

October 2024 Environmental Quality Board meeting

Wednesday, October 16 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](#)
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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.

Oral public comment

In this meeting, the board will accept oral public comment at multiple points in the agenda.

Procedure and guidelines for giving oral public comment:

- If you wish to speak:
 - 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.
- Your remarks will be limited to two (2) minutes. When necessary, the chairperson may limit commenters’ time for remarks to ensure there is equal opportunity for the public to comment.
- When the chairperson calls on you to speak:
 - Introduce yourself before beginning your comment.
 - Please keep your remarks to those facts which are relevant and specific, as determined by the chairperson, to the agenda item at hand.
 - Please be respectful of board members, staff, and other meeting participants. Avoid questioning motives. The chair, vice-chair, or other presiding officer will not tolerate personal attacks.
 - Please note that the chair will use their discretion for directing public comment to ensure the board’s ability to effectively conduct business.

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 online, and attach them to the public record. Any written comments received after this deadline will be included in the next meeting packet.

All comments will be made available to the public. 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 August 21, 2024, Environmental Quality Board meeting on packet page 5
- Preliminary agenda for the October 16, 2024, Environmental Quality Board meeting

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

Catherine Neuschler – Executive Director, EQB

4. Gas and oil production recommendations (1:20 pm)

Type of item: Informational

Summary: In 2024, the Minnesota Legislature directed the state agencies to develop a regulatory framework for the exploration and production of nonpetroleum gas and to make rules, as needed. DNR will provide information on the legislation that created the Gas and Oil Resources Technical Advisory Committee (GTAC) and tasked the group with writing recommendations to allow for temporary permitting of oil and gas projects in Minnesota, prior to the completion of any rulemaking to establish a permanent regulatory framework.

The presentation will provide an overview of the group’s work to date and next steps, which are anticipated to include a release of draft recommendations with an opportunity for public input. EQB staff will provide information on their preliminary recommendations for environmental review of oil and gas projects as part of the temporary regulatory framework. The Board will have an opportunity to ask questions and make suggestions about those environmental review recommendations.

Outcome: Board members will be informed of the progress of the GTAC and EQB specific recommendations regarding oil and gas projects.

Presenters: Jesse Krzenski – Environmental Review Program Administrator, EQB; Mike Liljegen – Assistant Director Mine Permitting and Coordination, DNR

5. Update on the regulatory framework for agriculturally-related genetically engineered organisms in Minnesota (1:40 pm)

Type of item: Decision

Summary: Minnesota has laws and regulations applicable to the release of certain genetically engineered organisms (GEOs) within the state. Minn. Stat. 116C.91 through 116C.97 give EQB regulatory authority over such releases, and EQB has related rules (Minn. R., chapter 4420, and Minn. R. 4410.8000) to implement these authorities.

The statutes and rules direct EQB to work cooperatively to reduce duplication amongst the various state and federal regulatory and review programs regarding GEOs, as long as public health and the environment are protected. They allow EQB to provide for alternative oversight; to authorize other state agencies with permit programs to oversee regulation of GEOs; or to defer to existing federal programs.

Most GEOs that are developed and released are agriculturally-related organisms. In 1991, the Minnesota Legislature gave the Minnesota Department of Agriculture (MDA) the authority to permit ag-related GEOs; MDA's authorities are listed in Minn. Stat., chapter 18F. Subsequently, MDA promulgated related rules (Minn. R., chapter 1558). Once the rules were promulgated, MDA requested that the Board determine that MDA's process represented a "significant environmental permit" and authorize MDA to administer the regulatory program for the release of ag-related GEOs. On October 31, 1995, the Board approved that finding and its approval was published in the EQB Monitor. MDA has continued to oversee ag-related GEOs.

Over the years, MDA has worked with the federal Coordinated Framework for the Regulation of Biotechnology (Coordinated Framework), which includes the United States Department of Agriculture (USDA), the Environmental Protection Agency (EPA), and the United States Food and Drug Administration (FDA).

In 2023, the Minnesota Legislature updated Minn. Stat. 18F to remove redundancies and allow MDA to rely on the federal Coordinated Framework for permitting and exempting ag-related GEOs. MDA is therefore requesting that the Board approve the federal program as adequate to protect human health and the environment from ag-related GEOs, allowing for an exemption from EQB's authorities as specified in Minn. Stat. 116C.97. A memo is on page 10 of the packet.

Public comment: The board welcomes oral public comment on the ag-related GEO decision. Please see guidance and procedures on packet page 2.

Outcome: The board determines that the federal oversight, provided by the Coordinated Framework for the Regulation of Biotechnology, is adequately protective and therefore, for ag-related GEOs that have a federal permit, there is no need for state permit. The board approves this by adopting the resolution (packet page 16).

Presenters: Rebeca Gutierrez-Moreno – State Pollinator Coordinator, EQB; Michael Merriman – Seed and Biotechnology Unit Supervisor, MDA; Mark Abrahamson – Division Director and State Plant Regulatory Official, Plant Protection Division, MDA; Janice Strachan – Branch Chief of the Plant Evaluation Branch, USDA-APHIS

Break (2:20 pm / 5 minutes)

6. Draft Mandatory Category Report discussion (2:25 pm)

Type of item: Informational

Summary: EQB staff will walk through the draft 2024 Mandatory Category Report. Staff will share the report goals, writing process, and next steps. Mandatory categories are categories of project types that require environmental review. The purpose of the Mandatory Category Report is to conduct a review of all mandatory categories and discuss any recommended changes.

The Environmental Review Implementation Subcommittee (ERIS) discussed the report at their September meeting. Based on that discussion, EQB has updated the executive summary of the report and provided an additional memo (in this board packet only) with all public comments listed for board members to view. There were also slight phrasing changes made to the draft report in the solid waste and air pollution categories. These changes do not substantially impact the recommendations.

The report is due to the Legislature December 1, 2024. The Board will have an opportunity to discuss the draft, ask questions, and provide insights. The draft report is on page 107 of the packet.

Public comment: The board welcomes oral public comment on the draft Mandatory Category Report. Please see guidance and procedures on packet page 2.

Outcome: The board discusses the first draft; hears public comment; and provides direction to staff for any recommended changes prior to board vote on this item in November.

Presenter: Kayla Walsh – Environmental Review Program Administrator, EQB

7. Public comment (3:50 pm)

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

8. Closing and adjournment (4:00 pm)

August 2024 Environmental Quality Board meeting

Wednesday, August 21, 2024 | 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: Peter Bakken, Joseph Bauerkemper, Ed Brands, Nancy Daubenberger, Tamar Gronvall, Rylee Hince, Todd Holman, Daniel Katzenberger, Katrina Kessler, Nicholas Martin, Paul Nelson, Thom Petersen, Angie Smith, Sarah Strommen

Members excused: Grace Arnold, Brooke Cunningham, Matt Varilek, Charles Zelle

Proxies present: Kevin McKinnon (for Varilek), Susan Vento (for Zelle)

EQB staff present: Catherine Neuschler, Stephanie Aho, Rebeca Gutierrez-Moreno, Colleen Hetzel, Hazel Houle, Jesse Krzenski, Sarah Lerohl, Priscilla Villa-Watt

Approval of consent agenda

- Meeting minutes from July 17, 2024, Environmental Quality Board meeting
- Proposed agenda for August 21, 2024, Environmental Quality Board meeting

Motion: Board Member Petersen moved the consent agenda; Board Member Holman seconded. Motion carries with a unanimous vote.

2. Executive Director's report

Catherine Neuschler – Executive Director, EQB

- Events
 - Minnesota State Fair – EQB staff preparing. Special events on August 29 – Pollinator Day and the Eco Experience
 - Minneapolis Monarch Festival – Sept 7, EQB staff will be a vendor and doing engagement

- Environmental Congress – Staff are continuing to work out and confirm the logistics for the meetings that will be held across four early evenings the week of September 23

3. Emerald Ash Borer – Agency and partner work update

Presenters:

Rebeca Gutierrez-Moreno – State Pollinator Coordinator, EQB
 Mark Abrahamson – Division Director and State Plant Regulatory Official, MDA
 Valerie McClannahan – Cooperative Forest Management Assistant Supervisor, DNR
 Tim Farnan – Planning and Assistance Supervisor, MPCA

Guest speakers:

Hannibal Hayes – City forester, City of Minnetonka
 Karen Zumach – Director of Community Forestry, Tree Trust
 Ken Smith – Senior Advisor, Ever-Green Energy

Type of item: Informational

Summary: Emerald ash borer (EAB) is a small beetle native to eastern Asia. The larvae feeds on the structures that move nutrients up and down ash trees, killing the tree within one to three years of infestation. In the United States, EAB was first detected in Michigan in 2002, and since then has spread to 36 states, including Minnesota. EAB poses a threat to the nearly one billion ash trees in Minnesota's forestland and urban landscapes. It is projected that nearly all ash species native to our state will be eradicated by EAB if no action is taken to protect them.

EQB convened an interagency team to address EAB. The team has developed recommendations for action against EAB and is working to implement strategies to: slow the spread of EAB; support communities; transition ash forests; manage ash wood materials; and lead, engage, and collaborate around this issue.

The EAB interagency team, collaborators, and partners spoke to the board about challenges in addressing EAB, progress made, and further opportunities for action.

Discussion:

- Leaving spars of the dead trees instead of full removal could provide a wildlife habitat, but safety and esthetics need to be considered. Could also strip the bark but it's work-intensive.
- Issues around disposal of wood waste. There are not enough disposal locations currently available.
- There are regulations about disposal and movement of wood waste, however some of the smaller, less established companies are difficult to regulate.
- The sheer volume and spread of EAB is very different compared to Dutch elm disease and is much more difficult to manage.
- Biochar has potential for wood waste, but it's an emerging market and not yet fully established.
- High cost of tree removal for homeowners is important to consider.
- It's important to invest money in multiple facets of EAB prevention and treatment, as well as coordination of local, state, and federal agencies.

- Agencies are working on gathering data to further understand the scope of the EAB issues and challenges.

Outcome: The board was updated on the current status of actions to respond to EAB in Minnesota and continues to support statewide efforts, and understands the further resources and support needed to continue to respond to EAB. EQB will help the different executive agencies coordinate, collaborate, and communicate on a regular basis. Future updates can be provided to the Board.

4. Office of Enterprise Sustainability Report

Presenter: Marcus Grubbs – Director, Office of Enterprise Sustainability, Department of Administration

Type of item: Informational

Summary: Executive Order 19-27 directs Minnesota’s state government to “make efficient use of water and energy, reduce greenhouse gas emissions, and ensure that goods and services procured by the government are sustainable”. The Office of Enterprise Sustainability is required to publish an annual report that is shared with the public and presented to the EQB. Sustainability metrics can be found at <https://sustainability.mn.gov/>.

Outcome: The Board was informed and the requirements of the EO were met.

5. Environmental Congress update

Presenter: Priscilla Villa-Watt – Communications and Engagement Coordinator, EQB

Type of item: Informational

Summary: Staff shared more details on the agendas, intended outcomes, Board member roles, and timeline for announcements and registration.

Outcome: The Board was informed on plans and the timeline for the 2024 Environmental Congress.

6. FY25 Workplan

Presenter: Catherine Neuschler – Executive Director, EQB

Type of item: Decision

Summary: The Executive Director presented the proposed organizational workplan for FY25.

Discussion:

- It’s important to remain flexible and reorganize and reprioritize the workplan if other items should arise, e.g. legislative directives.

Public comment: There were no comments

Motion: Board Member Nelson moved to approve the FY25 workplan. Board Member Brands seconded.

In favor: Bauerkemper, Brands, Daubenberger, Hince, Holman, Katzenberger, Martin, Nelson, Petersen, Smith, Strommen. Opposed: none. Excused: Arnold, Bakken, Cunningham, Gronvall, Kessler, Varilek

Outcome: The Board reviewed and approved the organizational workplan and approved authority to implement it. EQB staff will continue to work on a timeline with the technical representatives.

7. Public Comment

There were no comments.

8. Closing and adjournment

Board Member Petersen motioned to adjourn. Board Member Smith seconded. All in favor; meeting adjourned.

DRAFT

Memo

Date: October 4, 2024

To: EQB Members

From: Rebeca Gutierrez-Moreno, PhD - EQB State Pollinator Coordinator

RE: Regulatory framework for agriculturally-related genetically engineered organisms

Minnesota has laws and regulations applicable to the release of certain kinds of genetically engineered organisms (GEOs) within the state. EQB is designated as the state's coordinating agency for these releases and is given several related authorities in statute and rule. EQB has the authority to review and regulate the releases of GEOs, including conducting environmental review and issuing permits for the release of such organisms.

General regulatory framework

Minn. Stat. 116C.91 through Minn. Stat. 116C.98: 1) require a permit for the release of genetically engineered organisms into the environment; 2) require an environmental assessment worksheet (EAW) for all such releases in Minnesota; and 3) direct the board to adopt rules to give effect to these requirements. The rules related to permitting releases of GEOs where necessary are codified in Minn. R., chapter 4420; the EAW requirements for the release of GEOs are included Minn. R., chapter 4410.¹

The statutes and rules direct EQB to coordinate work to reduce duplication amongst the various state and federal regulatory and review programs regarding GEOs, as long as public health and the environment are protected. They allow EQB to provide for alternative regulatory oversight; to authorize other state agencies with permit programs to oversee regulation of GEOs; or to defer to existing federal programs.

Authorizing another state agency or federal program

The statutes specifically contemplate that a state agency other than EQB might have a permit that can appropriately regulate the release of GEOs. Minn. Stat. 116C.94 directed the Board to make rules to implement its GEO authorities and required the rules to provide that the Board can authorize an agency with a "significant environmental permit" to administer the regulatory authority for certain GEOs.²

EQB implemented this directive through Minn. R. 4420.0075, subp. 4, which sets out the process for the Board to determine that another agency's GEO release permit is a "significant environmental permit" and that releases subject to such permits are exempt from an EQB permit. Such a finding essentially transfers the regulatory oversight of that certain GEO to the other agency.

¹ Information on this topic was provided to the Board in May 2023.

² Minn. Stat. 116C.91, Subd. 7 defines a significant environmental permit as "permit issued by a state agency with the authority to deny, modify, revoke, or place conditions on the permit in compliance with the requirements of sections 116C.91 to 116C.96, chapter 116D, and the rules adopted under them."

The statutes also specifically contemplate that a federal regulatory program might be sufficient to appropriately regulate the release of certain GEOs. Under Minn. Stat. 116C.97, subd. 2, the Board may determine “that a federal program exists for regulating the release of certain genetically engineered organisms and the federal oversight under the program is adequate to protect human health or the environment.” If the Board makes such a determination, the relevant GEOs may be released “after obtaining the necessary federal approval and without obtaining a state release permit or a significant environmental permit or complying with the other requirements of sections 116C.91 to 116C.96 and the rules of the board adopted pursuant to section 116C.94.”

Framework for agriculturally-related GEOs

All GEOs released in Minnesota to date have been agriculturally-related (ag-related), including plants (such as corn or soybeans genetically engineered to express certain pesticides or be resistant to herbicides), fertilizers, pesticides, and plant and soil amendments.

In 1991, the Minnesota Legislature gave the Minnesota Department of Agriculture (MDA) the authority to permit ag-related GEOs; MDA’s authorities are listed in Minn. Stat., chapter 18F.³ Subsequently, MDA promulgated related rules (Minn. R., chapter 1558). Once the rules were in place, MDA requested that the Board determine that MDA’s process represented a “significant environmental permit” and authorize MDA to administer the regulatory program for the release of ag-related GEOs. On October 31, 1995, the Board approved that finding and its approval was published in the EQB Monitor. The approval states that “this action means that a release permit from the EQB is not required for a proposed release of genetically engineered ag-related organisms. These releases will be regulated by the Department of Agriculture.” MDA has continued to oversee ag-related GEOs.

Updates to the regulatory framework for ag-related GEOs

Over the years, MDA has worked closely with the federal government through the Federal Coordinated Framework for the Regulation of Biotechnology (the Coordinated Framework) to regulate the release of ag-related GEOs in Minnesota.⁴ The federal framework coordinates multiple federal agencies to protect human health and the environment through a risk-based approach for the regulation of biotechnology.

Working with the federal agencies, MDA is able to review federal permit applications for releases of ag-related GEOs in Minnesota and take actions ranging from recommending additional release conditions or requirements to suggesting the federal agency in charge does not issue the permit. Working with the Coordinated Framework has helped avoid unnecessary duplication and allowed MDA to optimize their capacity.

In 2023 the Legislature updated Minn. Stat., chapter 18F to remove redundancies and allow MDA to rely on the Coordinated Framework for permitting and exempting ag-related GEOs. The changes to this statute generally render Minn. R. 1558 obsolete. However, MDA previously relied on these rules as the basis of their “significant environmental permit” to administer the regulatory oversight for GEOs under Minn. Stat. 116C.

³ According to Minn. Stat. 18F.02, agriculturally related organism “means any organism that is used in agricultural production or processing of agricultural products. It includes livestock and livestock products; dairy animals and dairy products; poultry and poultry products; domestic fur-bearing animals; animal feeds; horticultural stock; nursery stock, as defined in section 18G.02, subdivision 17; fruit; vegetables; forage grain; wild rice; seeds; bees; apiary products; and products for the control or mitigation of noxious weeds. It excludes vaccines and drugs for use in humans; genetic engineering of human germ cells and human somatic cells intended for use in human gene therapy; vaccines for use in livestock, dairy animals, poultry, domestic fur-bearing animals, or private aquatic life; genetically engineered wild animals; and forestry products.”

⁴ Agencies participating in the Federal Coordinated Framework include the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA), the Environmental Protection Agency (EPA), and the United States Food and Drug Administration (FDA).

MDA is therefore requesting that the Board approve the program under the Coordinated Framework as adequate to protect human health and the environment from ag-related GEOs, allowing for an exemption from EQB's authorities as specified in Minn. Stat. 116C.97.⁵

Under these changes, ag-related GEO releases in Minnesota will require a federal release permit from the USDA or EPA, unless the organism is exempt from regulation by the applicable agency under the Coordinated Framework. MDA's commissioner may accept a USDA or EPA permit or may review a USDA or an EPA permit and add additional requirements to ensure that the proposed release of an ag-related GEO would not create a hazard to the agricultural, forest, or horticultural interests of this state or the state's general environmental quality.

Staff recommendation

EQB staff have worked with MDA to develop Table 1, which provides a comparison of the ag-related GEO regulations provided by the Coordinated Framework and MDA's regulatory process before and after changes to Minn. Stat., Chapter 18F.

As the stated goal of the EQB's GEO-related statute and rules is to avoid duplication, and based on the review of the Coordinated Framework, the EQB staff recommendation is that the Board make a determination under Minn. Stat. 116C.97, Subd 2, that the oversight of agriculturally-related GEOs under the Coordinated Framework is adequate to protect human health and the environment. Therefore, any person may release such organisms after obtaining the necessary federal approval. MDA would remain the lead state agency responsible for working with Coordinated Framework for agriculturally-related GEOs, as described in Minn. Stat. 18F.

