant to subpart 3, the RGU
5.2 must conduct a public process to receive comments about the scope of the review. The RGU
5.3 shall prepare a draft order for review and distribute and provide notice of its availability in
5.4 the same manner as for an EAW pursuant to part 4410.1500. The draft order for review
5.5 must include the information specified in subpart 3 and a description of the specific large
5.6 project or projects to be included in the review comparable to that of a scoping ~~EAW~~
5.7 document pursuant to part 4410.2100, subpart 2.

5.8 *[For text of items C to E, see Minnesota Rules]*

5.9 *[For text of subparts 6 to 8, see Minnesota Rules]*

5.10 **4410.6200 DETERMINING EIS COST.**

5.11 Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing,
5.12 reviewing, and distributing the EIS, the following items shall be included:

5.13 *[For text of items A to D, see Minnesota Rules]*

5.14 E. the cost of printing and distributing the scoping ~~EAW~~ document and draft
5.15 scoping decision document, draft EIS and the final EIS and of public notices of the
5.16 availability of the documents; and

5.17 *[For text of item F, see Minnesota Rules]*

5.18 *[For text of subparts 2 to 5, see Minnesota Rules]*

5.19 **4410.6500 PAYING EIS COST.**

5.20 Subpart 1. **Schedule of payments.** The proposer shall make all cash payments to the
5.21 RGU according to the following schedule:

5.22 A. The proposer shall pay the RGU for the full cost estimated by the RGU to be
5.23 necessary for the scoping of the EIS not later than the date of submission by the proposer
5.24 of the completed data portions of the scoping ~~EAW~~ document or within five days of issuance

6.1 of a positive declaration. The RGU shall not proceed with the scoping process until this
6.2 payment is made. Upon issuance of the scoping decision, the RGU shall provide the proposer
6.3 with a written accounting of the scoping expenditures. If the payment made by the proposer
6.4 exceeds the expenditures, the balance shall be credited against the cash payments required
6.5 from the proposer for preparation of the draft EIS. If the RGU's reasonable expenditures
6.6 for scoping exceed the cash payment received, the proposer shall pay the balance before
6.7 the RGU commences preparation of the draft EIS.

6.8 *[For text of items B to D, see Minnesota Rules]*

6.9 *[For text of subparts 2 to 7, see Minnesota Rules]*



Environmental Review: EIS scoping changes

Rule summary and justification memo

Introduction

Purpose of rulemaking

In 2025, the Minnesota legislature passed Laws of Minnesota 2025, 1st Spec. Sess., Chapter 1, Article 6, related to environmental permitting reform. Section 5 of that session law directed the Environmental Quality Board (EQB) to amend parts of the environmental review rules (Minn. R. ch. 4410) related to “scoping” an environmental impact statement (EIS). Specifically, the Legislature directed changes to the scoping process for projects triggering mandatory EISs – namely that an environmental assessment worksheet (EAW) not be required for scoping and that a deadline for completion of a scoping process be added.

Use of good cause exempt procedures

The Legislature, in directing that the rules be changed, allowed the EQB to use the “good cause” exempt rulemaking process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the rule amendments, a process applicable where the agency is incorporating specific changes set forth in applicable statutes when no interpretation of law is required.

Overview of scoping in statutes governing environmental review

Under Minn. Stat. § 116D.04, the EQB has the authority to promulgate rules to implement the Minnesota Environmental Policy Act (MEPA), and specifically the environmental review program.

Under Minn. Stat. § 116D.04, subd. 5a, the EQB was directed to promulgate rules establishing a scoping process in conformance with Minn. Stat. § 116D, subd. 2a, paragraph h. That paragraph states:

An early and open process must be used to limit the scope of the environmental impact statement to a discussion of those impacts that, because of the nature or location of the project, have the potential for significant environmental effects. The same process must be used to determine the form, content, and level of detail of the statement as well as the alternatives that are appropriate for consideration in the statement. In addition, the permits that will be required for the proposed action must be identified during the scoping process. Further, the process must identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process must be incorporated into the order requiring the preparation of an environmental impact statement.

Pursuant to this authority, the EQB established rules governing the scoping process for environmental impact statements. The EQB’s existing rule is Minn. R. part 4410.2100 (“EIS Scoping Process”). The existing rule (Minn. R. 4410.2100, subp. 2) requires an EAW to act as “the basis for the scoping process” for all EISs. It then defines how scoping decisions receive comment and provides deadlines for Responsible Governmental Units (RGUs) to complete the scoping process.

The 2025 legislation directed EQB to remove the requirement to complete a scoping EAW for EISs that are mandatory under Minn. R. 4410.4400 or other applicable law.

Projects That Require Scoping

Under existing rules, an EIS must be prepared prior to project approval when it is “mandatory” under Minn. R. 4410.2000, subp. 2. A project is “mandatory” because it meets or exceeds the thresholds of any of the mandatory EIS categories listed in Minn R. 4410.4400.

Under Minn. R. 4410.2000, subp. 3 (A), an EIS may be prepared because the RGU decides an EIS is necessary after the preparation of an EAW based on the criteria in Minn. R. 4410.1700, subp. 7 (“discretionary EIS”).

An EIS may also be prepared when the RGU and proposer of the project agree that an EIS should be prepared, a process described in Minn R. 4410.2000, subp. 3 (B) (“voluntary” EIS).