⁵ Note that this exemption does not cover organisms for which 116C.91 to 116C.96 requires an environmental impact statement; Minn. Stat. 116C.94, Subd 1(b) requires an EIS for genetically engineered wild rice.

Table 1. Comparison between the Federal Coordinated Framework for the Regulation of Biotechnology and Minnesota's regulatory framework for ag-related GEOs

	Federal Coordinated Framework for the Regulation of Biotechnology	Minnesota ag-related GEO regulatory framework
Agencies involved	USDA-APHIS, EPA, FDA	EQB, MDA
Laws, statutes, rules involved	Plant Protection Act (PPA) Code of Federal Regulations Title 7, Subtitle B, Chapter III, Part 330, 340, and 372	EQB: Minn. S. 116C.91-97, Minn. R. 4420, 4410.4300, 4410.8000 MDA: Minn. S. 18F, Minn. R. 1558 (to be repealed)
Regulatory process	<p>Regulation of agricultural biotechnology</p> <ul style="list-style-type: none"> EPA regulates GE plant pesticides. FDA regulates agricultural products for their safety to human and animal consumption. USDA-APHIS regulates the importation, interstate movement, and environmental release (including field testing) of GE plants and organisms that may pose a plant-pest risk. <p>USDA-APHIS' PPA regulations for GE organisms define regulated articles (i.e. the organisms subject to these PPA regulations; most are plants), processes to determine whether they are regulated, and how APHIS regulates them.</p> <p>Three processes:</p> <ol style="list-style-type: none"> Regulatory exemption - for certain genetic modifications that amount to the same change to the genome as could be achieved in conventional breeding or that represent a previously reviewed plant, trait, and mechanism of action. Regulatory status review for GE plants - two step process that starts with a description of the plant and the genetic modification and a determination of whether there are plausible pathways to increased plant risk (a risk hypothesis). If no risk is found, the plant is not subject to regulation, but if risk is found, this triggers a plant pest risk assessment to determine whether increased risk is unlikely to occur. This process considers both changes to environmental exposure and the adverse consequences associated with the plant. Permits for confined environmental release, interstate movement, or import - determine whether the release will be confined to the approved site and the GE material will be removed once the permitted release is over. Also considers whether the proposed site may impact threatened and endangered species. <p>Further analysis under NEPA might be done for plants and traits where the Biotechnology Regulatory Services from APHIS is not familiar with the organism or change.</p>	<p>MDA permitting process, Minn. R. 1558 (to be repealed):</p> <ol style="list-style-type: none"> Releases requiring permits. Release permits, including EAWs prepared by the commissioner, are required from the commissioner for all releases of ag-related GEOs except those exempted in Minn. R. 1558 subp. 13, or those regulated under Minn. R. 1558.0060, 1558.0070, or 1558.0080. Permit exemption (Minn. R. 1558.0060) – release under notification procedure for certain genetically engineered plants. Applicable for corn, soybeans, cotton, tobacco, tomato, potato and other plants designated by the commissioner, provided that they meet all the eligibility criteria in part 1558.0060, subpart 1, and the performance standards in part 1558.0060, subpart 2. Commercial use exemption (Minn. R. 1558.0070). Ag-related GEOS that have passed the USDA procedure of delisting by petition, or similar procedures of the USDA or other federal regulatory agencies, may be considered for a commercial use exemption in Minnesota if they meet the guidelines and procedures in part 1558.0070. Uses not requiring a release permit, notification, or commercial use exemption: <ol style="list-style-type: none"> Containment facilities Facility exemption Movement of GEOs

<p>Factors to determine if a project has the potential for significant environmental effects</p>	<p>When USDA-APHIS receives a request for a regulatory status review of a GE plant, they conduct an initial review to determine whether there is a plausible pathway by which the GE plant, or any sexually compatible relatives that can acquire the engineered trait from the GE plant, would pose an increased risk relative to the plant pest risk posed by the respective non-GE or other appropriate comparator(s), based on the following factors:</p> <ul style="list-style-type: none"> • The biology of the comparator plant(s) and its sexually compatible relatives; • The trait and mechanism-of-action of the modification(s); and • The effect of the trait and mechanism-of-action on: <ul style="list-style-type: none"> a. the distribution, density, or development of the plant and its sexually compatible relatives; b. the production, creation, or enhancement of a plant pest or a reservoir for a plant pest; c. harm to non-target organisms beneficial to agriculture; and d. the weedy impacts of the plant and its sexually compatible relatives. 	<p>Minn. R. 1558. 0030 (to be repealed)</p> <p>Subp. 1. Considerations</p> <p>A. The familiarity and predictability of the ecologically relevant biological properties of the introduced DNA, the vector if one exists, the recipient, and the engineered organisms;</p> <p>B. The history of previous environmental releases, evidence from laboratory studies, or other uses of GEOs;</p> <p>C. the potential for the GEO to cause any adverse effects on humans or the environment, such as:</p> <ol style="list-style-type: none"> 1. whether the organism is native, currently found in the area, or nonnative to the release area; 2. whether the GEO is pathogenic to target or nontarget organisms and to what extent this trait has been changed from the nontransgenic parents; 3. the extent of the changes to the GEO's competitiveness and survivability under normal and environmentally stressful conditions, such as resource base, dormancy, temperature tolerance, fire resistance, drought resistance, or ability to disperse in the environment, that have been made as a result of the genetic engineering; 4. the potential for the GEO's genes to transfer to other organisms and the resultant effects on other organisms' competitiveness, dispersal, dormancy, pathogenicity or toxicity, fertility, expansion of their resource base or range, and any other fitness characteristics; and 5. the potential of the GEO to affect adversely the groundwater environment or to pass transgenes to organisms found in groundwater. <p>D. The adequacy of and appropriateness of the measures, if any are needed, for confinement of the GEO;</p> <p>E. Any previous risk assessments for the same or similar organisms prepared by federal or state agencies and their adequacy and relevance to the current proposal, such as consideration of the following:</p> <ol style="list-style-type: none"> 1. the environmental conditions that existed in previous releases and their relationship to the proposed use; 2. whether the GEO failed to demonstrate an ability to be self-reproducing or competitive because of transient factors; and 3. whether the scale of the assessment was adequate to assess potential for establishing a self-reproducing population;
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		<p>F. The conclusions reached and conditions imposed by federal agencies with jurisdiction over the proposed release;</p> <p>G. The conclusions reached or conditions imposed by federal or state agencies on previous releases in Minnesota or elsewhere and their adequacy and relevance to the current proposal;</p> <p>H. The type, extent, and reversibility of adverse environmental effects;</p> <p>I. The cumulative potential effects or related or anticipated future projects; and</p> <p>J. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.</p> <p>Subp. 2. Federal documents. Relevant federal documents may be used to address some or all of the considerations in subp. 1.</p>
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After the repeal of Minn. R. 1558, MDA will continue to work closely with the Coordinated Framework per Minn. State. 18F.07, which states that a person may not conduct a release of an ag-related GEO until a federal permit has been obtained from an agency member of the Coordinated Framework. Additionally, MDA will review federal permits and determine whether the proposed release of the ag-related GEO would not create a hazard to the agricultural, forest, or horticultural interests of this state or the state's general environmental quality. MDA may recommend terms and conditions for the release or request the Coordinated Framework agency issuing the permit to deny the permit if the release would create a hazard to the agricultural, forest, or horticultural interests of the state or the state's general environmental quality. Furthermore, MDA will publish a notice of the proposed release at the earliest opportunity in the EQB Monitor and shall notify the chair of the county board and, if applicable, the Tribal council of any reservation where the organism will be released.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD

Determination of adequacy of federal oversight of agriculturally-related genetically engineered organisms

Minnesota Statutes 116C.91 through 116C.97 grant the Environmental Quality Board (EQB or Board) authorities related to the release of genetically engineered organisms (GEOs) in Minnesota. The Board is designated as the state's coordinating agency for state and federal regulatory activities related to GEOs and has the authority to review and regulate the releases of GEOs, including conducting environmental review and issuing release permits. To implement these authorities, the Board promulgated rules: Minn. R. chapter 4420; Minn. R. 4410.0200, subps. 35a, 35b, 55a, and 71b; Minn. R. 4410.4300, subp. 35; and Minn. R. 4410.8000.

The statutes and rules direct EQB to reduce duplication amongst the state and federal regulatory and review programs regarding GEOs, as long as public health and the environment are protected. They allow EQB to provide for alternative oversight; to authorize other state agencies with permit programs to oversee regulation of GEOs; or to defer to existing federal programs.

All GEOs released in Minnesota to date have been agriculturally related, including plants, fertilizers, pesticides, and plant and soil amendments.

Minnesota Statutes, chapter 18F gives the Minnesota Department of Agriculture (MDA) authority to establish conditions for the release of "certain genetically engineered agriculturally related organisms to protect humans and the environment from the potential for significant adverse effects of those releases". MDA adopted Minnesota Rules, chapter 1558 to implement their authorities related to GEOs.

On October 31, 1995, the Board determined that MDA's permits issued under Minn. Stat. 18F and Minn. R. 1558.0010 to 1558.0090 represented a "significant environmental permit" as defined in Minn. Stat. 116C.91, Subd. 7 and Minn. R. 4420.0010, Subp. 21. The Board further authorized MDA to administer all regulatory oversight for the release of genetically engineered agriculturally-related organisms under Minn. Stat. 116C.94 and Minn. R. 4420.0075. MDA has continued to oversee agriculturally-related GEOs.

Since 1995, changes have been made to Minn. Stat. 18F. Rather than issuing state permits, MDA works closely with multiple federal agencies under the "Coordinated Framework", defined by Minn. Stat. 18F.02, Subd. 3a in the issuance of federal permits and exemptions for releases.¹

¹ 'Coordinated Framework' means the federal Coordinated Framework for the Regulation of Biotechnology set forth in Federal Register, volume 51, pages 23,302 to 23,350 (June 26, 1986), as amended.

Minn. Stat. 18F.07 prohibits the “release of a genetically engineered agriculturally related organism until a permit for the release has been obtained from the United States Department of Agriculture (USDA) or Environmental Protection Agency (EPA) unless the organism is exempt from regulation by the applicable agency under the Coordinated Framework. The commissioner may accept a USDA or an EPA permit or may review a USDA or an EPA permit and add additional requirements to ensure that the proposed release of a genetically engineered agriculturally related organism would not create a hazard to the agricultural, forest, or horticultural interests of this state or the state’s general environmental quality.”

MDA has determined that the related rules, Minn. R., chapter 1558, are obsolete and expected to be repealed.

Minn. Stat. 116C.97 specifically contemplates that a federal regulatory program may be sufficient to appropriately regulate the release of certain GEOs. Under Minn. Stat. 116C.97, subd. 2, the Board may determine “that a federal program exists for regulating the release of certain genetically engineered organisms and the federal oversight under the program is adequate to protect human health or the environment”. If the Board makes such a determination, the relevant GEOs may be released “after obtaining the necessary federal approval and without obtaining a state release permit or a significant environmental permit or complying with the other requirements of sections 116C.91 to 116C.96 and the rules of the board adopted pursuant to section 116C.94.”

The Minnesota Department of Agriculture requests that the Board make a determination that the federal framework is sufficient to regulate the release of genetically engineered agriculturally-related organisms.

The board finds that the Minnesota Department of Agriculture no longer has a “significant environmental permit” for the release of genetically engineered agriculturally-related organisms.

The board finds that the federal Coordinated Framework, as implemented by the Minnesota Department of Agriculture through Minn. Stat. 18F, is adequate to protect human health or the environment from the release of genetically engineered agriculturally-related organisms. This action means that a release permit from the EQB is not required for a proposed release of genetically engineered agriculturally-related organisms.

The board finds that the Minnesota Department of Agriculture will continue to work within the Coordinated Framework to review federal release permits and exemptions for genetically engineered agriculturally-related organisms.

The board retains its authority as the state coordinating organization for state and federal regulatory activities relating to all genetically engineered organisms.

The board approved and adopted this resolution on October 16, 2024.

Date: _____

Nancy Daubenberger, Chair
Minnesota Environmental Quality Board

Memo

Date: October 16, 2024

To: Environmental Quality Board

From: Kayla Walsh, EQB Environmental Review Program Administrator

RE: EQB draft Mandatory Category Report public feedback

This memo provides a list of all feedback EQB received during the 2024 engagement process leading up to the draft Mandatory Category Report. All comments are displayed as they were sent to EQB. All comments were read and considered by EQB staff and the co-authoring team representing the Department of Natural Resources, Department of Transportation, and Pollution Control Agency. The comments have been categorized into topic areas using the team's best professional judgement. EQB staff are sharing these comments at the request of members of the Environmental Review Implementation Subcommittee.

EQB staff received substantive input that was valuable and informative. The draft Mandatory Category Report has been updated to further clarify that ideas not reflected in the report can and will be considered as EQB staff work to continually improve the environmental review program. EQB staff plan to develop and present a comprehensive list of environmental review program improvement projects responding to ideas that were suggested in both the 2023 continuous improvement input period and the input period for this report. The list will support further work planning, as well as provide transparency about EQB's ongoing efforts.

Background

As part of the category analysis, EQB asked for input by way of an online engagement platform (Engagement HQ), an online survey, email, and two listening sessions. Appendix B of the draft 2024 Mandatory Category Report provides a summary of the demographics and topics covered through this engagement process. Both members of the public and local government units (LGUs) shared feedback. EQB also emailed LGUs who completed a review in the last three years for frequently used categories (over 100 projects) seeking feedback on how the mandatory category process functioned in their experience. Ideas received during the CI process that pertained directly to mandatory categories helped inform this report as well.

Table 1: Public comments

The following table lists all public comments as provided to the EQB. The table describes the types of wide-ranging comments, coding them by topic. EQB received a multitude of comments, all at varying levels of detail and specificity. While many of the themes and ideas below are reflected in the draft Mandatory Category report, several comments fell outside the narrow scope of the mandatory categories report. Many comments were about topics that are sufficiently complex that much more evaluation is needed before any recommendation on a path forward can be made. Such comments are valued and will continue to inform future work, as mentioned above.

Table 1: Public comments as received by the EQB and organized by source, quote, and topic

Source	Public comment	Topic
Survey	Lower - a robust air permitting program exists in MN and this should not be a sole trigger.	Air
EHQ	<p>The Public Utilities Commission's alternative review process for pipelines subject to the full routing procedure is outdated and contrary to MEPA, specifically when it comes to pipelines that do not require a Certificate of Need, such as pipelines transporting CO2. An alternative form of environmental review may be approved by the EQB, but the process “must address substantially the same issues as the EAW and EIS process and use procedures similar in effect to those of the EAW and EIS process.” Minn. R. 44110.3600, subp. 1. The EQB approved the Comparative Review as an alternative method for environmental review of pipelines in the late 1980s, but explicitly noted in the SONAR that the alternatives analysis in the Comparative Review was not equivalent to an EIS if there was not also a concurrent Certificate of Need proceeding. Currently, CO2 pipelines do not require a Certificate of Need, but are subject to the full route permitting process. Minn. Stat. § 216B.02, subd. 1(b); Minn. R. 7851.0010. This has created a unique situation in which the Comparative Review cannot take the place of a full EIS because the Comparative Review does not address "substantially the same issues" as required by Minn. R. 4410.3600, subd. 1. Specifically lacking is the alternatives analysis that is central to any EIS, including an analysis of a no-action alternative. The Comparative Review also lacks the same transparency and opportunities for public engagement because there is no single environmental review document (like an EIS), the project proposer prepares most of the environmental review information (as opposed to having the RGU prepare that information), and there are no clearly established timeframes or means for public comment. Minn. R. 7852.1500. The EQB should withdraw its approval of the Comparative Review for any pipelines, like CO2 pipelines, that do not require a Certificate of Need, but are still subject to the full route permitting process. Additionally, the EQB should clarify that such pipelines must undergo a full EIS and no other alternative review. It is also important for the EQB to revoke this approval for any pipeline that falls into this gap given the ambiguity around whether some hydrogen transported by pipeline might also be subject to a routing permit but not require a Certificate of Need. Relevant rules: Minn. R. 4410.3600, subp. 2; 4410.4400, subp. 24; 7851.0010; 7852.1500.</p>	Alternative reviews

Source	Public comment	Topic
Email	<p>A new mandatory category should be added to Minn. R. 4410.4400 to require an EIS for anaerobic digesters. The type of environmental review required for anaerobic digesters is currently unclear. Because of their potential for significant environmental effects across a range of areas, their impacts should be fully understood before any construction. Minnesota has seen a recent influx of proposals for anaerobic digesters.⁴ While the proposed projects have been designed differently, they all have the same fundamental objective: capturing methane gas created through the anaerobic digestion of various wastes and then selling that gas to a natural gas utility, a participant in a low carbon fuels market, or other purchaser. Although selling the captured gas is the predominant source of income for these projects, they also have to dispose of the waste that is digested during the process, which remains largely unchanged in volume. This is often done by utilizing it as a fertilizer product for crop fields. Some of these projects require installing a number of digesters at various sites (often dairy feedlots) and then purifying and transporting the gas captured by those digesters via underground pipeline for use by a natural gas utility. Other projects utilize a “community” digester model with one localized digester. Waste inputs (often manure from feedlots) are collected via truck and hauled to the digester. Post-digestion wastes (often called digestate) are then trucked back to farm fields for spreading, and the methane gas captured by the digester is transported to its purchaser. Regardless of the model, anaerobic digesters have the potential for significant environmental effects which should be studied through an environmental impact statement before they are able to receive state permits to operate. These effects include but are not limited to: (1) the impact to groundwater and surface water of using the digested waste or “digestate” as a fertilizer; (2) the greenhouse gas emissions associated with the construction and operation of digester facilities and associated pipelines; and (3) the climate impacts of these facilities which are likely to incent the growth of feedlots and animal consolidation, may delay the decarbonization of gas utilities, and may substitute for other, better climate solutions.</p>	Anaerobic Digester
Listening session	<p>Thresholds for manure digesters. A lot of concerns for public health from such large digesters. 25,000 dry tons per year. That is about 11,000 AU. There are only 7 feedlots that have that number. Lower the threshold to 10,000 dry tons of input which is about 4400 which is more realistic for MN ag community and its needs. We, the undersigned, advocate for the environmental review threshold of anaerobic manure digesters be lowered from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year in the Minnesota Environmental Quality Board's 2024 Mandatory Categories.</p> <p>Anaerobic manure digesters present significant environmental risks to our rural communities’ air, soil, water, and public health. The concentration of liquid manure in one location heightens the likelihood of spills and accidents during transportation, collection, and storage. Additionally, these projects can diminish air quality through elevated emissions of ammonia, nitrous oxide, and dust from increased truck activity. In extreme cases, digesters may pose explosion hazards, endangering nearby workers, animals, neighbors, and emergency responders.</p> <p>The current environmental review threshold for anaerobic manure digesters is 25,000 dry tons of input per year. That is the equivalent to the manure produced by more than 8,000 lactating Holsteins or more than</p>	Anaerobic Digester

Source	Public comment	Topic
	11,000 lactating Jerseys (approximately 11,000 Animal Units) according to the MPCA. Just seven of Minnesota's registered feedlots are larger than 11,000AU. Our environmental review policies must reflect the realities of our state's agricultural demographics. Given these concerns, it is essential to lower the environmental review threshold of anaerobic manure digesters from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year within the MN EQB's 2024 Mandatory Categories for thorough environmental review.	
Email	<p>We, the undersigned, advocate for the environmental review threshold of anaerobic manure digesters be lowered from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year in the Minnesota Environmental Quality Board's 2024 Mandatory Categories. Anaerobic manure digesters present significant environmental risks to our rural communities' air, soil, water, and public health. The concentration of liquid manure in one location heightens the likelihood of spills and accidents during transportation, collection, and storage. Additionally, these projects can diminish air quality through elevated emissions of ammonia, nitrous oxide, and dust from increased truck activity. In extreme cases, digesters may pose explosion hazards, endangering nearby workers, animals, neighbors, and emergency responders. The current environmental review threshold for anaerobic manure digesters is 25,000 dry tons of input per year. That is the equivalent to the manure produced by more than 8,000 lactating Holsteins or more than 11,000 lactating Jerseys (approximately 11,000 Animal Units) according to the MPCA. Just seven of Minnesota's registered feedlots are larger than 11,000AU. Our environmental review policies must reflect the realities of our state's agricultural demographics. [attached: 100+ signatures]</p> <p>Given these concerns, it is essential to lower the environmental review threshold of anaerobic manure digesters from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year within the MN EQB's 2024 Mandatory Categories for thorough environmental review.</p>	Anaerobic Digester
Survey	The threshold is too low. the amount of stuff they need to address and provide more than adequately addresses any items the EAW would cover (stormwater, well water, access, traffic, etc)	Campgrounds
Survey	50 is too low. This should be raised to 75 or even 100	Campgrounds
Survey	Decrease the amount of RV and campground sites necessary to trigger a review and make it proportional to lake size and existing development. This is because 50 sites may be more impactful to a smaller lake than larger lake, and a non-proportional number does not reflect that.	Campgrounds
Survey	An EAW and EIS should be mandatory on any project that involves lakeshore.	Campgrounds
CI Ideas	Environmental reviews must take into account community demographics due to health disparities and socioeconomic effects on vulnerability. I think it is very important when an environmental justice community is impacted that elevates environmental review, to the extent that it is not explicit enough in EAW form, perhaps it could be somehow incorporated so that whenever something is going to be geographically connected to environmental justice areas it would also be a mandatory category.	Community Benefit Agreements

Source	Public comment	Topic
EHQ	Seeking EIS for new projects involving significant amounts of concrete, as concrete leads to greenhouse gas emissions.	Concrete
Listening session	Cumulative effects on the upper Mississippi river. Thresholds allow smaller projects to go through but cumulative effects can add up.	Cumulative impacts
Listening session	Agree with comments made earlier. Cumulative impacts need to be thought about. Small projects are done to avoid ER and they should be considered because they are cumulative.	Cumulative impacts
Listening session	Stronger assessment of the cumulative impacts. It isn't unusual for a project to be permitted in MN and then go across the border and do something that isn't added in because it is across the border by a few miles. Need to look out into the future. CURE sees that they aren't addressing water or drought and they should be. This can be from economic interests and bringing jobs to the area. Water doesn't respect political boundaries and needs to be looked at more cumulatively.	Cumulative impacts
EHQ	Mandatory EIS based on cumulative impacts potential, not discretionary. EQB rules should state that an EIS is mandatory for any action done or approved by government where there is a potential for significant environmental effects from that action, including all reasonably foreseeable cumulative potential effects. Agencies now seem to treat any EIS as "discretionary" if the project doesn't meet one of the numeric thresholds for size in the EQB rules.	Cumulative impacts
CI Ideas	Recommends that EQB add a new mandatory category with reasonable thresholds to address cumulative water quality impacts. Like the mandatory EAW category for animal feedlots in Minn. R. 4410.3200, subp. 29, this category could include a general threshold that applies across the State and a more conservative threshold that applies to sensitive areas, such as waterbodies impaired for turbidity and total suspended solids ("TSS") like the Minnesota River Basin....The thresholds for this category should focus on increases in flow volume and annual peak flows, because these are the critical measures to capture how much flow regime change a watershed can endure before physical and biological degradation starts to occur. Possible thresholds that respond to recent state water quality goals for the Minnesota River Basin include any drainage project in the Minnesota River Basin that will lead to a 10% increase in discharge (added volume) from the system for a 1.5-2-year flood event, or any project in the Minnesota River Basin that will increase peak flow for a 1.5-2-year flood event.	Cumulative water impacts
EHQ	Agricultural drainage is the #1 reason rivers and lakes in southern, central and western Minnesota are polluted (impaired.) Currently, massive installation of private drain tiles is leading to expanding public ditches and tiles resulting in downstream flooding, erosion, increased nitrates and other chemicals. EAW provides a process to put the impacts in front of the decision-makers, with a chance for public input.	Drainage

Source	Public comment	Topic
EHQ	<p>Comment: Here are some of the cumulative impacts to the Minnesota River Watershed caused by public drainage expansions: The mean discharge of the Minnesota River has more than doubled in the lower reaches of the river. There has been a three-fold increase in rare and extreme flows in most of the watershed. Frequent channel forming flows have increased significantly causing erosion of the bed and banks of the river and increasing the width of the river. Sediment loads from the Minnesota River to the Mississippi River have increased from approximately 1/2 million tons to over 1 million tons in most years. The Minnesota River contributes 85 percent of the sediment load to Lake Pepin. Because of the sediment load, phosphorus loading to Lake Pepin has increased by more than seven times the natural rate causing prolific algae growth and fish kills in Lake Pepin. Extensive armoring of the riverbank was recently completed in Mankato to protect the city water supply and public infrastructure from streambank erosion. Increased sediment deposition in the Mississippi River navigation channel upstream of Lake Pepin has impeded river borne commercial shipping and recreational boating on the river. Homes and other private property in the watershed have been destroyed due to stream bank erosion. Many once successful agricultural production facilities rivers in the watershed are currently subject to frequent crop losses due to flooding. Recent studies of the Minnesota River have determined that a reduction in sediment load of more than 50 percent is needed to meet Minnesota water quality standards.</p>	Drainage
EHQ	<p>Mandatory Environmental Impact Statement with considerations of alternatives including water storage and other mitigation for all public drainage projects, and new and improved private drainage on cropland greater than 80 acres.</p>	Drainage
EHQ	<p>Mandatory EAW with considerations of alternatives including water storage and other mitigation for all public drainage projects, and new and improved private drainage on cropland greater than 80 acres.</p>	Drainage
Email	<p>A new mandatory EAW category should be added for all drainage projects that exceed 1,280 acres or alter the course, current, or cross section of a designated game lake, as designated under Minn. Stat. § 97A.101, subd. 2. Alternatively, a new mandatory EAW category should be added for all drainage projects that exceed 1,280 acres and increase the magnitude of the bankfull discharge (1.5 - 2-year flood event). A new category addressing drainage projects is critical to help Minnesota reach its water quality goals. In 2015, the MPCA Sediment Reduction Strategy set out to reduce sediment in the Minnesota River by 25% in 2020, which it did not achieve, and by 50-60% in 2030, which it is not on track to achieve. The MPCA also set a goal to reduce 2-year annual peak flows and duration in the Minnesota River Basin by 25% by 2030. The watershed-scale TMDLs and One Watershed One Plans across the Minnesota River Basin recognize the role of altered hydrology, attributed to drainage systems, in increased sediment and nutrient loads and set goals for reducing sedimentation and nutrients. But Minnesota's environmental review program is not equipped to address these impacts. In the past, drainage projects have triggered environmental review by exceeding the EAW thresholds relating to stream diversions or public waters and public waters wetlands. However, these categories do not effectively address the cumulative water quality impacts that result from these hydrologic</p>	Drainage

Source	Public comment	Topic
	<p>changes, such as increased erosion and sediment yields from stream channel instability, increased nutrient loads, and the associated negative impacts on aquatic habitat and water quality. Accordingly, EQB should create a new mandatory category focused on drainage projects, defined in 103E.005 subd. 11 as “a new drainage system, an improvement of a drainage system, an improvement of an outlet, or a lateral.” The category would not include drainage repairs, which “restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved.” Minn. Stat. § 103E.701 subd. 1. Drainage projects have the greatest potential for significant environmental impacts because they alter the flow regime of the drainage system and the waterbody it discharges to – either through the construction of a new drainage system or the improvement of one that already exists. MCEA’s proposal would require a mandatory EAW category for all drainage projects that exceed 1,280 acres or alter the course, current, or cross section of a designated game lake, designated under Minn. Stat. 97A.101 subd. 2. The 1,280-acre threshold aligns with the statutory definition of public waters under 103G.005 subd. 15 which includes all “natural and altered watercourses with total drainage area greater than two square miles.” Improvements that significantly alter designated game lakes are important to capture because of the large amount of public dollars invested in these water bodies. At a minimum, MCEA recommends a mandatory EAW category for all drainage projects that exceed 1,280 acres and increase the magnitude of the bankfull discharge (1.5 - 2-year flood event). The “bankfull” discharge is the geomorphically effective flow that drives near-channel erosion and shapes channel morphology. Extensive peer-reviewed research has firmly established that this flow frequency occurs between the 1- and 2-year recurrence interval, and the 1.5 to 2-year frequency best fits Minnesota (Dunne and Leopold 1978; Magner et al. 2012). Drainage projects can increase the magnitude and/or duration of the bankfull discharge which causes an increase in A new mandatory EAW category should be added for all drainage projects that exceed 1,280 acres or alter the course, current, or cross section of a designated game lake, as designated under Minn. Stat. § 97A.101, subd. 2. Alternatively, a new mandatory EAW category should be added for all drainage projects that exceed 1,280 acres and increase the magnitude of the bankfull discharge (1.5- 2-year flood event). A new category addressing drainage projects is critical to help Minnesota reach its water quality goals. In 2015, the MPCA Sediment Reduction Strategy set out to reduce sediment in the Minnesota River by 25% in 2020, which it did not achieve, and by 50-60% in 2030, which it is not on track to achieve. The MPCA also set a goal to reduce 2-year annual peak flows and duration in the Minnesota River Basin by 25% by 2030. The watershed-scale TMDLs and One Watershed One Plans across the Minnesota River Basin recognize the role of altered hydrology, attributed to drainage systems, in increased sediment and nutrient loads and set goals for reducing sedimentation and nutrients. But Minnesota’s environmental review program is not equipped to address these impacts. In the past, drainage projects have triggered environmental review by exceeding the EAW thresholds relating to stream diversions or public waters and public waters wetlands. However, these categories do not effectively address the cumulative water quality impacts that result from these hydrologic changes, such as increased erosion and sediment yields from stream channel instability, increased nutrient</p>	

Source	Public comment	Topic
	<p>loads, and the associated negative impacts on aquatic habitat and water quality. Accordingly, EQB should create a new mandatory category focused on drainage projects, defined in 103E.005 subd. 11 as “a new drainage system, an improvement of a drainage system, an improvement of an outlet, or a lateral.” The category would not include drainage repairs, which “restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved.” Minn. Stat. § 103E.701 subd. 1. Drainage projects have the greatest potential for significant environmental impacts because they alter the flow regime of the drainage system and the waterbody it discharges to – either through the construction of a new drainage system or the improvement of one that already exists. MCEA’s proposal would require a mandatory EAW category for all drainage projects that exceed 1,280 acres or alter the course, current, or cross section of a designated game lake, designated under Minn. Stat. 97A.101 subd. 2. The 1,280-acre threshold aligns with the statutory definition of public waters under 103G.005 subd. 15 which includes all “natural and altered watercourses with total drainage area greater than two square miles.” Improvements that significantly alter designated game lakes are important to capture because of the large amount of public dollars invested in these water bodies. At a minimum, MCEA recommends a mandatory EAW category for all drainage projects that exceed 1,280 acres and increase the magnitude of the bankfull discharge (1.5 - 2-year flood event). The “bankfull” discharge is the geomorphically effective flow that drives near-channel erosion and shapes channel morphology. Extensive peer-reviewed research has firmly established that this flow frequency occurs between the 1- and 2-year recurrence interval, and the 1.5 to 2-year frequency best fits Minnesota (Dunne and Leopold 1978; Magner et al. 2012). Drainage projects can increase the magnitude and/or duration of the bankfull discharge which causes an increase in bank erosion, scour, and sedimentation and leads to natural channel degradation. While erosion and high sediment loads do occur with larger floods like the 10-, 25-, or 50-year event, more frequent flows transport the greatest amount of sediment over time (Kelly and Belmont 2018; Cho et al. 2019). When the bankfull discharge (1.5 - 2-year flood event) increases in magnitude, erosion rates and sediment yields from near-channel sources increase exponentially on a “hockey stick” trend (Cho. et al. 2021). Therefore, a threshold based on increased magnitude of the 1.5 - 2-year flood event aligns with a significant increase in the potential for physical and biological degradation to occur. Like the mandatory EAW category for animal feedlots in Minn. R. 4410.3200, subp. 29, the new mandatory category could include a general threshold that applies across the State and a more conservative threshold that applies to sensitive areas, such as the Minnesota River Basin and Greater Blue Earth River Basin. MCEA recommends that sensitive areas be defined as drainage systems that fall within the HUC8 watershed boundary for watercourses impaired for turbidity or Total Suspended Solids (TSS) or that discharge within 2 miles upstream of watercourses impaired for turbidity or TSS. TSS standards for the state of Minnesota were approved by the EPA in 2015 and replaced the former turbidity standard (Minn. R. 7050.0222). However, impairments listed prior to 2016 remain listed as turbidity impairments. This definition of sensitive areas encompasses cumulative impacts and recognizes the close link between increases in the magnitude of the bankfull discharge and a significant</p>	

Source	Public comment	Topic
	increase in sediment yield. This approach aligns with the Minnesota Pollution Control Agency's sediment reduction goals for watercourses with impairments for Total Suspended Solids (TSS). The MPCA's Sediment Reduction Strategy for the Minnesota River Basin and South Metro Mississippi River (2015) recognizes the explicit link between the peak magnitude and duration of the two-year streamflow magnitude and duration and near-channel erosion, and outlines goals to reduce the two-year annual peak flow by 25% by 2030, and to decrease the number of days that the two-year peak flow is exceeded by 25% by 2030.	
Survey	The existing mandatory EAW categories do not adequately address problems associated with drainage projects. Specifically related to cumulative water quality impacts that result from the changes that improvements and repairs present. The increased volume increases turbidity, erosion, sediment, increased nutrient loads and the associated negative impacts on the ecology of the waterway both in negative impacts on aquatic habitat and water quality.	Drainage
Survey	CURE would support a mandatory EAW category for all drainage projects that exceed 1,280 acres or alter the course, current, or cross section of a designated game lake, designated under Minn. Stat. 97A.101 and subd. 2. The new mandatory category should focus on drainage projects, which are defined in 103E.005 subd. 11 as "a new drainage system, an improvement of a drainage system, an improvement of an outlet, or a lateral." Drainage projects have the greatest potential for significant environmental impacts because they alter the flow regime of the drainage system and the waterbody it discharges to. A new mandatory EAW category aimed at water quality impacts from drainage projects is critical to help Minnesota reach its water quality goals. Minnesota would be wise to study the economics of water and perhaps look to other states and how they hold corporate industries accountable for the true costs of water they use for private enterprise. The fines in place for not following the appropriation rules are not adequate.	Drainage
Survey	The EQB should initiate a process to include a new Mandatory EAW subpart that focuses on agricultural drainage projects (new ditches, ditch improvement projects, and Reestablishment of Records) to address the flooding and water quality impairments that result from these projects. These projects should trigger a mandatory EAW if the major (81) watershed has a total suspended solid (TSS) impairment. Another threshold would be any increase in discharge of a project at the terminus of the ditch that will increase the 1.5-year storm event discharge. Another trigger for a mandatory EAW is for a project that is proposed in the watershed of a MNDNR Designated Game Lake as defined in MN Statute 97A.	Drainage
CI Ideas	EQB should provide clarity for all interested parties, including downstream landowners and public citizens, by promulgating a mandatory environmental review category for drainage projects. Also, a mandatory EAW category is necessary for agricultural drainage. Addition of mandatory EAW categories specific to drainage projects that address cumulative water quality impacts of drain tile systems on our state waters.	Drainage
CI Ideas	Require an EAW for all agricultural drainage projects in the Minnesota River Watershed. River Watershed EIS seems to be required for assessing individual EAW's for agricultural drainage on individual projects, to facilitate farming as well as protecting the waters of Minnesota	Drainage

Source	Public comment	Topic
Email	Any action that requires an EIS under EQB rules should also require an Ecological Risk Assessment performed by a qualified independent contractor that has relevant training and scientific technical and scientific expertise in ecological risk assessments. The contractor must certify they have no connection with the project proposer or other similar entities monetary or otherwise. The assessment shall be paid for by the project proposer. Details for such report can be found in A Practical Guide to Understanding Managing, and Reviewing Environmental Assessment Reports, Edited by Sally Benjamin, and David Belluck, 2001, ISBM1-56670-448-0. US EPA has guidance for ecological risk assessments at https://www.epa.gov/risk/risk-assessment-guidance#tab-1 .	Ecological Risk Assessment
CI Ideas	Whenever something is going to be geographically connected to environmental justice areas it would also be a mandatory category.	EJ (Environmental Justice)
Tech Reps	EQB would need to create a guidance document if this were to move forward so RGUs have clear structure for when this applies and how to do it. Because ER specifically calls out that social and economic impacts are out of scope, this would not be something that can be considered as part of the decision criteria but would be something to inform the public.	EJ (Environmental Justice)
CI Ideas	Wind turbine siting permits should have actual environmental review. EIS level or higher.	Energy
Survey	There should be mandatoy categories for energy storage (battery) facilities.	Energy Storage
Email	Enforcement has always been the weakest link in the government departments.Enforcement should have the most stringent criteria and the most significant funding. Rules mean nothing if they are not enforced.	Enforcement
Email	Lastly, the highest yet often omitted need: strengthen enforcement!!!	Enforcement
Email	The EQB is a feature of our state and is meant to act as in a manner that is supportive of your mission and the environment you represent. Let me remind you, the environment is a not a person, it is not a business, it is not a developer, it is not a regulatory body or a governor. The environment, which the EQB is a board with a mission to maintain its QUALITY, is our water, land, air, energy, and climate. "The Board has a responsibility to address issues affecting water, land, air, energy, and climate". The only way to establish that responsibility accurately and with integrity is by gathering data - which requires more robust and ENFORCED EIS and EAW rules and guidelines.	Enforcement
Email	EQB rules need to be enforced so that an EIS is mandatory for any government approved action where there is any potential for significant environmental impacts	Enforcement
EHQ	Projects that have gone through the Flood Damage Reduction Work Group, a collaboration of Federal-State-Local governments, could be exempted	Exemption
EHQ	EIS expiration date. Every EIS should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations

Source	Public comment	Topic
Email	EIS's as well as past decisions that EIS's are not required should have an expiration date. The importance of my request is illustrated by the 2015 decision by the MN DNR to allow the Northshore Mine expansion in Babbitt, MN to move forward without an EIS.	Expirations
Email	Minn. R. 4410.4300 and .4400 should be revised to require that projects cannot be re-issued permits or obtain modifications to their permits based on environmental review that is decades old. EQB should add language to Minn. R. 4410.4300, subp. 1 and .4400, subp. 1 requiring a new EAW or EIS for a project requesting a re-issuance, renewal, or modification of any permit if that project would trigger a mandatory EAW or EIS if it were initially constructed and if the previous environmental review was conducted more than 20 years ago. A project could avoid the requirement to perform a new environmental review if it (1) demonstrated that the regulatory environment and conditions on the ground have not changed since the initial environmental review and (2) performed a GHG emissions analysis. Currently, no matter how long ago a project went through environmental review, Minnesota's agencies have read MEPA as not requiring any update of that environmental review—even though standards for conducting environmental review, the problems examined, and the conditions on the ground may have changed drastically. A 50-year-old review cannot accurately describe the potential for environmental effects in a current project, yet agencies continue to rely on decadesold environmental reviews to avoid new analyses. This change would ensure that the public and decisionmakers are aware of the current environmental impacts of a project before any decisions are made.	Expirations
Email	All EISs should have an expiration date specified in EQB rules	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	EQB rules should prevent ALL agencies from relying on an outdated, decades-old EIS to avoid conducting a current scientific analysis of harm.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	Furthermore, all EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	There should be an expiration date on any EIS since things will change over time	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	Once an assessment is done, it can't be used again. After some period of time, it will be old - and should expire. I'd suggest 5 years.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Source	Public comment	Topic
Email	EQB rules should state that an EIS is mandatory for any action done or approved by government where there is a potential for significant environmental effects from that action, including all reasonably foreseeable cumulative potential effects. Agencies now seem to treat any EIS as “discretionary” if the project doesn’t meet one of the numeric thresholds for size in the EQB rules.	Expirations
Email	Please require that all EISs have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren’t allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	EQB rules should specify an expiration date for EIS's so that current decisions are not based on outdated information.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project years later are not allowed to rely on outdated facts and outdated scientific knowledge	Expirations
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Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren’t allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	It is unrealistic to believe things don’t change, and therefore all EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren’t allowed to rely on outdated facts and outdated scientific knowledge.	Expirations

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Email	There needs to be a reasonable time limit on EIS. After which a new statement must be completed.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	I feel that all EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	Also there should be an expiration date on the EIS and any other data required as part of a review, as scientific information changes rapidly.	Expirations
Email	All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren't allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
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Email	Changes in a project 15 years or even 50 years later shouldn't be allowed to rely on outdated facts and outdated scientific knowledge.	Expirations
Email	EIS need expiration date	Expirations
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Listening session	Technology and science change over time so there should be a time limit for those documents.	Expirations
Email	EIS should be required for expansions of mining, mine waste disposal, and processing; when large amounts of water are appropriated for industry or agriculture; that the EIS should have an expiration date.	Expirations
Email	This first proposed change to Minn. R. 4410.4300, subp. 1 would clarify and narrow EAW threshold exemptions if a proposed project is an expansion of an existing project. When a proposed project is an expansion or additional stage of an existing project, prior stages of the project should be considered to determine if the EQB rule threshold is met whether or not the prior project was constructed within the past three years. This change is more consistent with the policy in the first and last sentence of subpart 1, as well as more protective. In addition, any exemption from completing an EAW screening review where a project component was reviewed under a prior EAW or EIS should be time limited. Facts on the ground may have changed in the interim and new scientific information may be available. Minn. R. 4410.4300, Subpart 1. Threshold test. An EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 37, unless the project meets or exceeds any thresholds of part 4410.4400, in which case an EIS must be prepared. If the proposed project is an expansion or additional stage of an existing project, the cumulative total of the proposed project and any existing stages or components of the existing project must be included when determining if a threshold is met or exceeded if construction was begun within three years before the date of application for a permit or approval from a governmental unit for the expansion or additional stage but after April 21, 1997, except that any existing stage or component that was reviewed under a previously completed EAW or EIS within the past 5 years need not be included. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part and part 4410.4400.	Expirations

Source	Public comment	Topic
Email	The mandatory category requiring EAWs for animal feedlots should be revised in two ways. First, Subp. 29(B) should be revised to add vulnerable groundwater areas, as identified for the Minnesota Department of Agriculture's Groundwater Protection Rule, to the list of "sensitive locations" where animal feedlots with more than 500 animal units must undergo an EAW. These areas, which have coarse textured soils, shallow bedrock, or karst geology, have already identified as areas where nitrate can move easily through soil and into groundwater, contaminating drinking water sources. The manure produced by large feedlots constitutes a source of nitrate that threatens groundwater in these sensitive areas, and the effects of constructing or expanding a feedlot in these areas should be fully understood before any decisions regarding them are made. Although the rule already delineates certain drinking water supply management areas and karst features as "sensitive locations," this change would broaden that category and help address the nitrate contamination crisis in the karst and central sands regions of the state. Second, the rule should be revised to remove the following sentence, "The provisions of part 4410.1000, subpart 4, regarding connected actions do not apply to animal feedlots." No other EAW section includes this exception, and there is no reason animal feedlots—which are a significant source of water pollution in Minnesota—should be allowed not to consider connected actions when determining whether an EAW is required.	Feedlots
Email	Lower AU thresholds from 1000 to 700 Aus, 400 in sensitive area	Feedlots
Email	Reassess thresholds for EIS	Feedlots
Survey	Animal Feedlot - animal or manure storage structures may not be in sensitive area but the acres to be used for manure application are in sensitive area(s).	Feedlots
Survey	Discussion or review of manure application acres when they are planned to be in sensitive areas.	Feedlots
Survey	Discussion or review of manure application acres when they are planned to be in sensitive areas.	Feedlots
CI Ideas	All feedlots with more than 400 animal units should be required to complete an Environmental Assessment Worksheet (EAW).	Feedlots
Listening session	Feedlot pollution should be analyzed. New and existing farms contribute and that should be considered. Cumulative pollution should be considered including fertilizers from farms. HIA should be added to look at this problem. The cumulative issue is what needs to be assessed	Feedlots
Listening session	Mandatory category for EIS for feedlots. Good idea and the legislation should go forward with 10,000 AU bill for EIS	Feedlots
Listening session	WaterLegacy does not work in this area, but as a result of our research on nitrates, we believe that there needs to be an EIS for large feedlots and HIA should address agricultural pollution, such as nitrates. We don't have the expertise to suggest at what number of animals the EIS should be triggered.	Feedlots
Survey	Forestry exemptions for silvicultural roads should be eliminated. These roads and trails should go under just de minimus exemptions the same as other wetland impacts.	Forestry
Survey	Eliminate or add a threshold (e.g. total harvest statewide, FIA data) under which in-forest impacts are not in play.	Forestry

Source	Public comment	Topic
Survey	The wholesale deforestation has been occurring in the Bonanza Valley area of the state, where jack pine and mixed forest has been and is still being cleared for agriculture, especially for potato production. This is having hugely significant environmental effects: massive CO2 emissions from deforestation, burning or root-masses, and the plowing and heating of forest soils; contamination of shallow groundwater with herbicides, pesticides, fungicides and fertilizers; widespread loss of fire-adapted forest and forest habitat. Any government permit attending any aspect of this activity, such as a groundwater withdrawal/irrigation permit, should involve an EIS to address cumulative effects from all of the actions starting with deforestation.	Forestry
Survey	In-forest impacts are positive or not negative under a threshold of total harvest statewide. Facility impacts in and around facility could still be considered. But harvest levels are so low for at least the last 20-30 years to not merit an Env. Review based on wood availability.	Forestry
Survey	Forestry exemptions for silvicultural roads should be eliminated. These roads and trails should go under just de minimis exemptions the same as other wetland impacts.	Forestry
Survey	Exemptions for roads used for Forestry/Silvicultural purposes should be eliminated. Assurances that these roads are temporary or short, have not been enough and there is often no monitoring or record keeping of roads built across wetlands under these exemptions.	Forestry
Survey	I see genetically modified organisms and wild rice, but not other agricultural seeds. Should there be guidance on GMO seeds? Or does genetically modified organisms include genetically modified seeds for agricultural purposes?	GEO
Listening session	There should be a new mandatory category for GHGe. How this is done could be multiple ways. EQB can determine the best way. Make sure the projects are doing GHGe correctly. It would be good for ER projects to show how the project will reduce GHGe overtime to reduce climate change.	GHG
Listening session	Agree wholeheartedly on greenhouse gas emissions, and add that destruction of peat bogs and carbon sinks should be assessed	GHG
Listening session	Look at GHGe impacts. Not just in the state but outside the state as well should be included if it is part of the project. EQB should do more of an active role in ER not passive. This could help make things better too.	GHG
EHQ	New mandatory EIS category based on a preliminary assessment of lifecycle GHG emissions potential. Minnesota should create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis. Climate change is a defining challenge of our time, with severe and disproportionate impacts that undermine the state's goals for environmental integrity, economic stability, and social justice. It is critical that our regulatory infrastructure prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA

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EHQ	New mandatory EIS category based on a preliminary assessment of lifecycle GHG emissions potential. Minnesota should create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis. Climate change is a defining challenge of our time. It is critical that our regulatory infrastructure prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA
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EHQ	Create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of a project, estimated on a lifecycle basis. Climate change is a defining challenge of our time. Our regulatory infrastructure must prioritize a detailed review of projects with significant GHG emissions.	GHG or LCA
EHQ	All projects that have the potential for high lifecycle green house gas emissions (GHG) should undergo a full EIS	GHG or LCA
EHQ	Create a new mandatory EIS category based on a preliminary assessment of lifecycle GHG emissions potential. It is critical that our regulatory infrastructure prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA
EHQ	All projects that have the potential for high lifecycle greenhouse gas emissions should undergo a full EIS. Minnesota should create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis. Climate change is a defining challenge of our time, with severe and disproportionate impacts that undermine the state's goals for environmental integrity, economic stability, and social justice. It is critical that our regulatory infrastructure prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA
EHQ	Any projects that have the potential for high lifecycle greenhouse gas emissions should undergo a full EIS. Quite frankly we are out of time to respond to and arrest climate change. Fossil fuel industries are unwilling to transition to alternative energy sources. Every tool available must be used to stop further fossil fuel infrastructure build-out. Imposing an EIS is such a tool.	GHG or LCA
EHQ	Create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of a project, estimated on a lifecycle basis.	GHG or LCA

Source	Public comment	Topic
EHQ	New mandatory EIS category based on a preliminary assessment of lifecycle GHG emissions potential. We are out of time to respond to and arrest climate change. Our children and grandchildren are looking to us to make the necessary choices to create a healthy, liveable place to call home. Fossil fuel industries are unwilling to transition to alternative energy sources. Every tool available must be used to stop further fossil fuel infrastructure build-out. Imposing an EIS is such a tool.	GHG or LCA
EHQ	Document greenhouse gas emissions (historical or projected for new projects) and REGULATE THEM! Climate change is a defining challenge of our time, with severe and disproportionate impacts that undermine the state's goals for environmental integrity, economic stability, and social justice. We've got to prioritize detailed review of projects with a significant potential for GHG emissions--Direct, Indirect, or Lifecycle. PLEASE!!	GHG or LCA
EHQ	Look hard at climate impacts with a new mandatory EIS category assessing potential of lifestyle GHG emissions. Create a mandatory EIS category based on projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis. Our regulatory infrastructure must prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA
EHQ	Projects with the possibility of high greenhouse gas emissions throughout their lifespan should receive the scrutiny of a mandatory EIS. High greenhouse gas emissions = Mandatory EIS	GHG or LCA
EHQ	Consider life cycle emissions in EIS (create a mandatory category). This is a practical step to analyze risk to our environment and our future. Minnesota needs to work even more strategically and urgently on the state's climate / sustainability goals. Regulatory infrastructure should prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle). These climate impact preliminary projection methods are available now - we should formally implement this EIS category, in order to stop big polluters before they are allowed to start.	GHG or LCA
EHQ	You must include in a mandatory EIS category projects that have potential for high greenhouse gas emissions over their lifetimes.	GHG or LCA
EHQ	All projects subject to Environmental Impact Statement should also require Climate Impact Statement & state Greenhouse gas potential	GHG or LCA
EHQ	Add mandatory EIS category for high lifecycle climate emissions potential. All projects with high potential lifecycle greenhouse gas emissions should undergo a full EIS. This should be a mandatory EIS category based on preliminary analysis of projected lifecycle GHG emission potential. Greenhouse gases are threatening Minnesota's environmental, economic, and social justice goals, as well as our lives and wellbeing. Projects with high GHG potential, whether Scope 1, 2 or 3, should require detailed review with an EIS.	GHG or LCA
EHQ	All projects that have the potential for high lifecycle greenhouse gas emissions should undergo a full Environmental Impact Statement. The time for this diligence has come and gone, we are playing catch-up- we MUST consider the ramifications of all human activities.	GHG or LCA

Source	Public comment	Topic
EHQ	COMMENT: Minnesota should create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis.	GHG or LCA
EHQ	COMMENT: Yes - we need this. The effects of climate change are increasingly obvious. Projects with the potential for high GHG emissions over their lifespans need the highest form of scrutiny because they cause the greatest damage. Mining/extraction/refining projects and the pipelines, ports and other infrastructure that enables and promotes such projects require an EIS. We have an obligation to study and reflect, not just to build. Making an EIS mandatory for projects that are going to have substantial lifecycle emissions is an essential first step.	GHG or LCA
EHQ	COMMENT: Yes! Mandatory EIS for projects with potential for large lifetime GHG emissions potential. Smokey summers , snowless winter, Bigger storms, more damages, floods in Duluth, tornados earlier and later than in previously known season. Records being broken every week on temperatures, acres burned, snowless area on Lake Superior. There's no time to wait. The time to see this and ACT is now. Be sure to count the GHGs associated with manufacturing/construction, use, use of the product, and dismantling/decommissioning.	GHG or LCA
EHQ	COMMENT: New mandatory EIS category based on a preliminary assessment of lifecycle GHG emissions potential. A mandatory Environmental Impact Statement should be required when reviewing projects that have a potential for generating green house gases. We are already past the point at which the amount of green house gases is too large and is resulting in very damaging changes in climate. We must do all we can to prevent as much as possible any new emissions of green house gasses . To do this a mandatory Environmental Impact Statement should be part of any reviews of projects that have the potential to generate green house gas.	GHG or LCA
Email	A new mandatory EIS category should be added to require an EIS for any project that emits a significant amount of GHG emissions, based on a lifecycle analysis. As part of the Climate Action Framework, Minnesota has set goals to reduce its GHG emissions by 50% by 2030 and to achieve net-zero emissions by 2050. Doing so will require significant changes across all sectors: transportation, agriculture, electricity generation, industrial, commercial, residential, and waste. As we work as a state to cut our GHG emissions, any new projects that will emit substantial amounts of GHGs should be subject to additional scrutiny. Requiring an EIS for large emitters will help project proposers, decision-makers, and the public to understand where the emissions are coming from and provide information about alternatives, mitigations, and new approaches that could decrease emissions. In a rulemaking, EQB could determine whether an EIS should be triggered based on an absolute threshold, if different types of projects should have different triggering thresholds, or whether a project could avoid an EIS if it demonstrates it will reduce its emissions over time.	GHG or LCA
Email	Mandatory category assignment be designated for environmental impact statements for those projects which have potential for significant lifecycle greenhouse gas emissions.	GHG or LCA

Source	Public comment	Topic
Email	Minnesota should create a mandatory EIS category based on the projected greenhouse gas (GHG) emissions of the project under review, estimated on a lifecycle basis. Climate change is a defining challenge of our time, with severe and disproportionate impacts that undermine the state's goals for environmental integrity, economic stability, and social justice. It is critical that our regulatory infrastructure prioritize detailed review of projects with a significant GHG emissions potential, whether those emissions would be Scope 1 (direct), Scope 2 (indirect), or Scope 3 (lifecycle).	GHG or LCA
CI Ideas	Calling 25,000 tons [of GHG] per year a “de mini-mis” threshold—and requiring less analysis for smaller projects—creates a risk of inaccurately implying that smaller quantities of greenhouse gas emissions may not be significant under MEPA. To gather the most relevant information about climate impacts and best inform significance determinations, Minnesota RGUs should be required to include more detailed context and mitigation discussion in all EAWs, regardless of a project's total emissions.	GHG or LCA
CI Ideas	Second, the EQB should consider a much broader mandatory EAW category, or else provide more guidance as to what level of emissions should require a discretionary EAW.	GHG or LCA
CI Ideas	The EQB should create mandatory EIS categories based on the amount of GHGs a project emits. Requiring an EIS for large emitters will help project proposers, decision-makers, and the public to understand where the emissions are coming from and provide information about alternatives, mitigations, and new approaches that could decrease emissions. EQB should commence a rulemaking process that would add this as a mandatory category and that would explore appropriate levels that would trigger an EIS for different types of projects.	GHG or LCA
Survey	The requirements for non-liquid hazmat storage are unclear - I'd like to see definition specifically for lithium-ion batteries. LI batteries are becoming more common and present a substantial fire risk. Alignment to UN categories, DOT regulations, IATA regulations, and/or OSHA requirements would clarify things for industry.	Hazardous
Survey	The regulation doesn't currently speak to LI battery recycling/refurbishment - this is a growing need that presents unique environmental challenges.	Hazardous
EHQ	Health Impact Assessment required with EIS. Every EIS must also include an independent community-based Health Impact Assessment, done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. This should evaluate the effects of a project on cumulative physiological, nutritional, social, cultural, and economic factors, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	I request that EQB rules require an EIS where there is a potential for significant negative environmental effects, and that evaluation of the potential for environmental effects should include an assessment of effects to health. The importance of my request is illustrated by the 2015 decision by the MN DNR to allow the Northshore Mine expansion in Babbitt, MN to move forward without an EIS. In April 2015, the MN DNR issued a Record of Decision In the Matter of the Determination of the Need for an Environmental Impact	Health Impacts Assessment