Finally, the legislature may enact a statute that mandates an EIS for a particular project that is not described in EQB’s rules.

Scoping Process

The existing EIS scoping process in rule (Minn R. 4410.2100) requires that all projects that will be the subject of an EIS have an EAW filed with the RGU for scoping.¹ For projects where it is known that an EIS will be prepared – because they fall within a mandatory EIS category, an EIS process has been agreed upon by the RGU and proposer, or other law requires an EIS using the Minn. R. 4410 procedures – the EAW is used solely as a scoping document.

For a discretionary EIS project, the EAW already exists because it provided the basis for the RGU’s decision to move forward with an EIS. For mandatory and voluntary EISs, the RGU prepares the EAW and circulates it along with a draft scoping decision document.

The existing rule defines the deadlines for RGUs to complete the scoping process. These deadlines changed based on whether the EIS was mandated by law, had been ordered following publication of an EAW, or was agreed upon by the RGU and proposer. The deadlines also varied based on whether the RGU is a board or other body meeting on a periodic basis (Minn. R. 4410.2100, subps. 3 and 4).

The EIS scoping procedures (Minn R. 4410.2100, subp. 5) remain the same for all projects regardless of how the EIS is initiated. Rule directs the RGU to accept written comments during the scoping period suggesting issues for scoping or comments on the scoping EAW. The RGU is required to hold a public meeting to review the scope of the EIS where interested persons may comment. The scoping process terminates when the RGU issues its final decision regarding the scope of the EIS (Minn R. 4410.2100, subp. 6). The scoping decision must contain at a minimum:

- A. *the issues to be addressed in the EIS;*
- B. *time limits for preparation, if they are shorter than those allowed by parts 4410.0200 to 4410.6500;*
- C. *identification of the permits for which information will be gathered concurrently with EIS preparation;*
- D. *identification of the permits for which a record of decision will be required;*

¹ Note that the Public Utility Commission’s process for energy infrastructure projects covered under Minn. Stat., Ch. 216I has a separately prescribed process for EIS scoping, one which already does not rely on an EAW. That process is not the subject of this rulemaking.

- E. alternatives that will be addressed in the EIS;
- F. identification of potential impact areas resulting from the project itself and from related actions which shall be addressed in the EIS; and
- G. identification of necessary studies requiring compilation of existing information or the development of new data that can be generated within a reasonable amount of time and at a reasonable cost.

Historical development of existing rule

The EIS scoping process uses public input to help the RGU decide what impacts and alternatives will be covered by the EIS and the extent of effort and depth of analysis to be devoted to each topic. The process was introduced in the 1980 MEPA amendments; prior to this addition there were no formal procedures mandating scoping for the preparation of a mandatory EIS or an EIS agreed upon by the RGU and proposer.

The [1982 Statement of Need and Reasonableness \(SONAR\)](#) provides background and justification for the subsequent amendment to the rules that added the requirement for an EAW, the most basic and most used environmental review document, to serve as the basis to begin the scoping process for an EIS.

As noted in the SONAR, the scoping process was established as a first step in EIS preparation so that only relevant issues are analyzed in the EIS, providing a shorter, more timely and less expensive document that is more relevant and usable for decision makers. The 1982 SONAR authors noted that the introduction of a similar scoping process in the federal National Environmental Policy Act (NEPA) process demonstrated a reduction in the size and cost of the EIS and increased EIS usefulness. Minnesota's scoping process was modeled after existing scoping processes in the Council of Environmental Quality's NEPA regulations and the State of Massachusetts' environmental review program.

There have been no amendments to the rule requiring the use of the EAW as a scoping document since its addition in 1982.

Legislative directive

Laws of Minnesota 2025, 1st Spec. Sess., Chapter 1, Article 6, Sec. 5, requires that the EQB undertake rulemaking to make changes to the scoping process for mandatory environmental impact statements (those that are being prepared because a project triggers a threshold listed in Minn. R. 4410.4400 or where an "applicable law" requires an EIS). That section reads:

SCOPING ENVIRONMENTAL ASSESSMENT WORKSHEET NOT REQUIRED FOR PROJECTS THAT REQUIRE A MANDATORY ENVIRONMENTAL IMPACT STATEMENT.

(a) The Environmental Quality Board must amend Minnesota Rules, part 4410.2100, as follows:

(1) 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; and

(2) 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.

(b) The board may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

Proposed Rules

The session law eliminated the requirement for a new EAW to be created for scoping an EIS mandated by rule or by law.² The legislation did not eliminate the scoping process required by Minn. Stat. § 116D.04, subd. 5a. Projects are still required to undergo a scoping process but EQB rules must now allow RGUs to provide the information needed for scoping in a document other than an EAW. These mandatory EISs are distinct from projects that proceed to an EIS after the completion of an EAW (discretionary EIS). Discretionary EIS projects, for which an EAW already exists, were not the subject of the legislation.

In drafting the rules, the EQB staff removed the requirement for the scoping EAW for mandatory EIS projects and instead referenced the need to provide a “scoping document,” a term used in the 2025 legislation with regard to the notice deadline. The “scoping document” may be a scoping EAW or another document containing the information necessary for scoping. The legislation did not prohibit the use of an EAW for scoping (using the phrase “does not need” and not “is prohibited” or “must not be used”). The proposed rules continue to allow an EAW to be used for scoping because many RGUs are used to relying on the EAW form (provided by the EQB as described in Minn. R. 4410.1300) as the scoping document and may wish to continue that practice.

The EQB also proposes to include the new 280-day deadline alongside the existing deadlines currently found in the rule.

Proposed rule amendments

Overview

The EQB proposes amendments to fulfill the legislative directive by 1) removing the requirement that an EAW be prepared for scoping an EIS for a project that falls under a mandatory environmental impact statement category or where “other law” requires an EIS, and 2) providing that “a scoping process” be completed no later than 280 days after publication of the notice of availability of “a scoping document” in the *EQB Monitor*.

The legislation directed EQB to make changes to Minn. R. 4410.2100. EQB proposes additional necessary revisions to effectively implement the changes by correcting and conforming references to scoping EAWs that appear throughout the chapter and to make other similar small changes necessary to conform to part 4410.2100 as amended.

For drafting simplicity, EQB adopted a definition of “scoping document” because the legislation refers to a “scoping document” but that is not defined in the rule. These changes fall within the scope of the exempt rulemaking and do not constitute an interpretation of law.

Specific rule changes

Definitions and Purpose

The EQB is proposing to change one definition, to add one definition, and to make minor amendments to the rules describing the purpose of an EAW in order to conform the rules with the legislative directive.

² The legislature has, on occasion, required that certain projects complete an environmental impact statement. For example, in 2025 the legislature mandated, through changes to Minn. Stat. § 216G.025, that carbon dioxide pipeline projects be the subject of an EIS before they are permitted. EQB works to incorporate these into the Minn. R. 4410.4400 mandatory categories, but unless given specific authority or direction for exempt or expedited rulemaking, EQB generally times amendment of its rules to occasions when other changes need to be made to reduce the volume of rulemaking projects.

4410.0200, Subp. 24 – Definition of EAW

The EQB is proposing a change to the definition of an EAW.

Subp. 24. Environmental assessment worksheet. “Environmental assessment worksheet” means a brief document which is designed to set out the basic facts necessary to determine whether an EIS is required for a proposed project ~~or to and may~~ initiate the scoping process for an EIS.

EQB is proposing this change to clarify that an EAW is not always required to initiate the scoping process for an EIS.

4410.0220, Subp. 77a – Definition of Scoping Document

The EQB is proposing to add a definition of a scoping document.

Subp. 77a. Scoping Document. “Scoping document” means a brief document containing information about the proposed project necessary for the EIS scoping decision under part 4410.2100. A scoping document can be an EAW or a different document containing the information necessary for the scoping process.

The legislation used the term “scoping document” regarding the process completion deadline, which is a term used in the existing rule but is not defined. EQB is proposing to add this definition to simplify incorporation of the legislative directive that an EAW or a different document may be used for a scoping process.

4410.1000, Subp. 1 – Purpose of EAW

The EQB is proposing a change to language in the rules describing the purpose of an EAW.

Subpart 1. Purpose of EAW. The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW ~~serves primarily to:~~

- A. ~~aids~~ aids in the determination of whether an EIS is needed for a proposed project; and*
- B. ~~may~~ serve as a basis to begin the scoping process for an EIS*

This change reflects the statutory change making an EAW optional for scoping mandatory EISs. The revised language makes clear that an EAW may, but does not always, serve as the basis for the scoping process.

4410.1000, Subp. 2 – Mandatory EAW categories

The EQB is proposing a change to language in the rule requiring an EAW be prepared for any of the EIS categories listed in 4410.4400.

Subp. 2. Mandatory EAW categories. An EAW shall be prepared for any project that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300 ~~or any of the EIS categories listed in part 4410.4400.~~

This amendment reflects the statutory change making an EAW optional for mandatory EISs.

Scoping Process

The EIS scoping process is laid out primarily in Minn. R. 4410.2100 and this is the rule part that the legislature directed the EQB to change to remove the requirement to prepare a scoping EAW.

Minn. R. 4410.2100, Subpart 1 – Purpose

The purpose of the scoping process has not changed, and EQB is not proposing any changes to this section.

Minn. R. 4410.2100, Subp. 2 – Scoping document

The EQB proposes to change this subpart to reflect that an EAW is not mandatory for scoping, and that a “scoping document” can be used. Some re-numbering of this section was necessary to address the application of the new legislation to EISs mandated by rule or law.

Subp. 2. ~~EAW as Scoping document~~

A. All projects requiring an EIS must have an EAW a scoping document filed with the RGU. The An EAW may serve as a shall be the basis for the scoping process document.

The EQB proposes to delete language at the beginning of the subpart that required an EAW to be prepared as a scoping document, but the rules will still allow an EAW to be used as a scoping document if the RGU chooses to do so. The legislation used the words “does not need to be prepared,” but did not prohibit the use of the scoping EAW.

The EQB proposes to make some additional changes to the existing rule to identify when the alternative scoping document option is available, i.e., for EISs directly mandated by rule or other law. The existing rule has text that is split into two sections – the first part applies to projects that trigger a mandatory EIS category or where a voluntary EIS is planned. This part requires a scoping EAW to be drafted and circulated. The second part describes the use of an EAW to decide whether an EIS is necessary and its use to aid in scoping an EIS if one is ordered by the RGU, i.e., a “discretionary” EIS. As noted in the Statement of Need and Reasonableness for the original rule adoption:

[T]his language was inserted to reemphasize the role of the EAW in relation to the EIS... Subparagraph one notes that, if it is known at the onset that an EIS will be prepared, whether pursuant to mandatory category or voluntarily by the proposer, an EAW must still be prepared. In this situation, however, the EAW functions solely as a scoping document and as a result, the comment period and time for scoping decisions will be abbreviated.