Source	Public comment	Topic
	<p>Statement for the Northshore Mining Company Progression of the Ultimate Pit Limit [a copy of the decision is attached] that allowed Northshore Mine to discharge untreated water with high levels of sulfate into Langley Creek, tributary to the Dunka River, Birch Lake and the BWCA. The order was signed by Barbara Laramore, Assistant Commissioner.</p> <p>In signing the order, Assistant Commissioner Laramore disregarded impacts to human health of mercury contamination in fish, as well as the impact of mercury contamination to wildlife that eat fish including otters, eagles, ospreys, and loons. She supported her decision with a study that was irrelevant to the case at hand [2009 MN DNR report from Berndt and Bavin, which is also attached]. The Berndt and Bavin report studied the effect of sulfate concentrations in the highly polluted St. Louis watershed, while the Northshore mine discharges to the pristine BWCA watershed. Because mercury methylation ramps up dramatically when sulfate rises up to 5 ppm sulfate and then stays relatively constant thereafter, the Berndt and Bavin study of increasing the level of sulfate pollution in already polluted water is irrelevant to what will happen when sulfate pollution hits BWCA lakes and increases levels up to 5 ppm. In reality, we should expect the mercury levels in fish to quadruple as sulfate increases from background levels to 5 ppm.</p> <p>Since the Record of Decision was issued, sulfate concentrations in Langley Creek (the discharge site) increased from less than 3 ppm to 50 ppm and by fall of 2021, four tons of sulfate per day were flowing to the BWCA. As far away as Crooked Lake (in the BWCA on the Canadian border, 50 miles downstream from Northshore) water is definitely polluted (2.5 ppm sulfate compared to less than 1.5 ppm naturally); when sulfate in Crooked Lake reaches 5 ppm, severe damage to the BWCA in the form of mercury contamination will have been done. This problem would have been prevented by requiring an EIS, and it can be addressed now by requiring that EIS's and decisions have an expiration date. With a 10 year expiration date for decisions and EIS's, the problem of Northshore polluting the BWCA will come up for review in 2025. And this time it should require an EIS!</p>	
Email	Any action that requires an EIS under EQB rules should also require a community Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer.	Health Impacts Assessment
Email	My husband and I feel very strongly that any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor and paid for by the project proposer.	Health Impacts Assessment
Email	<p>I am especially concerned with the health impacts of projects. As a health care professional I see the devastation caused by inequities in our health care system. It is not only a compassionate concern, but also an economical one as the state and federal governments end up having to provide medical care - substandard as it may be - to the economically disadvantaged. It is in no one's interest to compound this problem by ignoring the impacts of a project on the geographical location that can cause health issues.</p> <p>Since, historically, negative environmental impacts have overwhelmingly impacted those with limited financial means, ensuring that future assessments address this problem is good policy.</p>	Health Impacts Assessment

Source	Public comment	Topic
Email	Please strengthen the “mandatory categories” requiring an EIS and require a Health Impact Assessment as part of ALL environmental reviews. We need to revise our methods to recognize both the importance of our state's ecosystems, and also the growing connections between sustainable industry, a vibrant economy, and a healthier environment.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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Email	I find it unconscionable that health impacts are not considered in all Environmental Impact Statements.	Health Impacts Assessment
Email	First of all, any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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	effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	
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Email	A health assessment must be included in an EAW/EIS if there is the remotest chance that a project could affect human health. I was astonished to find that one is not currently required. When the PolyMet project was scoped, the Fond du Lac Band, especially, was very legitimately concerned about the health effects of the tailings impoundment, both from the standpoint of continuous leaking of pollutants and the risk of a catastrophic failure of the tailings dam. Consumption of fish from the St. Louis River is already dangerous to the band members' health, especially its children. Which brings me to the next point.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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Source	Public comment	Topic
Email	If the EQB is requiring an EIS for permitting, then naturally a Health Impact Assessment needs to be done also.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	If the EQB is requiring an EIS for permitting, then naturally a Health Impact Assessment needs to be done also.	Health Impacts Assessment
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Email	The EIS should require a human health risk assessment and an environment risk assessment, conducted and written pursuant to US EPA's guidance documents. EPA's Basic Information and Guidance on Conducting Risk Assessments can be found at: https://www.epa.gov/risk/risk-assessment-guidance#tab-1	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Ensure that every new or expanding development project requires a stringent environmental impact study and a community health impacts study.	Health Impacts Assessment
Email	A Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer MUST be done for any action that requires an EIS under EQB rules. A Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment

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Email	A Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer MUST be done for any action that requires an EIS under EQB rules. A Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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Email	A Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer MUST be done for any action that requires an EIS under EQB rules. A Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	A Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer MUST be done for any action that requires an EIS under EQB rules. A Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	EQB rules should include a health impact statement and other safeguards to protect our water and land from mining and agricultural pollution.	Health Impacts Assessment
Email	Minnesota's most valuable resource is clean fresh water in our 10,000+ lakes and watershed into the world's largest body of fresh water Lake Superior. We absolutely need the protections the following provide: EAW, EIS and Health Impact Assessments.	Health Impacts Assessment
Email	EQB must require an independent community based Health Impact Assessment when EIS is prepared	Health Impacts Assessment
Email	Specifically, an independent formal Health Impact Assessment should be ordered by the Minnesota Department of Health and paid for by project proposer to evaluate any actions that require an Environmental Impact Statement. This should include an assessment of cumulative effects in the region	Health Impacts Assessment

Source	Public comment	Topic
Email	Any action that requires an EIS under EQB rules should also require a Health Risk Assessment. A Health Risk Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts. Details for such report can be found in: A Practical Guide to Understanding Managing, and Reviewing Environmental Assessment Reports, Edited by Sally Benjamin, and David Belluck, 2001, ISBN1-56670-448-0. US EPA's risk guidance is found at https://www.epa.gov/risk/risk-assessment-guidance#tab-1 . Health risk assessments should be performed by a qualified independent contractor that has relevant training and scientific technical expertise in human health risk assessments. The contractor must certify they have no connection with the project proposer or other similar entities, monetary or otherwise. The proposer should be selected by the Minnesota Department of Health and paid for by the project proposer.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment (HIA) is a community- based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts. In Minnesota, we are long past due to include a Health Impact Assessment in the EIS. We have been witness to too many projects that bring harm to a community, while the corporate applicant is not held responsible. When 20,000+ health professionals in the Duluth area asked for a HIA on the proposed PolyMet sulfide mine, their concerns were ignored. This step forward in requiring an HIA will help to safeguard the health of humans. Human health is directly linked to the health of our environment.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. The HIA is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	As a family medicine physician and medical school faculty, I think it is critical that environmental review of potentially toxic industry be expansive enough to assure that both environmental and resulting human health considerations are robustly scrutinized/assessed. HIAs are a critical tool to include within the review process for potentially toxic industry/projects. I would ask you to consider the following: Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment

Source	Public comment	Topic
Email	Above all else, I think that any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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Email	I believe that any action that requires an EIS under EQB rules must also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer.	Health Impacts Assessment
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Email	The health of Minnesota's citizens and the health of our environment are crucial. Environmental Impact Statements are required to provide protections. I strongly believe that requiring a mandatory Health Impact Statement that is conducted by an independent contractor is a necessary step to ensure our citizens well being.	Health Impacts Assessment

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Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment (HIA) is a community- based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts. In Minnesota, we are long past due to include a Health Impact Assessment in the EIS. We have been witness to too many projects that bring harm to a community, while the corporate applicant is not held responsible. When 20,000+ health professionals in the Duluth area asked for a HIA on the proposed PolyMet sulfide mine, their concerns were ignored. This step forward in requiring an HIA will help to safeguard the health of humans. Human health is directly linked to the health of our environment.	Health Impacts Assessment
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Email	I believe that any action that requires an EIS under EQB rules should also require a qualified, independent Health Impact Assessment.	Health Impacts Assessment
Email	Environmental review should include impacts on climate change, detrimental affects on local ecosystems and health impacts on affected species as well as the human species. Mandatory EIS for projects of significant impact are a necessity not something to be decided by bureaucrats who may have serious conflict of interest .	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment (HIA) is a community- based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts. In Minnesota, we are long past due to include a Health Impact Assessment in the EIS. We have been witness to too many projects that bring harm to a community, while the corporate applicant is not held responsible. When 20,000+ health professionals in the Duluth area asked for a HIA on the proposed PolyMet sulfide mine, their concerns were ignored. This step forward in requiring an HIA will help to safeguard the health of humans. Human health is directly linked to the health of our environment.	Health Impacts Assessment

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Email	<p>I have lived and practiced primary care medicine in northeastern Minnesota since 1999. Since 2014, I have advocated for the inclusion of the Health Impact Assessment (HIA) with any proposal involving major mining operations or other projects requiring an EIS. I join many of my family physician colleagues in asking for the use of HIAs.</p> <p>Physicians are one of the many professions tasked with keeping the public healthy and safe. So often, physicians are left to deal with the after effects of environmental exposures or harms (example: diseases from smoking cigarettes). By employing an HIA during environmental reviews, it is more likely that potential harms from an industrial project can be identified ahead of time, and possibly mitigated or even eliminated. Or perhaps the project will be felt to be just too risky and an alternative approach should be explored.</p> <p>The professional organization, the Minnesota Academy of Family Physicians (MAFP), had petitioned the EQB in 2016 to include HIAs in rule for large mining proposals. It is absolutely critical that all potential health impacts (positive and negative) be objectively characterized and debated to ensure the safest health outcomes and the least harms to communities. While the EQB did consider this petition, no meaningful action has been taken. The EQB again has a chance to make a meaningful addition to the environmental review process.</p>	Health Impacts Assessment
Email	<p>Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment (HIA) is a community- based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts. In Minnesota, we are long past due to include a Health Impact Assessment in the EIS. We have been witness to too many projects that bring harm to a community, while the corporate applicant is not held responsible. When 20,000+ health professionals in the Duluth area asked for a HIA on the proposed PolyMet sulfide mine, their concerns were ignored. This step forward in requiring an HIA will help to safeguard the health of humans. Human health is directly linked to the health of our environment.</p>	Health Impacts Assessment
Email	<p>It is very important that every EIS include an independent community-based Health Impact Assessment. Our communities and livelihoods need to be protected. Ensuring a healthy environment is critical.</p>	Health Impacts Assessment
Email	<p>Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.</p>	Health Impacts Assessment

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Email	This is my chance to request that every EIS also include an independent community-based Health Impact Assessment. This Health Impact Assessment would evaluate the effects of a project on cumulative physiological, nutritional, social, cultural, and economic factors that impact health and health disparities. This is an important step to protect infants, children, and vulnerable communities from unjust health impacts. Who among you has infants, children, and vulnerability communities you are responsible for/taking care of? Is part of that care not also ensuring that to request a Health Impact Assessment for environmental reviews? And if some among us think requesting a Health Impact Assessment that's not part of the solution, I encourage those who don't feel it's necessary to ask why and how that will look to your loved ones and future generations. Isn't it our duty to be good relatives and community members? This is a serious matter because our health is our wealth. I urge those receiving these comments to look inside your heart and make the decision that would make your children and grandchildren proud. Thank you for the opportunity to	Health Impacts Assessment

Source	Public comment	Topic
	share my heart with you. I speak for the trees, the four legged, the winged, the finned, those who grow with roots, and those invisible to the naked eye.	
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	A primary concern is the need for a Health Assessment prior to, during & after a project to be able to assess cumulative health impacts to individuals, the culture, society, as well as the environment. What harms & injustices to people and the environment can be expected to result from the project? Those harmful aspects must be identified , measured, regulated, monitored & reported not just to the government, but to the general public. Afterall, community health impacts are the concern.	Health Impacts Assessment
Email	My husband and I believe it is essential and imperative that a health risk assessment be initiated whenever an EAW is filed. This health risk assessment should be conducted by an independent contractor and be paid for by the state. It should be mandatory and address the social, physical, environmental and cultural impacts of any mine on the local and downstream areas impacted by mining, in advance of permitting.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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	effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	
Email	An EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the MDH as paid for by the project proposer.	Health Impacts Assessment
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Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
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Source	Public comment	Topic
Email	I am a Family Practice physician licensed in both Minnesota and Wisconsin. I have been working with other medical professionals to change the EQB rules to require that a Health Impact Assessment be required for sulfide mining projects requiring an EIS. I now believe that "health in all policies" should be applied to all projects that require an EIS. The health of our patients and our communities depends on a comprehensive look at cumulative health impacts for these large scale projects. Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Health Impact Assessment must be done always for anything requiring an EIS!	Health Impacts Assessment
Email	EIS needs community impact (HIA) statement	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Please require any polluting project that requires an Environmental Impact Statement to also require a Health Impact Assessment paid for by the company that plans to pollute! This will hold polluters accountable for the potential impacts of their projects on human health and will also give people the ability to fully understand the impact of potential polluting projects on human health.	Health Impacts Assessment

Source	Public comment	Topic
Email	Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.	Health Impacts Assessment
Email	Requiring that any action that requires an Environmental Impact Statement under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer.	Health Impacts Assessment
Email	...[EIS] should require Health Impact Assessments.	Health Impacts Assessment
Listening session	A HIA should be required for an EIS. HIA from MDH is different now than it was in the past. There is modeling that can happen now and can uplift the community voices which should be included. Allows the community a stronger voice and disproportionate voices can be heard.	Health Impacts Assessment
Listening session	HIA is a good idea. Environmental risk assessment should also be done. MPCA did one of these for a metal shredder in the past	Health Impacts Assessment
Email	The first proposed change summarizes applicable standards that require preparation of an EIS whether or not a specified threshold is exceeded. This language is important to ensure that all stakeholders recognize that an EIS is mandatory—not discretionary—when there is a potential for significant adverse environmental effects from the action, including all reasonably foreseeable effects. The second proposed change ensures that an EIS conducted decades previously and based on a different environmental context and outdated science does not preclude environmental analysis of a phased or connected action, expansion, or change in the original project. This loophole has allowed major changes and expansions of dangerous facilities without current scientific analysis of environmental impacts. The specification that any project requiring an EIS should include a health impact assessment addresses a very important gap in environmental review. Current analysis of impacts on public health in environmental review is inconsistent and often relies on quantitative risk assessment models developed to address current chemical releases from a single facility. Health impact assessment is needed to analyze reasonably foreseeable cumulative effects on communities, including both direct and indirect effects not just on morbidity and mortality, but on nutrition, and social, psychological, cultural, and economic factors that contribute to adverse and disparate health impacts. A. An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25 and for any action where there is potential for significant environmental effects resulting from that action, and its effects including cumulative effects considering existing pollution and reasonably foreseeable cumulative potential effects. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part. No review conducted in an EIS completed 15 or more years ago shall determine whether a phased or connected action, or an expansion, enlargement, or	Health Impacts Assessment

Source	Public comment	Topic
	change in the existing facility meets the threshold of this subpart. B. For any action requiring an EIS under this part, the EIS shall include a health impact assessment conducted by a qualified independent contractor selected by the Department of Health for which the costs will be assessed under Section 116D.045. Minn. R. 4410.0200 DEFINITIONS AND ABBREVIATIONS Subp. 37a. Health Impact Assessment. "Health impact assessment" means an independent and systematic evidence-based process to assess how a program or project may cumulatively affect the health of people, including secondary effects, and considering physiological, nutritional, cultural, social, economic, psychological, and environmental factors that influence people's health, which process and assessment incorporate public engagement, traditional knowledge, and qualitative as well as quantitative analysis.	
Survey	Subp. 22A and 22B should have greater lengths or another measure (e.g., right of way acquisition/relocation, wetland impacts, etc.). Adding one lane mile in each direction along a roadway or a new neighborhood collector that traverses one mile is not impactful in itself, but may be worthy of an EAW if other SEE factors indicate potential for significant environmental harm.	Highway
CI Ideas	Add a new threshold for highways to Mn. Rules Ch. 4410.4300, subp. 22, requiring a mandatory EAW for: "D. the reconstruction of an existing road two miles or greater in length if the road is substantially without well defined right-of-way, or if it involves an increase in right-of-way width of 40% or more including temporary slope easements and borrow areas taken during construction."	Highways
CI Ideas	Clarify exemption from review of highway projects consisting of modernization of an existing roadway or bridge that may involve the acquisition of minimal rights-of-way. This exemption has been used to avoid environmental review. Clarify exemption from review of highway safety improvement projects in Mn. Rules. Ch. 4410.4600, subp. 14A. Such exemptions should apply only to specific locations where safety problems exist; they should not be used to exempt entire linear projects from review, as happen currently.	Highways
Survey	This is triggered by an impact to a historical place of ANY size, in ANY location. Often, there is no environmental impact, and in those cases the EAW process is a huge, pointless time sink. If the legislature wants to make sure that modifications or removal of historic places is handled in a responsible manner, there are more appropriate ways to do that than via an ENVIRONMENTAL review process.	Historical Places
Survey	The EIS form has a poor relation to public buildings. My County is planning on demolishing an old building that has issues with meeting ADA standards, heating and cooling and use in general. The County had to go through the EIS process before moving forward with a decision on demolition. The form was difficult to complete since it doesn't pertain to building demo.	Historical Places
Survey	MR 4410.4300 subpart 31 (historic places) is inappropriate. These rules are supposed to be concerned with environmental impacts, and although the loss of a property or structure on the historic properties list may be impactful in a cultural or historical knowledge way, they often have no environmental impact. If the intent is to protect these features, it should be done some other way	Historical Places

Source	Public comment	Topic
Survey	This category, at Minn. R. 4410.4400 Subp. 25, should be expanded to include incineration or flame resistance- testing of materials containing any chemical in the PFAS family of chemicals.	Incinerating wastes containing PCBs
Survey	For Subp. 14 it could be clearer on what constitutes a new use... i.e if an existing commercial is converted to an industrial would that be a new use? No new building, but new/different impacts.	Industrial
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Industrial
Survey	Given the rise of large footprint warehouses with minimal impacts, I would suggest increasing the square footage threshold for Subp. 14(a). I would also suggest a higher size threshold for communities in the 7-county metro area (similar to what is done for residential developments) as many of the traffic and environmental impacts of development are contemplated in the comprehensive planning process.	Industrial
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Industrial
Email	A new mandatory EAW category should be added for land application within Minnesota of biosolids from domestic wastewater treatment plants. The category should cover both biosolids from a facility, measured in dry tons, and commercial fertilizer derived from biosolids, measured in pounds, when land applied to fields. Rulemaking could determine the appropriate volume thresholds for triggering the EAW. This new category is needed to study the effects of land application of biosolids containing PFAS—a practice with dangers we are only now beginning to appreciate. We know that the wastewater treatment process does not remove or destroy PFAS from wastewater, and that residual PFAS remains intact in the biosolids that are land applied as fertilizer on agricultural fields and in forest land and reclamation sites across Minnesota. We also know that due to PFAS’ persistence, adding trace amounts of PFAS to land and water over time can grow to become hazardous to human and environmental health. This mandatory category is aimed at better understanding the environmental impact land-application of biosolids has on Minnesota’s soil and water resources. As detailed in the PFAS Blueprint, this category is critical to realizing Minnesota’s stated goal of preventing PFAS from entering the environment in the first place, and helps close the knowledge gap about how land applying biosolids contributes to PFAS contamination across our state.	Land Application/PFAS
Survey	The EAW threshold of 640 acres for conversion of forest or native vegetation seems too high and too permissive. habitat loss is a significant issue for biodiversity, and a huge amount of habitat has historically been lost in the state. I think the threshold should be lower. Perhaps 200-300 acres or less.	Land use
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Land use
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Land use
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Land use