Subparagraph two relates to activities for which it previously has not been determined whether or not an EIS will be prepared. In these situations, the EAW serves first as the basis for deciding the need for an EIS, and secondly (if it is decided that an EIS will be prepared) as the scoping document.

The EQB is proposing to amend this subpart to distinguish between mandatory and voluntary and “discretionary” EISs with regard to the scoping requirement, as mandated by the legislation.

The EQB proposes to create two subitems from the existing language. New Item B will refer to mandatory or voluntary EISs (which did not originate from a decision following the completion of an EAW) and note the need to prepare a scoping document which does not need to be an EAW for mandatory or “by law” EISs as allowed by the new legislation. The scoping document must include or be accompanied with the draft scoping decision document needed to fulfill the requirements of subpart 6.

As this subpart included voluntary EISs, EQB will include the option for a scoping document for both categories. The proposed language reads:

B. For projects which fall within a mandatory EIS category for which an EIS is mandatory under part 4410.2000, subpart 2 or other applicable law or if a voluntary EIS is planned, the EAW will be used solely as a scoping document. For such projects, under part 4410.2000, subp. 3, item B, the RGU shall prepare and circulate with the EAW a scoping document. The scoping document must include or be accompanied by a draft scoping decision document that addresses the contents specified by subpart 6 to the extent that information is already available. The purpose of the draft scoping decision document is to facilitate the delineation of issues and analyses to be contained in the EIS. The information in a draft scoping decision document shall be considered as preliminary and subject to revision based on the entire record of the scoping process.

New Item C will include direction for those projects that are not affected by the new legislation, i.e., those projects for which an EAW will already exist, which are referred to as “discretionary” EISs.

The new subitem will read:

C. If the need for an EIS has ~~not~~ been determined under part 4410.2000, subpart 3, item A, the EAW will have two functions: is the basis for the scoping process and is used

A. to identify the need for preparing an EIS pursuant to part 4410.1700; and

B. to initiate discussion concerning the scope of the EIS if an EIS is ordered pursuant to part 4410.1700.

Minn. R. 4410.2100, Subp. 3 – Scoping period

Minn. R. 4410.2100, subp. 3 specifically prescribes the scoping period applicable to projects that are directly completing an EIS process because the project meets or exceeds a mandatory category EIS threshold in Minn. R. 4410.4400 or when the project proposer and RGU agree that an EIS is needed.

The changes EQB proposes to this part reflect that an EAW is no longer required for scoping and that a “scoping document” may instead be used to provide information about the proposed project. The changes also reflect the inclusion of the deadline directed by the legislature.

Subp. 3. Scoping period. If the EIS is being prepared pursuant to part 4410.2000, subpart 2 or 3, item B, the following schedule applies:

A. The 30-day scoping period will begin when the notice of the availability of the EAW scoping document is published in ~~accord with~~ in the same manner as for an EAW under part 4410.1500, items A and B to C. This notice and press release shall include the time, place, and date of the scoping meeting.

B. The RGU shall provide the opportunity for at least one scoping meeting during the scoping period. This meeting shall be held not less than 15 days after publication of the notice of availability of the EAW scoping document. All meetings shall be open to the public.

C. A final scoping decision shall be issued within 15 days after the close of the 30-day scoping period and, for an EIS being prepared pursuant to part 4410.2000, subpart 2, no later than 280 days after publication of the notice of availability of a scoping document in the EQB Monitor.

The proposed changes to item A add a scoping document as an option and clarify that the scoping document must be made available in the *same manner* as an EAW because scoping documents are no longer required to be EAWs. In addition, EQB is taking this opportunity to correct an existing error in the rules. The requirements for publishing and distributing an EAW in Minn. R. 4410.1500 are described in items A (relating to distribution lists), B (relating to publishing notice in a newspaper and posting on a website), and C (relating to a press release). Given that the last sentence of item A of this part refers to the press release, it is appropriate to add the reference to Minn. R. 4410.1500, item C.

The proposed changes to item B change the word “EAW” to “scoping document” to reflect that not all scoping documents are required to be EAWs.

The changes to item C reflect the legislative direction that, for mandatory EISs, the deadline to complete scoping is 280 days after the publication of the notice of availability of the scoping document.

Minn. R. 4410.2100, Subp. 5 – Procedure for scoping

In this subpart of the rules, EQB is proposing changes to identify that scoping may be done using a scoping document or scoping EAW, reflecting the fact that a scoping EAW is not mandatory.

Subp. 5. Procedure for scoping. Written comments suggesting issues for scoping or commenting on the EAW scoping document must be filed with the RGU during the scoping period. Interested persons may attend the scoping meeting to exercise their right to comment.

Governmental units and other persons shall be responsible for participating in the scoping process within the time limits and in the manner prescribed in parts 4410.0200 to 4410.6500.

Minn. R. 4410.2100, Subps. 4 and 6 to 12

EQB does not find that changes to these subparts are needed.

Other conforming changes

There are other portions of the rule where EQB needs to make minor conforming changes to address the fact that the scoping process will not always require an EAW to be used as a scoping document. The changes in these rule parts are to add language that ensure the rules refer to a “scoping document.”