Source	Public comment	Topic
CI Ideas	Lower the mandatory EAW threshold for projects converting forested or other land with native vegetation to a different open space land use from 640 acres to 40 acres.	Land Use
CI Ideas	Lower the mandatory EAW threshold for the permanent conversion of forested or other land with native vegetation, including native pasture, from 80 to 20 acres.	Land Use
Email	Subpart 36 – Land Use Conversion: Subpart 36 A: The permanent conversion of 80 or more acres of agricultural land or natural vegetation is not reasonable or practical for projects that are implemented through and under the terms of the 1998 Mediation Agreement in the RRB. A high percentage of water resources projects implemented through the 1998 Mediation Agreement are on agricultural land and involve more than 80 acres. Again, there is significant public engagement and involvement with FMWSP development and implementation. We recommend changing this to 1,000 acres or to eliminate the Mandatory requirement for those projects implemented under the 1998 Mediation Agreement. In addition, there should be consistency with other natural resources projects that result in conversion of 80 or more acres of agricultural lands. We recommend that any State of Minnesota habitat programs that acquire agricultural lands and convert them to non-agricultural land be subject to the Mandatory EAW category. In addition, several nongovernmental organizations receive state funds to purchase agricultural lands and to convert these lands to wetland and prairie without any regard to the loss in Minnesota’s agricultural lands base. It is also suggested that the RGU for these projects involving conversion of agricultural lands should be the Minnesota Department of Agriculture. To create further awareness, MS 17.80 (Appendix C) is the State of Minnesota Agricultural Land Preservation and Conservation Policy, which States the following: “It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by: (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses; (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity; (c) Encouragement of planned growth and development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and (d) Fostering of ownership and operation of agricultural land by resident farmers.” Our FMWSPs often allow for farming within the footprint of flood impoundments, which reduces overall loss of lands for agricultural production and still provides opportunities for agricultural production. In addition, FMWSPs can control large upstream areas (in some cases 200 square miles) to reduce downstream impacts to farmers, landowners, and cities. FMWSPs directly relate to the State of Minnesota policy of preserving and conserving agricultural lands, and this supports the need for an exemption from EAW requirements. Subp 36 B: The same reasoning as noted in our comments for Subpart 36 A is used to recommend raising the threshold to 2,000 acres or eliminating the category for all projects implemented consistent with the 1998 Mediation Agreement.	Land Use
Email	Subpart 36a – Land Conversions in Shoreland: Subpart 36a A: This Subpart requires a mandatory EAW for a project that impacts more than 1,320 feet of a shoreline in a nonsensitive shoreland area. This does not make practical sense when trying to restore an existing channelized public waters watercourse that is also considered to be within shoreland. This provision should apply only to	Land Use

Source	Public comment	Topic
	<p>natural unaltered shoreland watercourses and exempt altered natural watercourses. Subpart 36a B: The same comments apply to this category as applies to Subpart 36a A. For streams the shore impact zone is 50 feet and for stream restoration efforts for an existing channelized shoreland watercourse this mandatory category makes no practical sense and should be clarified to exempt impacts related to channelized/alterd watercourses and should apply only to shorelands on natural watercourses and exempt altered natural watercourses. For reference, the definition of Natural Watercourse according to MS 103G.005, Subdivision 13 “Means a natural channel that has definable beds and banks capable of conducting confined runoff from adjacent land. Subpart 36a C: As with Subparts 36a A and B, this category is inappropriate for nonsensitive shoreland areas that are channelized watercourses. In many instances federal Conservation Reserve Program (CRP) lands or RIM easement lands could be altered with the restoration of the watercourse. As a result of CRP and RIM Programs, there are far greater buffers and natural vegetation that exist today. Activities for nonsensitive areas in this category should be exempt for channelized shoreland watercourse areas or altered natural watercourses.</p>	
Email	<p>Subpart 27 – Land Conversion in Shorelands: This mandatory EIS category may be appropriate for sensitive shoreland areas that are lakes or public waters wetlands. However, in the RRB this has little practical application as it relates to 80 acres or more of nonsensitive shoreland areas that are channelized rivers and streams. This type of provision can deter or be a disincentive for the restoration of altered and channelized stream and river systems back to the natural meandered and buffered conditions that enhance natural resources. These provisions should be clarified to eliminate the application to “altered natural watercourses.”</p>	Land Use
Survey	<p>4410.4300 subp 25 Marinas - DNR regulates everything waterward, why not marinas?</p>	Marinas
Email	<p>EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review.</p>	Mining
EHQ	<p>EAW for mineral leasing and EIS for mining and mine waste disposal expansions. An EAW should be required for mineral leasing, so Minnesota doesn’t relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice. An EIS should be required for expansions of mining and mine waste disposal to make it less likely that mining facilities will spread and create additional environmental harm without new environmental review, and should prevent agencies from relying on an outdated decades-old EIS to avoid a new scientific analysis of harm. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.</p>	Mining
Email	<p>All expansions of mining, ore processing or mine waste disposal should require an EIS. The importance of my request is illustrated by the 2015 decision by the MN DNR to allow the Northshore Mine expansion in Babbitt, MN to move forward without an EIS.</p>	Mining

Source	Public comment	Topic
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	We urge EQB to make rules that require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
Email	EQB rules should also require an EIS for expansions of mining and mine waste disposal	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
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Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review.	Mining
Email	Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	And any expansion of mining activities should require a new EIS.	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	Where there is mineral leasing, The EQB needs to require an EAW. Health concerns are inherent with all mining.	Mining
Email	Mining "expansions," such as new areas, or waste disposal, mineral processing, etc. can affect health. In such cases, and EIS should be required, please!	Mining

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Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
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Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
Email	<p>An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part. The DNR has been interpreting this in such a way as to avoid having to conduct an EIS that includes probable future expansion plans. These plans are indicated by the continuous holding of leases where exploratory borings have been conducted. If there were no plan to utilize the exploratory findings, the company would cancel the leases. This tells me that future mining must be included as phased actions in a company's first EIS. This way the public has full information about the future and the risks to them and their environment.</p> <p>This way the company's plans provide full disclosure about what health risks and environmental damage can be expected long term, and the agencies can regulate in such a way that companies fulfill their lawful responsibilities to society and their surroundings. An EIS should consider not only the first construction and area that it is intending to mine initially. The EIS should include at least a section on all the risks of expansion, to include a worst case of mining all its leases and ownership. The company might also want to do a "reasonably foreseeable" case. The Talon mine is a good example. Talon has proposed it will mine a small part of its explored area, so its EIS will discuss the limited effects and damage to local environment. But if it expands to the 30-some square miles where its leases are, ten times its original size, or acquires even more land, the people affected by the expansion will not be fairly informed of the risks of the expansion before the mine ever starts. Once it has its foot in the door, agencies, subject to company threats to close and lose jobs and legislative pressures, will approve expansion permits (based on past experience). A company should at least be required to have a portion of the EIS realistically address their post-EIS plans in the case that all goes well, because significant impacts to human health and environment that occur beyond the first EIS is often worse than the first. Mining is a good example. Mining begins with exploration over a much larger area than its initial EIS covers. The expansions of the tailings basins at Minntac between Hibbing</p>	Mining

Source	Public comment	Topic
	and Virginia, and at North Shore just up the hill on the shore of Lake Superior, are good examples. EIS is not required for these situations, so local residents and state users of the adjacent land and water are not informed about the dangers to their wells, their drinking water, and their lake. Most don't even know that the design has the most risk of failure.	
Email	Regarding mining: Rules should require that the EIS contain pilot wastewater treatment tests performed in parallel with the beneficiation systems pilot testing, so that the public can know whether the pollutants will be controlled or not. Currently the EIS has only conjecture as to the success of proposed control systems.	Mining
Email	RGU for mines should be EQB, not DNR (see email from Maureen Johnsonb)	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
Email	The EQB should require an EIS before taconite mine expansion and before any copper-nickel mine operation begins or when they expand the area they want to mine.	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	Projects involving mineral leasing should require an EAW. Any expansions of mining operations or mining waste disposal should require that a new EIS be done.	Mining
Email	EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should mandate an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons. In the case of the proposed expansion of Mile Post 7, there should be a required EIS, and as a part of that, a required HIA. With Mile Post 7's tailings basin/dam the size of White Bear Lake and now with a	Mining

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	proposed expansion of another 650 acres, (just 700 feet above Lake Superior) this is sure to have environmental and health impacts to the communities downstream.	
Email	EQB rules should require an EAW for mineral leasing so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without a new review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	Given the known risks from mining that include catastrophic environmental impacts, EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
Email	EQB rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
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Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons. In the case of the proposed expansion of Mile Post 7, there should be a required EIS, and as a part of that, a required HIA. With Mile Post 7's tailings basin/dam the size of White Bear Lake and now with a proposed expansion of another 650 acres, (just 700 feet above Lake Superior) this is sure to have environmental and health impacts to the communities downstream.	Mining
Email	Given the known risks from mining that include catastrophic environmental impacts, EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
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Email	Mining companies have damaged the land in many places and when profits overcome costs they walk away leaving local governments with the bill for restoration. With that in mind make it mandatory that a bond be posted that will cover these projected costs on an inflationary considerate amount and double that.	Mining
Email	I also believe that EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
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Email	Rules should require an EIS for expansions of mining, mine waste disposal, and processing so that our environment, citizens and our water are protected.	Mining
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Email	EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste	Mining

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Email	As someone who lives downstream of many mineral deposits in the Lake Superior watershed, it is important for the health and safety of my family and my community that EQB rules should require an EAW for mineral leasing. The state of Minnesota must not relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice	Mining
Email	EQB rules should protect the quality of Minnesota surface water and groundwater, by requiring an EIS when mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons. This is important for the health of current and future generations.	Mining
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Email	We live four miles from the proposed Talon Metals/Rio Tinto nickel sulfide mine and are very concerned about the risks a sulfide mine poses to our water rich area. A review of the research shows anytime a sulfide mine has been placed in a water rich area it has ALWAYS polluted the water in perpetuity. In addition we are concerned about the toxic heavy metal dust that would blow across the landscape from the inadequately filtered vent shafts from the underground mine and its impacts on human health, fish, and wildlife. Aitkin County is a rural vacation paradise often called cabin country with over 465 lakes, and contains the best wild rice lakes in the state of Minnesota. Savannah Portage State Park and Wild Rice National Wildlife Refuge are ten miles from where Talon is drilling. The drinking water of the Twin Cities and Lake Superior are at risk as	Mining

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	our area contains the headwaters of both the Mississippi and St. Croix Rivers. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	
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Email	EQB rules should require an EAW for mineral leasing.	Mining
Email	Any expansion of mining, mine waste disposal, and processing should always require a new full EIS.	Mining
Email	Expiration dates on proposed mining projects.	Mining
Email	require an overall environmental review for potential mining projects and waste disposal.	Mining
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Email	With the increase in mineral rights exploration and the likelihood of large scope environmental impacts, rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.	Mining
Email	Related to the above, EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn't relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.	Mining
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Survey	Lower - multiple permits are required for this industry that adequately cover much of the needs met by environmental review. For any areas not addressed through permitting, review should be limited to those areas.	Mining
Survey	The existing mandatory category at Minn. R. 4410.4400 Subp. 8 should be expanded to require an EIS for the expansion of an existing facility for the storage of tailings, where that expansion was not analyzed in detail by an EIS completed within the past 20 years, or where the tailings dam type in the existing facility differs from the type proposed and analyzed in the prior EIS.	Mining
Survey	Lower - multiple permits are required for this industry that adequately cover much of the needs met by environmental review. For any areas not addressed through permitting, review should be limited to those areas.	Mining
CI Ideas	Remove Mining from Agricultural. Keep it away from housing clusters.	Mining
Listening session	can EQB require an EAW for mineral leasing and exploratory drilling? We are seeing in our community (I live in Aitkin County) that there are potentially significant impacts from exploratory drilling - Rio Tinto and Talon Metals have been drilling for many years, with multiple drills moving through wetlands on the surface and with potential impacts to groundwaters.	Mining
Listening session	mining should go through an EIS. There is mercury which carries many adverse health impacts. Mandatory EIS when large amounts of water are being used (especially for mines that use a lot of water). EIS for mining requires alternative assessments which identifies progress that is happening in technology. Copper mining for batteries that might not be made of copper soon. That should be considered. Maybe it isn't worth building the project.	Mining
Listening session	EAW, should be done on the helium mining project.	Mining
Email	The change to Item A in Minn. R. 4410.4300, subp. 11 recognizes that the leasing of mineral rights determines not only the likely locations of prospecting and mining, but whether the Minnesota Department	Mining

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	<p>of Natural Resources (DNR) will have the ability to exclude surface occupancy or reject exploration in areas with sensitive features for the next 50 years. The current rule language has been interpreted to allow unlimited mineral leasing, exploratory drilling, and sump formation with the potential for contamination of groundwater with drilling foams and lubricants¹ as well as salts and metals and surface water without either an EAW screening for environmental impacts or notice to the public. The changes to Items B and C recognize that there may be environmental impacts from expansion of mining facilities relative to the facility's original permitted capacity as well as the total acreage or processing volume. The original permitted facility may have been relatively small due to the sensitive location, the high concentration or toxicity of the metals, or the level of sulfates and other salts and ions in the rock formation. If a mining facility increases by a certain percent of its original capacity, at a minimum, an environmental screening should be required. Changes to Items B and C in Minn. R. 4410.4300, subp. 11 and to Minn. R. 4410. 4400, subp. 8 discussed below also recognize that iron ore and taconite have had significant adverse impacts on Minnesota's environment for more than half a century, both due to thousands of acres of wetlands destruction and due to release of air emissions and contaminated wastewater affecting fish, wildlife, and human health. Environmental review of expansion of taconite mining and processing has been inadequate and has avoided consideration of alternative designs and technologies that could minimize and mitigate adverse environmental effects. Proposed modifications for text of Minn. R. 4410.4300, subp. 11: Subp. 11. Metallic mineral mining and processing. Items A to C designate the RGU for the type of project listed: A. For mineral leasing, exploratory drilling, or other mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite, the DNR is the RGU. B. For expansion of a stockpile, tailings basin, or mine by 320 220 or more acres or by 20 percent of its original permitted capacity, the DNR is the RGU. C. For expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of or by more than 1,000,000 tons per year in the case of facilities for processing natural iron ore or taconite, the DNR is the RGU.</p>	
Email	<p>The change to Item B of Minn. R. 4410.4400, subp. 8 is a clarification that new facilities for storage as well as disposal of mine wastes and for waste material other than tailings—for example a new waste rock stockpile—should also require a mandatory EIS. The changes in Item C and Item D begin to close existing loopholes where a project proponent may initially propose a small-scale mine, processing, or waste storage facility insisting that any further expansions, stages, or connected facilities are merely speculative, and then substantially expand that facility without triggering a requirement for a mandatory EIS. These changes are also intended to ensure that expansions and enlargements of existing iron ore and taconite mining undergo a rigorous review that considers alternatives to avoid, minimize, and mitigate environmental harm. <i>Proposed modifications for text of Minn. R. 410.4400, subp. 8:</i> Subp. 8. Metallic mineral mining and processing. Items A to C designate the RGU for the type of project listed: A. For mineral deposit evaluation involving the extraction of 1,000 tons or more of material that is of interest to the proposer principally due to its</p>	Mining

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	radioactive characteristics, the DNR is the RGU. B. For construction of a new facility for mining metallic minerals or for the storage or disposal of tailings or other wastes from a metallic mineral mine, the DNR is the RGU. C. For construction of a new metallic mineral processing facility and for expansion of an existing metallic mineral processing facility by more than 5,000 tons per day or by more than 35 percent of its original permitted capacity, the DNR is the RGU. D. For expansion of a facility for mining metallic minerals or for the storage or disposal of tailings or other wastes by more than 320 acres or more than 35 percent of its original permitted capacity, the DNR is the RGU.	
Email	Environmental Impact Statements should be required for all large projects, particularly related to mining, agriculture and development	Mining/Agriculture/Large developments
Email	I would like environmental impact statements should be mandatory for mining, energy generation, and waste disposal.	Mining/Energy/Waste disposal
Listening session	HIA should be a part of ER for mining especially, but for everything	Mining/HIA
Email	Demand project owners prove it first, and if the project's safety is successfully proven, then require a bond for decommissioning the project at the end of its life, and to coverage all potential damages incurred due to the project over its lifetime.	Miscellaneous
Email	As you know, clean, fresh water is finite and it must be protected. We are so fortunate to have this natural resource and allowing companies or individuals to pollute or taint it would be criminal. Please ensure that Minnesota will continue to count on this resource.	Miscellaneous
Email	"Brief document" in "worksheet format" is no longer applicable to our EAW process. Strike this language and replace with relevant language	Miscellaneous
Survey	We are often being encouraged by a DNR hydrologist to complete an EAW. I feel that this is not their decision as the local government until decides if an EAW is needed.	Miscellaneous
CI Ideas	Revise EAW to consider broader issues or effects	Miscellaneous
Email	Address probable risks and consequences in an EAW	Miscellaneous
EHQ	Look hard at climate impacts	Miscellaneous
Email	EQB rules should state that an EIS is mandatory for any action done or approved by government where there is a potential for significant environmental effects from that action, including all reasonably foreseeable cumulative potential effects. Agencies now seem to treat any EIS as "discretionary" if the project doesn't meet one of the numeric thresholds for size in the EQB rules.	Miscellaneous
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Email	EQB rules should state that an EIS is mandatory, not discretionary, if cumulative impacts of an action create a potential for noticeable environmental effects.	Miscellaneous
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Email	1) The Environmental Assessment Worksheet tells the tale about what kind of environmental review a project will undergo – literally, the scope of it. If the scoping is blinkered, the EIS will be blinkered. The EAW process happens without much public input, even from enrolled native tribes, who are state actors. The project owner has an outsized influence on the process, often dealing with, let’s be honest, compliant regulators at the DNR and MPCA, or the Corps of Engineers. I remember the PolyMet EAW: the Fond du Lac and Grand Portage Bands asked repeatedly for a seat at the scoping table and were told they could comment like everyone else. Even though, as I mentioned, they are state actors.	Miscellaneous
Email	When a project owner gets a permit after the completion of an EIS, regardless whether it was truly plenary or not, it’s almost a hereditary property right, like being named the Earl of PolyMet or the Duke of Minntac. On the issuance of a permit, regardless of how toothless it is, and even when it expired twenty-five years ago, the regulators become your defenders, your vassals, not your regulators, partly because of something called the “permit shield.” In the case of PolyMet, the state has spent untold millions of dollars defending PolyMet and permits issued to it that the courts have found to be seriously deficient and yes, corrupt.	Miscellaneous
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Email	Consideration be given to the downstream effects on Canada. That the potential environmental impacts to Canada as a downstream concern be formally considered. That Canada and the Provencal government be given a voice - be given the right to receive scientific environmental impact statement rights. That their concerns be given a formalized procedure to effect minning activities that take place in Minnesota that would effect their environment. This would be done in respect as a good neighbor just as we would like them to do for Minnesota.	Miscellaneous
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Email	EIS are not and should not be “discretionary”!	Miscellaneous
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Email	Another mandatory EAW category should be added for facilities that are known to use or produce PFAS that are seeking a NPDES or SDS permit to directly discharge to waters that are impaired for PFAS. Since industrial discharge frequently includes PFAS, EQB should write this mandatory category broadly to require environmental review for facilities directly discharging to waters impaired for PFAS regardless of the volume or rate of discharge. This category would provide essential information about additional PFAS intrusions into waters already impaired for PFAS. This category is needed because the persistence of PFAS means that impaired waters will continue to remain impaired unless all sources of further PFAS intrusion are closed.	PFAS