4410.2800, Subp 1a - Determination of adequacy

This proposed change conforms existing language referring to a “scoping EAW.”

Subp. 1a. Decision by EQB; information needs. If the EQB will be determining the adequacy of the EIS, the RGU shall submit to the EQB the following information within five days of the filing of the final EIS:

- A. evidence of compliance with distribution requirements for the scoping EAW-document, draft EIS, and final EIS;*

4410.3100, Subp 4 – Variance

This proposed change conforms the existing language to ensure that the proposer may apply for a variance following publication of a scoping document prepared for an EIS when an EAW is not being prepared for review of the project or for scoping.

Subp. 4. Variance. Construction may begin on a project if the proposer applies for and is granted a variance from subparts 1 and 2. A variance for certain governmental approvals to be granted prior to completion of the environmental review process may also be requested. A variance may be requested at any time after the commencement of the 30-day review period following the filing of an EAW or a scoping document.

The basic language of the variance process was established in 1982. The SONAR says that the prior rules had, “to a limited degree, provision for a variance within the EIS preparation notice; the current rules did not, however, provide guidance or a set procedure for issuance of a variance.”

The discussion also indicates that the rule “provides a variance procedure to allow limited necessary construction on an activity prior to completion of environmental review. This variance procedure may also cover necessary governmental approvals if such approvals are necessary to allow the construction.” The SONAR also notes that “Most pressure to allow some form of approval or some form of construction is likely to surface during EIS preparation because this is typically a rather long time period.”

Although the variance process has been rarely, if ever, used, the SONAR language makes clear that it was envisioned that the process would be available after the filing of an EAW used for the EIS scoping process. Therefore, this change ensures that a variance may be requested when a scoping document is used in the EIS process.

4410.3610, Subp 5a, item B – Large AUAR procedures

This proposed change recognizes that part 4410.2100, subp. 2 will, once amended, refer only to a scoping document. It does not change any requirements for the large AUAR, since the information must only be comparable to that required under Minn. R. 4410.2100, subp. 2.

A. *Prior to final approval of the order for review pursuant to subpart 3, the RGU must conduct a public process to receive comments about the scope of the review. The RGU shall prepare a draft order for review and distribute and provide notice of its availability in the same manner as for an EAW pursuant to part 4410.1500. The draft order for review must include the information specified in subpart 3 and a description of the specific large project or projects to be included in the review comparable to that of a scoping document EAW pursuant to part 4410.2100, subpart 2.*

4410.6200, Subp 1, item E – Determining EIS cost

This proposed change conforms existing language to refer to a scoping document rather than scoping EAW.

E. the cost of printing and distributing the scoping EAW document and draft scoping decision document, draft EIS and the final EIS and of public notices of the availability of the documents;

4410.6500, Subp 1, item A – Paying EIS cost

This proposed change conforms existing language to refer to a scoping document rather than scoping EAW.

A. The proposer shall pay the RGU for the full cost estimated by the RGU to be necessary for the scoping of the EIS not later than the date of submission by the proposer of the completed data portions of the scoping EAW document or within five days of issuance of a positive declaration. The RGU shall not proceed with the scoping process until this payment is made. Upon issuance of the scoping decision, the RGU shall provide the proposer with a written accounting of the scoping expenditures. If the payment made by the proposer exceeds the expenditures, the balance shall be credited against the cash payments required from the proposer for preparation of the draft EIS. If the RGU's reasonable expenditures for scoping exceed the cash payment received, the proposer shall pay the balance before the RGU commences preparation of the draft EIS.

(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 [date], 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 Court of Administrative Hearings received [X] written comments on the rules.

9. The attached Rule Summary and Justification memorandum, including an addendum responding to comments, describes the rule changes and why the changes are consistent with the Good Cause Exemption rulemaking statute.

10. The EQB made [changes/no changes] to the proposed rules in response to the comments for the reasons described in the attached Rule Summary and Justification memorandum.

11. The rules are needed and reasonable.

ORDER

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

Date

Catherine Neuschler
Executive Director



Memo

Date: February 6, 2026

To: Environmental Quality Board Members

From: Jesse Krzenski, Environmental Review Program Director

RE: Gas production mandatory category considerations

This memo provides an update on the progress of work to develop a mandatory category for gas production. This memo serves to inform board members to support discussion at the meeting on February 18, 2026.

Background

In April of 2025, in response to [legislation](#) enacted in 2024 authorizing a number of state agencies to develop a regulatory framework for a new industry type in Minnesota of gas and oil production, the board approved a [resolution](#) directing staff to begin the rulemaking process to develop mandatory categories of environmental review for gas production projects. Oil production projects will not be included in this rulemaking.

EQB staff have been researching gas extraction and production and coordinating with Tribal and other state agency staff in order to develop a proposed rule for the Board's consideration in April. At this time, staff have developed key concepts for the components of a mandatory category rule and are beginning to home in on the project-related thresholds for which environmental review should be required.

This memo provides an overview of progress to date. It does not represent any final recommendations. Information gathering, evaluation, and vetting are ongoing and any specifics are likely to change as formal rule language is developed for proposal.

Potential environmental impacts

The goal of the mandatory category rules is to ensure that environmental review is conducted for projects that may or do have the potential for significant environmental effects. The mandatory categories require completion of an "environmental assessment worksheet" (EAW) or an "environmental impact statement" (EIS) depending on the project's potential for significant environmental effects.

To develop the mandatory category thresholds, EQB staff have reviewed the potential for environmental impacts from all stages of a gas production project. Based on available information, there are potential environmental impacts at the surface, the subsurface, and to the air as described below:

- **Surface impacts.** Initial development of the project location and ongoing operations may lead to potential environmental impacts to the surface, such as water quality impacts related to clearing land and construction of drilling pads and roads to access extraction sites. Other surface impacts could occur as the result of truck traffic related to construction and shipping, and noise, light, and odor.
- **Subsurface impacts.** The drilling of the wells, the extraction of the gas, and injection of drilling waste (if allowed) have the potential to cause pollution of groundwater. Additionally, depending on the type of operations, there may be potential for impacts to the geology or groundwater in the subsurface due to fracking or other types of enhanced recovery methods.

- **Air impacts.** Extracting and processing gas can lead to air impacts. Gas reservoirs can contain gas components with a variety of gases present such as helium, hydrogen, methane, carbon dioxide, nitrogen. Some of these components may not be desirable to a producer and need to be disposed of, which could include processes such as venting and flaring. Potential air impacts also come from the operating equipment which is often powered by generators that will be running continuously.

The next question for analysis, then, is what project size, activities, or other characteristics are most linked to these potential impacts and can be used to create appropriate thresholds for environmental review – namely setting out which projects are properly first reviewed using an EAW rather than an EIS, and which projects should proceed directly to an EIS.

Mandatory category concept thresholds for gas production

For the ongoing development and analysis of mandatory category concepts and thresholds, EQB have been utilizing the statutory definition of gas production. This definition includes the extraction of gas from the subsurface and the beneficiation of both hydrocarbon and nonhydrocarbon gases. [Minn. Stat. Sec. 93.516](#). This allows staff to consider a gas project as a whole to consist of both the extraction and the processing of the gas after it is extracted.

While a gas discovery and the active work of a single project proposer to move towards production of helium and carbon dioxide was the driving force for the enacted 2024 legislation, the geology of Minnesota is favorable to additional gas extraction and production, specifically geologic hydrogen.

The mandatory category rules need to appropriately require environmental review for the projects we know are coming to Minnesota, and the reality is that there are multiple potential gas production projects of various types. There is potential for project proposals to extract and produce gas in a variety of ways. The rules must be broad enough to encompass future potential projects in a way that ensures the program is properly requiring environmental review for all gas production projects.

EQB staff's research of gas production has resulted in identifying various potential project characteristics that could inform when environmental review needs to be required (i.e. when a project may have potential for significant environmental effects and therefore should be required to complete an EAW or when a project does have the potential for significant environmental effects and therefore should be required to complete an EIS).

Staff have so far focused the evaluation of the characteristics of a gas production project that should trigger environmental review to the following;

1. **Size.** EQB staff are considering a threshold that would require environmental review based on the **number of production wells** to be included as a part of a gas production project. Size is likely the best way to anticipate a project's potential impacts to the environment based on both construction- and operation-related aspects.
 - Staff are currently evaluating information on the likely difference in potential environmental effects from projects with different numbers of production wells. The information available coupled with necessary assumptions requires more discussion and analysis.
 - Staff's current analysis, based on available data regarding a gas production project utilizing a single production well, generally supports not requiring environmental review for the smallest projects. However, the potential impacts increase as project size increases – i.e. as more production wells are developed. This is mainly due to the combined impact of surface disturbance, truck traffic, and air emissions that come with increases in gas production. The currently available information appears to support the need for mandatory environmental review for a project that consists of multiple production wells. Additional information gathering is ongoing to develop a supportable number for proposal.

2. Location. EQB staff are also considering a threshold that would require environmental review if a gas production project is **located within or is intending to extract gas from underneath certain sensitive or natural areas** within the state, or near areas where the environmental effects could pose increased opportunities of impacts to **traditional cultural properties**.

A gas production project could be located across a wide area of the state, but there are certain areas of the state that should require analysis prior to permitting to best understand those potential impacts due to their environmental sensitivity.

- Staff are working with the DNR, which has the authority to regulate gas production projects and is also currently developing rules to create that regulatory program. DNR is looking at identifying areas where gas production may be restricted or prohibited. While specific environmental review thresholds would not be developed for areas where gas production is prohibited, staff are continuing to evaluate whether specific thresholds are needed in areas where gas production projects or operations might be limited, due to the unique or sensitive environmental features of the location.
- Staff are also currently evaluating if an EAW should be required for any gas production activities taking place near Tribal reservations and communities.

3. Project-specific characteristics. EQB staff are also considering a threshold that would require environmental review based on whether the gas production project would include **injection** of substances in the subsurface in order to create a gas to eventually extract, enhance the recovery of the gas, or for waste disposal. Projects that involve these techniques pose special concerns due to the potential subsurface impacts, such as to groundwater and drinking water.

- Staff are currently evaluating if an EAW should be required for any gas production project that proposes to dispose of project-related waste via underground injection.
- Staff are currently evaluating if an EIS should be required for any gas production project proposed to utilize high volume hydraulic fracturing (HVHF), a technique that uses large volumes of water during well completion to enhance resource recovery.
- Staff are currently evaluating if an EIS should be required for any gas production project proposing to generate a gas in the subsurface via a reaction with any substance injected underground. Current analysis indicates the potential impacts of these types of projects may be different from a typical gas production project. EQB staff are evaluating if the unique aspects of these types of projects present an increased potential for impacts to the subsurface.