Source	Public comment	Topic
Email	<p>Minnesota Rule 4410.4400, subp. 24 should be amended to make clear that all petroleum pipelines and all carbon capture pipelines must complete an EIS pursuant to Minnesota Rules Chapter 4410, and the comparative environmental analysis created for pipelines should be eradicated. This change is critical to ensure the requirements for project proposers are clear, to prevent litigation, and to ensure that projects with potentially significant environmental effects undergo adequate environmental review before permitting decisions are made. As it stands, the EQB has approved an alternate form of environmental review for pipeline projects known as the “comparative environmental analysis” which is found in Minnesota Rule Chapter 7852. While this alternate form of environmental review was created to reduce duplication of information, in actuality it has created uncertainty, confusion, and litigation that has only served to lengthen environmental review and permitting process timelines. For example, the comparative environmental analysis process was at issue in the Sandpiper petroleum pipeline project. Ultimately, an appeal to the Minnesota Court of Appeals was required to determine the proper environmental review required for that project, and an EIS was ordered by the Court.² The propriety of the comparative environmental analysis was also at issue in the Summit carbon capture and storage pipeline project. After much debate, an EIS was ultimately ordered.³ In both instances, the process would have proceeded more efficiently if the debate about the required environmental review could have been avoided and an EIS ordered at the outset (as this was the environmental review ultimately ordered in both cases). In addition to creating regulatory certainty and efficiency, requiring an EIS for pipelines, whether petroleum or carbon dioxide, is appropriate given that these are some of the most impactful controversial projects in Minnesota. They have the potential to negatively affect a vast array of Minnesota’s natural resources. Moreover, they also affect the lands, treaty rights and key cultural resources of the sovereign Tribal Nations in Minnesota. Given the wide range of impacts and the significance of the impacts that can result from these pipelines, an EIS is the most appropriate form of environmental review. Under the current rules, it was not clear that an EIS was required for the Sandpiper / Line 3 pipeline project, which is arguably one of the most controversial projects ever permitted in Minnesota. Line 3 was unquestionably the type of project that should have required an EIS from the outset, and the mandatory category for pipelines should be changed to make this clear. Moreover, the comparative environmental analysis process does not provide sufficient environmental review for pipelines. While the comparative environmental analysis is intended to be akin to an EIS, its rules do not clearly require the same analysis as an EIS. For example, it is not clear the comparative environmental analysis requires an alternatives analysis or an analysis of the “no-action alternative” despite the fact that these are foundational requirements of an EIS under MEPA. An environmental review that does not look at alternatives or a no-action alternative is not acceptable, especially for projects with the magnitude of impacts that pipelines can have. Finally, the comparative environmental analysis process is unclear and confusing. The rules in Chapter 7852 say little about what is required in the analysis. Additionally, the public’s engagement opportunities are also unclear under that process. In contrast, the requirements of an EIS are clearly spelled out in Minnesota Rules Chapter 4410, as is the public’s opportunity to engage in the</p>	Pipelines

Source	Public comment	Topic
	process. Moreover, the public is much more familiar with the EIS process than it is with the comparative environmental analysis process, and there are more public resources explaining the EIS process, making it much easier for the public to engage through the EIS process than through the comparative environmental analysis.	
Survey	The definition of pipelines must be expanded to cover CO2 pipelines. These are a boondoggle meant to soak public money meant for real climate-fighting measures and divert it perpetuate and subsidize oil and gas production, and production of biofuels. These are a threat to our planet and by definition have the potential for significant environmental effects. Please expand the definition of pipelines under the mandatory EIS category, at Minn. R. 4410.4400 Subp. 24.	Pipelines
Listening session	Helium and pipelines need to be considered for CO2 pipelines- these should be mandatory EIS categories. CO2 can leak out and it can be a health hazard.	Pipelines
Email	If the RGU has responsibility for both economic development and for protecting the resource, there would appear to be a conflict of interest. The process used throughout the application favored the applicant, and rules and variances were applied based on the land and ended at the waters edge.	Programmatic
EHQ	Determine potential impact to lake safety and ecology based on potential future total # of dwellings on lake and lake classification.	Public waters
Survey	Consider eliminating the altering of 1 acre or more of course, current, or cross-section requirement for ecological enhancement projects that have a net benefit to the environment. The specifics of working in the public water can be addressed during the permitting process and don't need to be addressed separately by an EAW.	Public Waters
Survey	Lower - multiple water-related permitting programs exist in MN and this should not be a unique trigger.	Public Waters
Survey	The impacted area threshold for Subsection A should be reduce to 0.25 Acres. I also recommend the wording of this Subpart be revised to clarify how impacts to public water basins and wetlands, and watercourses are differentiated between Subp. 26 and Subp. 27. MN Rule Chapter 4410.4300 Subp. 27 A should be changed to: For projects that will change or diminish the course, current, or cross-section of 0.25 acres or more of any public water basin or public water wetland except for those to be drained without a permit according to Minnesota Statutes, chapter 103G, the DNR or local government unit is the RGU.	Public Waters
Survey	Watersheds that are either listed as impaired due to WQ issues or erratic flows the result of urban and rural development should be in the mandatory category before any project moves forward. Allowing business as usual in already greatly altered watershed is unacceptable	Public Waters
Survey	Requiring an EIS for dam removal that eliminates an artificial reservoir and restores a natural, freeflowing stream is onerous and will often result in a less ecologically sound option being selected for implementation in order to avoid an EIS. There should be a simplified process for review of restoration of stream systems.	Public Waters

Source	Public comment	Topic
CI Ideas	Revise threshold for wetlands to require mandatory EAWs for 1) wetland impacts greater or equal to 1 acre that are within 500 ft of the ordinary high water mark of recreational development, natural environment, and general development lakes, and 2) cumulative impacts to 5 or more wetland basins and or cumulative wetland impacts equal to or greater than 1 acre.	Public Waters
Email	Subpart 27 – Wetlands and Public Waters: Subpart 27 A: This provision requires an EAW for basically any change to the cross section of a public water watercourse. As with the discussion in Subpart 26, in the RRB these thresholds may have had some relevance back in the 1950's and 1960's and prevented some of the channelization that took place by state and federal agencies. Again, there are several processes that are already in place in the RRB that allow for public comment and input. The thresholds currently in place only create more administrative process and cost that works to inhibit the restoration of river systems in a timely and economically efficient manner. Therefore, RRB projects consistent with the 1998 Mediation Agreement should not be subject to the EAW process or could be added to the exempt provisions.	Public Waters
CI Ideas	Clarify the criteria for MN Rule 4410.4300 Subpart 26 and Subpart 27.	Public Waters/Stream Diversion
Listening session	Even though solar is covered under electric generating facilities 50 MW or more, there should be a mandatory category for solar by itself. 1MW of solar encumbers approximately 7 acres of land; a 50 MW project covers about 350 acres of land. In a rural county, this is a large conversion of land, especially when we have many livestock facilities. The threshold should be lowered to at least 25 MW.	Renewables
EHQ	New housing developments of 100 units or greater. I believe all projects that have the potential for high lifecycle greenhouse gas emissions should undergo a full EIS. This gives the best chance for stopping climate-damaging megaprojects entirely. Any new housing development with 100 units or more should undergo a full EIS.	Residential
Survey	The trigger for the number of multifamily units is too low for the current market. This number should be raised. The three-year look back should also be reviewed for its applicability in multifamily residential redevelopment projects	Residential
Survey	Subp. 19. Residential Development. Rules are overly complex and difficult to comprehend for the lay person or project proposer. Lots of discrepancies in interpretations on when an EAW, EIS, AUAR, etc. is required between the LGU and project proposers.	Residential
Survey	Property development on lakes for business. uses should trigger an automatic EAW and then An EIS.	Residential
Survey	residential, commercial, and industrial development should be exempt or thresholds increased significantly	Residential

Source	Public comment	Topic
Survey	The threshold of 375 units for multi-family development in the seven-county metro is unnecessarily low for project sites located within an existing dense urban context. Comprehensive planning and local regulatory systems effectively guide development of this scale to locations well suited to accommodate it. EAWs prepared for projects of this type in a developed, dense urban context routinely find no potential for significant negative environmental impacts and do not require that any actions be taken for mitigation. The EAW process is not resulting in improved outcomes. Rather, developers choosing to downsize projects that are net positives for the environment in order to avoid the burden of the EAW process has a negative impact on the environment. I would recommend significantly increasing the EAW threshold for multi-family development in the metro, or possibly creating a new tier with a higher threshold specifically for Minneapolis and St. Paul, given that the context and scale of development in the core cities differs significantly from the rest of the state.	Residential
Survey	The number or units should be raised. Net units per acre for multifamily could be addressed rather than flat number of units. Current construction and market needs would suggest that 375 units is too low of a number to trigger an EAW.	Residential
Survey	The threshold should be increased for residential development. Cities in Minnesota, and especially in the metro region, are already completing Comprehensive Plans every 10 years that cover the majority of the concerns and topics in an EAW. Most of the time, as a reviewer, members of the public will comment to me that the EAW/EIS process seems redundant. Additionally, other agencies such as watershed districts, the DNR, FEMA, Army Corps of Engineers, Met Council, etc. regularly are reviewing individual residential developments regardless of if an EAW is required or not. The thresholds should be increased so that only exceptionally large residential developments require environmental review at the level of detail the EQB is looking for. Additionally, the increased time and cost it takes to complete environmental review only contributes to the challenge the region is facing with affordable housing. Adding just a few months onto a residential development project can be the difference between the project happening or an applicant walking away from the table. Any costs with environmental review are then passed through to the homebuyer and housing prices increase.	Residential
Survey	should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential

Source	Public comment	Topic
Survey	Within the 7-County Metropolitan Area, all cities are required by the Metropolitan Council to prepare a Comprehensive Plan every ten years. This plan is truly comprehensive, requiring future land use analysis, housing projections including mandatory density thresholds, resilience, infrastructure, parks, and natural resources. Additionally, the Comprehensive Plans must include sanitary sewer analysis, water supply, and the recent requirement to include a Local Surface Water Management Plan (LSWMP). Decades in advance of residential development, cities and the Metropolitan Council plan for which areas will ultimately develop. From an infrastructure efficiency standpoint, it is beneficial to develop properties that are contiguous to existing and planned infrastructure instead of exurban areas that may otherwise develop. From a climate change standpoint, developing properties that are within planned infrastructure areas is beneficial to minimize the distance of vehicle commuting, and increases the potential for a more efficient/reliable transit system. From an overall environmental standpoint, placing housing where it has been carefully planned is preferable to more loosely regulated exurban areas. Requiring EAW's for residential developments within the Metropolitan Council's jurisdiction results in duplicative findings, delays and additional costs that only compound the housing affordability crisis in our region. 1. Recommendation 1: Exempt EAW mandatory thresholds for residential projects located in a city within the Metropolitan Urban Services Area (MUSA) when the permitting city's Comprehensive Plan has been adopted and approved by the Metropolitan Council. 2. Recommendation 2: Exempt EAW mandatory thresholds for residential projects located in a city outside of the Metropolitan Urban Services Area (MUSA) when the permitting city has adopted a Comprehensive Plan and the proposed development is consistent with the Comprehensive Plan. 3. Recommendation 3: If the permitting city has not adopted a Comprehensive Plan, a proposed residential development requires an EAW if the project phase results in 2,000 or more units of housing (all types).	Residential
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential
Survey	Threshold should be increased. See answer to previous question.	Residential
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential
Survey	Recommendation: If the permitting city has not adopted a Comprehensive Plan, a proposed residential development requires an EIS if the project phase results in 3,000 or more units of housing (all types).	Residential
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Residential
Survey	They should be increased for residential development.	Residential

Source	Public comment	Topic
EHQ	RV Campgrounds, proportional to size of lake, 50 sites on a 3,000 acre lake vastly different than on a 300 acre lake	RV Campground
EHQ	RV Campgrounds, condition of shoreline, dense vegetation, depth of water & how far out this depth goes, is this fish spawning habitat	RV Campground
EHQ	RV Campgrounds, boat carrying capacity of lake at current level to check if increased use increases boating safety concerns	RV Campground
EHQ	RV Campgrounds, current development on lake, it % of residence is increased 33%, an EAW should be required	RV Campground
EHQ	Large RV campgrounds near lakes should always require an EIS examining impacts on greenhouse gas emissions, fragile ecosystems, and WATER.	RV Campground
EHQ	Mandatory EIS required for RV Campgrounds and resort development of RV Campgrounds and additions on shallow Lake areas and in wetland areas. Mandatory EIS required for RV Campgrounds and resort development of RV Campgrounds and additions on shallow Lake areas and in wetland areas. The initial amount of sites would be lowered from 50 to 25. Additions to existing RV campgrounds / resorts would be 15 sites or EIS. The shoreline and lake aspects to consider would be depth of lake from shore to 200 feet - is it less than 15 feet, and other aspects such as wetlands, amount of aquatic vegetation desired to be cleared, phosphorous sensitivity of the lake, overall lake health trends, traffic of watercraft on lake and potential increases, boat landing, public access, size of lake, depth of lake overall (is it a shallow lake), wildlife impact, etc.	RV Campground
EHQ	The large RV campground proposed on Pickerel Lake in Hubbard County should require a mandatory EIS.	RV Campground
Email	The mandatory EAW requirements for RV parks and campgrounds in the shoreland zone are a one size fits all solution that fails when applied to some lake classifications. They assume that all lakes have the same ability to accommodate the addition of a certain number of dwelling sites and they fail to assess the relationship between the addition of the sites and the classification of the lake. They also fail to consider how the development will fit in with future development on a lake. Environmental impacts in the shoreland zone cannot be determined based only on the land, or on the current status of lake use and development. Impacts should be assessed keeping in mind the potential maximum development of the lake. The Decision Hills Campground project in Hubbard county is an example of how these issues were left unaddressed in the current ordinance and statutes. Neither the RGU or the DNR seem to accept responsibility for assessing the current status of the lake or for estimating the potential impact of development on the lake. The Hubbard County RGU felt it's authority was limited by the Shoreland Ordinance and confined itself to reducing the number of boat slips while assuring the applicant that if the lake did not deteriorate, he could come back and ask for more in a few years. Yet there are no plans to monitor lake quality or assess the lake's capacity. If there are no criteria for establishing a lakes carrying capacity, no plans to monitor lake quality, and the development is enforced strictly by the RGU's	RV Campground

Source	Public comment	Topic
	<p>interpretation of the ordinance, and if this is common practice in Minnesota counties, then the long term impact of allowing PUD development puts Minnesota's lakes at risk of overuse. Part of the difficulty may be attributed to a disinclination to develop a set of rules to do assessments of the lakes. The concepts of overcrowding and carrying capacity have appeared in articles for decades, yet the Hubbard County RGU has not moved proactively to address them. This may be because they are viewed as time consuming and expensive, requiring extensive technical consultation. In my view, the assessment of potential development could be used to predict the safe level for lakes, by using data that should be available from the county records to calculate the number of potential dwellings. The number of existing lots on the lake, plus the number of additional riparian lots that could be created by subdivision, plus the number of additional dwelling units/sites that could be added through multiplexing on lots based on the current ordinance size requirements. There would then need to be a factor created based on lake classifications(at a minimum, deep and shallow) which would determine the minimum lake acres per dwelling required for development that is safe both for recreation and the environment. I would hope that there are enough studies of lakes that have declined to come up with these factors.This is probably too simplified as there are factors that are not incorporated in the formula, such as the amount of public access on the lake. But it looks beyond the current development request to the potential future impacts, considers existing property owner's rights to develop their property, and would provide a tool that would not require the RGU to stretch it's authority beyond what they accept as their mandate.</p>	
CI Ideas	I strongly believe that the Mandatory Category, which is currently based on scale and project intent, should also have a geographic element. We have sufficient geographic environmental quality data to base establish a critical area basis	Sensitive Area
CI Ideas	When you look at Upper Mn watershed, it is listed hydrologically as eradicate and biologically listed as impaired. We have petitioned to drain in an over drained watershed. My recommendation is that it would be extremely wise to put that watershed and watersheds like it into a mandatory EAW category.	Sensitive areas
Email	My preference is that the BWCA and surrounding Superior forest be given official acknowledgment as a sacred space for Minnesota and be given exceptional protections above and beyond normal environmental considerations.	Sensitive Areas
Survey	An EAW and EIS should be mandatory on any project that involves lakeshore.	Shoreland
CI Ideas	<p>The EQB, in consultation with its member agencies, should develop mandatory Environmental Assessment Worksheet (EAW) and Environmental Impact Statements (EIS) review thresholds for the following project types: 1) Commercial composting 2) aquaculture operations 3) agri. feedlots (EIS only) 4) golf courses (EAW only) 5) facilities discharging sewage, industrial and other wastes into the waters of the state, including indirect discharges to wastewater treatment plants, in amounts greater than 200,000 gallons per day, facilities discharging toxic chemicals into waters of the state, facilities generating air emissions of toxic chemicals 6) facilities generating hazardous wastes 7) storage of toxic chemicals</p>	Solid waste