Additionally, staff have identified the Department of Natural Resources (DNR) as the likely RGU for gas production projects. The DNR is the appropriate choice for serving as the RGU as this governmental unit has the greatest responsibility for supervising or approving a gas production project as a whole.

Data centers and environmental review

Frequently asked questions for large or hyperscale projects

Note: Guidance is provided to assist in the implementation of the environmental review process; it is not a substitute for the rules and does not alter the rules or change their meaning. If any inconsistencies arise between guidance provided and the rules, the rules take precedence. In addition, each responsible government unit (RGU) has discretion in implementing the rules. These FAQs presume a certain level of familiarity with Minnesota's environmental review program.

Q: Does a data center need to go through environmental review (ER)?

Projects that may have the potential for significant environmental effects need to go through environmental review. The mandatory categories in [Minn. R. 4410.4300](#) and [Minn. R. 4410.4400](#) establish certain types and sizes of projects that are required to go through review. In addition, Minnesota's Energy Infrastructure Permitting Act ([Minn. Stat. 216I](#)) requires environmental review as part of the Public Utilities Commission's process of issuing a site or route permit for certain energy infrastructure projects.

Characteristics of the project – including its nature, size, location, and other factors that impact its potential for significant environmental effects – are important to consider in determining if environmental review is needed. Project proposers should also review all the mandatory category thresholds to determine what might apply.

Data center project characteristics that are likely to be particularly important to the applicability of the mandatory categories that have state agency responsible governmental units (RGUs) include (but are not limited to):

- On-site electric generation or construction of electric-generating facilities (PUC and MPCA)
- On-site energy storage (PUC)
- Storage of hazardous materials or hazardous waste (MPCA)
- Storage facilities (MPCA)
- Air pollution (MPCA)
- Wastewater permits (MPCA)
- Water appropriation (DNR)

Data center project characteristics that are likely to be particularly important to the applicability of the mandatory categories for local government RGUs include:

- Gross floor space
- Land use conversion
- On-site electric generation, on-site energy storage, or construction of smaller electric-generating facilities (if these facilities use the local review option in Minn. Stat. 216I)

RGUs may order – or project proposers may initiate – a discretionary EAW under [Minn. R. 4410.1000](#), Subp. 3. A discretionary EIS may be conducted by agreement under [Minn. R. 4410.2000](#), Subp. 3, item B.

Q. How is a “project” defined for the purpose of ER?

As defined in [Minn. R. 4410.0200](#), “Project” means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.”

A foundational principle of Minnesota’s environmental review process is that a project must be reviewed as a whole, and there is a prohibition on construction and government decisions until environmental review is complete.

In understanding the scope of a project, it is also important to consider the rules around connected and phased actions ([Minn. R. 4410.1000](#) and [Minn R. 4410.2000, subp. 4](#)). Under those rules, “Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total.”

Q: What if a data center has been included in an alternative urban areawide review (AUAR) process conducted by a local government?

Minnesota’s environmental review program includes a specific process called the alternative urban areawide review (AUAR), which is done by a local government. In that process, a local government typically describes and evaluates multiple development scenarios within a specific geographic area that align with their comprehensive plan. The requirements for an AUAR are laid out in [Minn. R. 4410.3610](#).

Specific projects may then develop within the area evaluated by the AUAR, such as plans for a residential development of a certain number of units, a warehouse of a specific number of square feet, etc.

As information on specific projects becomes known, the mandatory category thresholds should be reviewed to determine if additional environmental review is needed. A completed AUAR can fulfill the environmental review requirements for some subsequent projects that are consistent with the development scenarios.

If additional environmental review is required, the RGU may, at their discretion, use information generated in the AUAR to inform that review.

AUAR applicability

The AUAR can only fulfill the requirements for environmental review for commercial, residential, light industrial, or warehousing projects.¹ If a proposed data center (or any other project) exceeds a threshold in any other mandatory category,² including a requirement for review under Minn. Stat. 216I, an AUAR is not an applicable form of environmental review. The project must go through the appropriate review process. This helps ensure that appropriate information on the nature and location of the potential environmental effects is available to support required permits.

¹ As defined in Minn. R. 4410.0200. In that rule part, “Light industrial facility” means a subcategory of industrial land use with a primary function other than manufacturing and less than 500 employees.”

² As defined in Minn R. 4410.3610, subp.1, “The procedures of this part may not be used to review any project meeting the requirements for a mandatory EAW in part 4410.4300, subparts 2 to 13, 15 to 17, 18, item C, D, or E, or 24, or a mandatory EIS in part 4410.4400, subparts 2 to 10, 12, 13, or 25.”

AUAR validity

In addition, the AUAR is only valid as a substitute form of review for specific projects that are consistent with the assumptions made in the review and consistent with the mitigation plan (See Minn. R. 4410.3610, Subps. 5 and 7). For example, if a commercial project is proposed that would have significant water use that wasn't considered in the AUAR, the AUAR may not be valid for that project – because the AUAR didn't consider, and therefore underestimated, an important environmental effect. Even if the water use or appropriations do not exceed a mandatory category threshold, and therefore an AUAR is still applicable, there may need to be additional review, such as an update to the AUAR.

Q: What happens once an RGU has determined review is required?

Project proposers should work with appropriate RGUs to identify when their project needs, or is likely to need, environmental review. Early information sharing and discussion with the appropriate RGU is helpful. Key information needed is likely to include the boundaries of the project, how it is designed and capable of operating, expansions that are planned or reasonably likely to occur, and the nature and location of the potential environmental effects.

When a project is determined to need environmental review – based on the specifics of the physical activity to be undertaken – other requirements kick in. These include a prohibition on governmental approvals that is applicable to all governmental units and a prohibition on construction activities until the review is completed.³ Different RGUs will have different processes, which may include screening forms, pre-submittal meetings, or other information requirements. Some state agency RGUs may review permit applications submitted to the agency to identify if environmental review is needed and if any review has already been completed.

Q: How is nonpublic data handled during environmental review?

RGUs completing environmental review need to have sufficient information about the proposed project to be able to understand and evaluate the nature and location of the potential environmental effects. Project proposers must supply any data reasonably requested by the RGU,⁴ and the RGU must consider impacts from reasonably expected or planned projects.⁵

Government data is governed by the Minnesota Government Data Practices Act (MGDPA, [Minn. Stat., ch. 13](#)); the MGDPA presumes that all governmental data are public unless there is a federal law, state statute, or temporary classification that classifies the data as not public. Not public data can be used to inform an environmental review, as it is available to the RGU during the development of the review. However, not public data would not be included in final environmental review documents.

³ Minn R. 4410.3100 generally prohibits a RGU from making a final decision on a project until the environmental review process is complete (e.g., petition dismissed, negative declaration on need for EIS, EIS adequate, or a variance is granted). Minn R. 4410.3610 subp. 2(B) applies the prohibition to the AUAR, stating “these prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation”

⁴ As stated in Minn R. 4410.0400 subp. 3 “When environmental review documents are required on a project, the proposer of the project and any other person shall supply any data reasonably requested by the RGU which the proposer has in his or her possession or to which the proposer has reasonable access.”

⁵ EAW content must include identification of cumulative potential effects. See, e.g., Minn. R. 4410.1200, subp. E.; Minn. R. 4410.1700, subp. 7(B); Minn. R. 4410.3610, subps. 4, 5. Cumulative potential effects is defined in Minn R. 4410.0200 subp. 11a as “ ‘Cumulative potential effects’ means the effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid”

A project proposer may be required to provide not public data as a part of a request from an RGU. If the project proposer has concerns that the data may be not public, the project proposer can contact the RGU in advance to discuss how that data may be classified. The Department of Administration's [Data Practices Office](#) provides assistance and advice on data practices to the public and government.

Best practices

- Reach out to Minnesota Business First Stop (MBFS), led by the Department of Employment and Economic Development (DEED), and connect with the data center coordination team for assistance navigating state regulatory and permitting processes. Email: firststop@state.mn.us.
 - MBFS helps businesses navigate permitting and regulations, provides expert guidance, and supports complex location and expansion projects by working closely with business leaders and their consultants.
- If a project could need environmental review, reaching out to the EQB and any other relevant agency (i.e. one with an applicable permit or approval) early is recommended.
 - Be ready to provide sufficient information to help determine whether environmental review is needed.
 - Coordinate early and often for review and/or permitting with state agencies, such as the Minnesota Pollution Control Agency (MPCA), Department of Natural Resources (DNR), and Public Utilities Commission (PUC).
- If a project utilizes a water-cooled system, DNR strongly encourages early coordination prior to final site selection.
 - In addition, [Minn. Stat. 103G.265](#) now includes a preapplication evaluation process for some data centers.

From: Lyssa Lynn [REDACTED]

Sent: Tuesday, January 27, 2026 3:05 PM

To: Owatonna East Side Corridor <owatonnaeastsidecorridor@gmail.com>; Neuschler, Catherine (She/Her/Hers) (EQB) <catherine.neuschler@state.mn.us>; Env Review (EQB) <Env.Review@state.mn.us>; eqb.assistance@state.mn.us

Subject: Notice of Procedural Concerns Regarding East Side Corridor EAW Record

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Dear Members of the Environmental Quality Board,

I am writing to formally place several procedural concerns into the record regarding the Environmental Assessment Worksheet (EAW) for the East Side Corridor project in Steele County.

As reflected in the published responses to public comments, new factual assertions and project characteristics were introduced that were not evaluated in the EAW or made available for public review. These include, but are not limited to, changes in operating speed assumptions, mitigation descriptions, and cost and scope elements. In addition, avoidance and minimization measures were not analyzed or disclosed during the EAW process, despite being raised repeatedly in substantive public comments.

Because this information was not included in the EAW itself, the public did not have an opportunity to review or comment on these matters prior to the close of the comment period. Proceeding to an environmental determination based on information introduced only in responses raises concerns regarding record completeness, meaningful public participation, and the adequacy of the environmental review under MEPA.

For reference, I have attached a sort document providing just a small number of illustrative examples. This attachment is not exhaustive and is included solely to demonstrate the type of information and assumptions that appear to have been introduced after the close of the EAW comment period.

This correspondence is not intended to debate project merits. Rather, it is submitted to ensure that the Environmental Quality Board is aware of potential procedural deficiencies in the EAW record that may affect the defensibility and integrity of the environmental review process.

I have informed Steele County of such examples prior to their vote this evening as well.

Thank you for your attention to this matter.

Respectfully,

Melissa Zimmerman