Source	Public comment	Topic
Survey	Mandatory EAW categories “diversion, realignment or channelization of any designated trout stream” Minn. R. 4410.4400, subp. 26, or work that will “change or diminish the course, current or cross-section of any public water ...” Minn. R. 4410.4400, subp. 27A. When the project is fundamentally restoration, designed to achieve exactly the goal of MEPA noted above; to repair a degraded stretch of the creek, to improve habitat, mitigate risk of damage from flooding and provide a higher-quality resource for the public. It an ineffective use of public resources when the project is entirely aimed at restoring and improving a public water resource and adjacent landscape. The mandatory EAW cost approximately \$15,000 without producing new information in its development or in the review comments, which was a waste of tax payer dollars both in the development and in the review.	Stream
Survey	Our issues are with those relating to stream restoration on trout streams and other waters. Stream restoration and now often culvert replacement is triggering the need for an EAW. We feel that this is unnecessary as the goal is to restore the physical and ecological process of the stream to a natural state. An EAW has never resulted in changes to these types of projects and only add additional wait times and admin work for the governmental proposer of the project.	Stream
Survey	The wording in Subp. 26. (Stream diversion) is confusing. Specifically, the language concerning trout streams is not specific enough to just require an EAW for an activity that would degrade the resource (ditching, channelization, etc). The language also could be interpreted to require an EAW for an activity that would result in net increases in aquatic resource functions, such as remeandering a ditched portion of a trout stream. This is concerning, as it is well understood that EAW's should not be required for activities meant to improve the environment.	Stream
Survey	Mandatory category Subp. 26. Stream diversion should add a standard exemption for projects which the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services. This language can be adopted from NATIONWIDE PERMIT 27 Aquatic Habitat Restoration, Enhancement, and Establishment Activities.	Stream
Survey	Aquatic Habitat Restoration and Enhancement should have an exemption from Subpart 26 similar to that of the Army Corp Nationwide Permit 27. Possibly with a project size threshold similar to that of subpart 27.	Stream
Survey	Adding language to make conservation agencies exempt from this when restoring and enhancing trout streams. Example: culvert realignment	Stream
CI Ideas	I have been involved in many Stream Restoration projects. EAW's are not intended for this type of work and costly and do not add value	Stream
Email	In the RRB the threshold is not applicable since the major river systems in the RRB have been channelized by state and federal agencies in the 1950's and 1960's. Many current efforts are restoring altered and channelized streams to more natural stream corridors and remeandering	Stream

Source	Public comment	Topic
	of primary, secondary, and tertiary river and stream systems is occurring. These types of restorations should not be required to go through the Mandatory EAW process. Another way to address this issue is to interpret these channelized rivers and streams or "Altered Natural Watercourses" as defined in MS 103G to be exempt from the Mandatory EAW process. As defined in MS 103G.005, Subdivision 3, Altered Natural Watercourse means "A watercourse artificially constructed by human beings where a natural watercourse was not previously located" and we should be encouraging the restoration of these channelized river and stream systems rather than putting unreasonable processes in place that can only make these projects more costly, but also act as a disincentive.	
CI Ideas	Recommend modifying this category to exempt stream realignment projects on streams (both trout and warm water streams) that fit the following criteria: the project 1) is ecologically-based, 2) is grant-funded, 3) adds sinuosity to the project reach, and 4) is implemented by the RGU	Stream
Survey	Conservation projects specifically intended to restore an impaired or channelized stream to a more stable, natural, healthy condition should have special consideration in the permit process. Especially when public funding is already allocated to the work, the level of environmental review for projects already intended to improve the ecological value of the site is excessive and should be tailored to the type of agency performing the work and the type of work being performed. If an LGU is restoring a ditched or flood-damaged stream reach, there is already plenty of permitting oversight through the MNDNR Public Waters permit and the MPCA 401 certification.	Stream
Survey	All watercourses or streams that meet the criteria of this section all meet the definition of public waters as outlined in MN Statute 103G.005 Subd. 15. As such, I recommend the wording of this Subpart read: Public Water Stream diversion. For a diversion, realignment, or channelization of any designated trout stream, or affecting greater than 100 feet of a public water watercourse with a total drainage area of two square miles unless exempted by part 4410.4600 subpart 14, item E, or 17, the DNR or local governmental unit is the RGU.	Stream
Survey	There should be an exemption OR size threshold for Aquatic Habitat Restoration and Enhancement regardless of stream class/beneficial use	Stream
Survey	The language concerning trout streams is not specific enough to just require an EAW for an activity that would degrade the resource (ditching, channelization, etc). The language also could be interpreted to require an EAW for an activity that would result in net increases in aquatic resource functions, such as remeandering a ditched portion of a trout stream. This is concerning, as it is well understood that EAW's should not be required for activities meant to improve the environment. Recommend adding an exemption for restoration projects. The following language could be used: "Any aquatic habitat restoration, enhancement, or establishment activity on a designated trout stream is exempt, provided that it is planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference." This language closely resembles language that is contained within the US Army Corps of Engineers Nationwide Permit 27 (Aquatic Habitat Restoration, Enhancement, and Establishment Activities).	Stream

Source	Public comment	Topic
Survey	Restoration should be exempt.	Stream
Survey	There should be consideration for creating a separate process for projects whose goal is to restore natural functions of degraded/impaired streams. Current process is burdensome and in some cases projects are being proposed that result less improvement to streams in order to avoid triggering an EAW.	Stream
Survey	Exempt public projects with goal to repair a degraded stretch of the creek, to improve habitat, mitigate risk of damage from flooding and provide a higher-quality resource for the public.	Stream
Survey	Exempt public projects with goal to repair a degraded stretch of the creek, to improve habitat, mitigate risk of damage from flooding and provide a higher-quality resource for the public.	Stream
Survey	There should be language to allow conservation agencies to not need an EAW to restore Trout Streams. Example: culvert replacement and/or realignment, habitat restoration, any projects that would RESTORE and ENHANCE existing conditions. Requiring reviews for these projects costs unnecessary tax-payer dollars, and often deters agencies from performing a restoration all together. Language that would only allow enhancement projects.	Stream
Survey	As mentioned earlier in survey, I think EQB should consider developing an accelerated review process for projects aimed to restore stream systems.	Stream
Survey	Mandatory category Subp. 26. Stream diversion should add a standard exemption for projects which the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services. This language can be adopted from NATIONWIDE PERMIT 27 Aquatic Habitat Restoration, Enhancement, and Establishment Activities.	Stream
Listening session	I'd like to take the opportunity to reiterate a comment about stream restoration. I think there's significant opportunity to streamline environmental review for projects that are meant to restore stream ecosystems and that have significant environmental benefits. I'd encourage looking at revising the Subpart 26 language to include a categorical exclusion for nature-based stream restoration projects.	Stream
Email	Add another for the sake of our public lands - EQB should require a mandatory EAW category for off-road vehicle trail development - any trail of 1 mile or longer.	Trails
Survey	subpart 37 - Recreational trails. There is no definition of "trail" vs. "area", so a trail that is 7 miles long that is completely on 200 acres of public land dedicated to OHV use only can (and has been) called a "trail" for an ERND.	Trails
Survey	EAW's should be required for any trail addition or creation that exceeds 1 mile	Trails
Survey	Should be exempt. Do not not learn anything that we do not already know and mitigate for. The process is redundant, expensive, and long.	Trails

Source	Public comment	Topic
Survey	Cumulative impacts need to be reviewed so that extensions to trails previously done without any environmental review get environmental review so that they also don't avoid scrutiny due to the limited segment length.	Trails
Survey	"Trail" and "area" need to have a legal definition, which is not as easy as it would seem. For the Houston OHV trail project, a 7 mile trail on 200 acres of new OHV property, 120 acres of which were purchased with dedicated OHV funds and 80 acres have deed restrictions require the property to ONLY be used for a motorized trail system, was interpreted as a "trail" and not an "area" in the ERND prepared by the MN DNR to avoid a mandatory EAW. Definitions are not as easy as one would think, and OHV trails are known to have higher impacts than most non-motorized trails. So having the same threshold for a mandatory EAW for a hiking trail as an OHV trail for trucks, dirt bikes and ATVs doesn't seem appropriate. A 2003 legislative audit recommended all OHV trails other than minor re-routes be subject to mandatory EAWs due to their high impact on the environment and propensity for lawsuits. I would like to propose a mandatory EAW category for all trails more than 1 mile long to avoid the near impossible task of defining "Trail" vs "Area", having better public awareness of how new motorized trails will impact the environment, and avoid the cost of lawsuits (both to the State of Minnesota and groups working to protect the environment.)	Trails
CI Ideas	For quality reviews, broaden the scope to include ALL proposed trails in Minnesota - require at least an environmental worksheet or EIS.	Trails
CI Ideas	Re-evaluate the criteria for trail construction on public lands.	Trails
CI Ideas	Require a comprehensive environmental review for all motorized recreation trails - EAW for short and EIS for longer systems.	Trails
CI Ideas	Require an environmental impact assessment (EIS) prior to considering making new hiking trails or ORV trails	Trails
CI Ideas	Require mandatory EAWs for all new OHV trails/areas other than minor re-routes as recommended by a 2003 Legislative Audit OR define OHV "trail" vs. OHV "area"	Trails
CI Ideas	Trails and Ditches-fencing. This is to be added to previous issues with trails and ditches. Fencing along trails had typically been split rail where needed. Most recently the additional trail added on was a chain link fence. This is Cass County, Cty Rd. 77. Many wetlands line the sides of the road. I frequently assist turtles in June crossing the road to lay their eggs. A chain link fence does not allow them to travel to the area of laying eggs. They cannot pass under the fence. This is similar to GPS that has been ingrained in them for 1,000's of years. Where they live and where they lay eggs are 2 different areas and we should respect that.	Trails
Listening session	Motorized recreation trails. There should be a mandatory EAW for trails over a mile. People should have input and flag wildlife and other habitat impacts. Trails rarely get an EAW. Trails are done in pieces and should be considered cumulative.	Trails
Listening session	There are miles of trails but they are fragmented and this isn't considered and doesn't trigger an EAW. They emit a lot of methane and nitrous oxide that should be considered. RGUs need to have a better selection	Trails

Source	Public comment	Topic
	process and seconds the conflict of interest. Also, smaller RGUs don't have the bandwidth to do the background.	
Listening session	Any EIS should also require HIA. This is especially important in treaty territories. Tribes get to hunt, fish, and grow in these areas and it doesn't let them know what is happening in the area and what their food could be exposed to. The current consultation process is broken. It doesn't allow the tribes to say they don't want the proposer to do anything in their area. Free, prior-informed consent established for the ER process.	Tribes/ Health Impact Assessment
Listening session	Agree with previous comment, our treaty responsibilities require that we not violate the rights of Anishinaabe people to continue to live in their territory and to hunt, fish, and gather. Yes to Free Prior Informed Consent.	Tribes/ Health Impact Assessment
CI Ideas	Add a new threshold for dams to Mn. Rules Ch. 4410.4300, subp. 24, requiring a mandatory EAW for construction of a dam with an upstream drainage area of 50 square miles or more.	Water Appropriations
CI Ideas	The mandatory EAW category for new water appropriations should be changed in two ways: (1) revising the category for appropriations for commercial or industrial purposes to projects that use an average of 5 million gallons of water per month, and (2) revising the category for appropriations for irrigation so it is not limited to projects in one continuous parcel or from one source of water.	Water Appropriations
Survey	Dam removals should be made easier by including a clause/exemption for impoundments that are incidental, in disrepair, or detrimental to ecological function or water quality.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are affected.	Water Appropriations
EHQ	Mandatory EIS to protect surface and groundwater against large ag or industry appropriations. An EIS should be mandatory to protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
Email	The mandatory EAW category for new water appropriations should be changed in two ways: (1) revising the category for appropriations for commercial or industrial purposes to projects that use an average of 5 million gallons of water per month, and (2) revising the category for appropriations for irrigation so it is not limited to projects in one continuous parcel or from one source of water. These changes will help ensure the state has sufficient water as we face increasing demands on our water supply and the uncertainty of climate change. Currently, pursuant to Minn. R. 4410.4300, subp. 24, an EAW is triggered for a new appropriation for commercial or industrial purposes of surface or groundwater that averages 30 million gallons or more per month. This is a massive amount of water, enough to provide for the needs of nearly 3,300 households each year. ¹ Projects that still use a significant amount of water—enough to have the potential for significant environmental effects—certainly will fall below this threshold. The same rule triggers an EAW for new appropriations for irrigation of 540 acres or more “in one continuous parcel from one source of water.” Minn. R. 4410.4300, subp. 24. But an irrigation appropriation may still have the potential for significant	Water Appropriations

Source	Public comment	Topic
	environmental effects even if the irrigated land is not in one continuous parcel or if water is taken from two sources. These limitations on the EAW requirement encourage gamesmanship by water appropriators that does not actually decrease environmental impacts.	
Email	A new mandatory category for an EIS for water bottling plants that would appropriate more than 1 million gallons of water annually to transport or sell for consumptive use to a location more than 50 miles from the point of the proposed appropriation. Water-use permits for bulk transport or sale of water in excess of 1 million gallons per year are already prohibited by statute (Minn. Stat. §103G.271, subd. 4b), but permits for bulk-break (i.e., individual bottles) are still allowed by statute. If bulk transport of water at this level is entirely prohibited, an identically sized bulk-break appropriation of water should at a minimum be fully studied. The new category should cover any appropriation for use by a water bottling plant, whether the plant itself or another entity is requesting the appropriation. Over pumping of groundwater is becoming a crisis throughout the nation, as many places pump water out of aquifers faster than they can recharge. ⁵ Water hungry states will be looking to Minnesota's 10,000 lakes and large groundwater reserves to supply their water needs. Before significant amounts of water are bottled and shipped away from Minnesota, the effects of such actions should be fully understood. Members of the public, who depend on having clean reliable drinking water in their communities, are going to want comprehensive information about the effects such appropriations will have on the sustainability of their water before any decisions are made, as demonstrated by the recent controversy over the Niagara Bottling plant proposed for Elko New Market. Such a category also would be consistent with the Minnesota Legislature's direction that appropriations of groundwater may be approved only if the use "is sustainable to supply the needs of future generations and the proposed use will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply and private domestic wells." Minn. Stat. § 103G.287, subd. 5.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
Email	EQB rules should mandate an EIS to protect the quality and quantity of Minnesota surface water and groundwater from huge appropriations by industry or agriculture now and into the future.	Water Appropriations
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Email	Some industries want to use large quantities of Minnesota water. This can have adverse effects on lakes, rivers, wetlands, streams, and other water users. An EIS should be required in all these cases.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
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Email	EQB rules should mandate an EIS to protect the quality and quantity of Minnesota surface water and groundwater from huge appropriations by industry or agriculture.	Water Appropriations
Email	Whenever large amounts of water are required by industrial or agricultural projects, an EIS should be required.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact. When Enbridge asked for and received a 10 fold increase in their water appropriation permit during the drought of 2021, it was granted without analysis of the impacts. This is clearly wrong and an abhorrent slap in the face to those impacted by the drought and all of us that depend on water. Requiring an evaluation of the	Water Appropriations

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	environmental impact of large appropriations of water is a crucial step in responsible stewardship of this most precious resource for the benefit of present and future generations.	
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Email	Secondly, I think that EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture	Water Appropriations

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Source	Public comment	Topic
Email	An EIS must done when large amounts of water are taken from public water, ground water, and surface water in any lake, river, or other water.	Water Appropriations
Email	Review the environmental impact of agricultural projects also that would involve Lake Superior and Lake Superior Basin	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
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Email	EQB rules should mandate an EIS to protect the quality and quantity of Minnesota surface water and groundwater from large appropriations by industry or ag.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
Email	EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.	Water Appropriations
Survey	Related to water appropriations and the process. Because it is assumed in Minnesota that we are water rich, attention to water appropriation and permitting seems to be rather lax. CURE would like to see the DNR be more accountable for water appropriations and monitor industrial and corporate agricultural permits more closely. It is perceived that some of these companies share unused appropriations which while on the surface may seem the "Minnesotan" thing to do, it creates gabs in what extractionist industries are actually using. The fees for these permits need to increase. We continue to see drought concerns on the horizon and we should be planning ahead to protect drinking water sources for municiple use.	Water Appropriations
Survey	Lower mandatory thresholds -- the current threshold of 30 million gallons is far too high, particularly as climate change will make water appropriation a more divisive issue	Water Appropriations
Survey	Lower - multiple water-related permitting programs exist in MN and this should not be a unique trigger.	Water Appropriations

Source	Public comment	Topic
Listening session	Create an EIS for water appropriations	Water Appropriations
Email	<p>Subpart 24 – Water Appropriation and Impoundments: These are two separate categories and should be independent subdivisions. There is minimal if any relationship between the two items and it would be pertinent to make the difference clearer by separation into individual categories rather than including them both within the same subdivision. Subpart 24 B: The threshold of 160 acres in the RRB is far too small and limits what can be done by our member watershed districts without incurring significant financial costs. A more practical and reasonable threshold taking into consideration the 1998 Mediation Agreement is 1,000 acres or to eliminate the requirement of a threshold for FMWSPs that are following the Mediation Agreement, MS103D, MS103E, and the RRWMB funding process. For FMWSPs in the RRB, 1,000 acres is a reasonable threshold when considering that there are several times when public process is invoked when our membership is developing and implementing FMWSPs. Subpart 24 C. FMWSPs that are being planned, constructed, operated, and maintained in accordance with the 1998 Mediation Agreement should be eliminated from the Mandatory EAW Category or at a minimum the provision should only relate to construction of High Hazard Dams. Also, in some situations, federal permitting agencies may have already conducted review and in this case, state effort is duplicative. We can share examples of duplication from FMWSPs that have been recently constructed or are nearing the construction phase.</p>	Water Appropriations
Email	<p>There are substantial gaps in the way Minnesota’s environmental regulations address water appropriations and impoundments. In simple terms, Minnesota rules take the purity and abundance of groundwater and surface water for granted. Impacts of design change, and enlargement of dams and cumulative appropriations of groundwater and surface water on wetlands, watersheds, risks of downstream pollution, and the costs of wastewater contamination of ecosystems with salts and ions are only a few of the adverse environmental effects that should be evaluated in an EIS. The failure to analyze these costs has created new risks of catastrophic dam failure, depletion of aquifers, and a widespread degradation of surface water quality with salts drawn from groundwater. Evaluation in an EAW is insufficient. The EAW, unlike an EIS, is prepared by the project proponent and fails to consider either cumulative potential effects or alternatives, including the no action alternative. Item A addresses dam construction, change and expansion, particularly in the context of mining wastes. Items B and C are based on text currently mandating an EAW in Minn. R. 4410.4300, subp. 24 and request a mandatory EIS for both large appropriations and impoundments that substantially modify watersheds. Changes proposed below are likely only the beginning of what must be discussed, evaluated, and adopted to apply scientific analysis to protect Minnesota aquifers, watersheds, and ecosystems before they are irrevocably harmed. We welcome that discussion. <i>Proposed Modifications for text of Minn. R. 4410.4400, subp. 18:</i> Subp. 18. Water appropriation and impoundments. A. For construction of a Class I dam, construction of a Class II dam for storage of</p>	Water Appropriations

Source	Public comment	Topic
	<p>tailings or other mining wastes, expansion of a Class I dam by 320 acres, or changes in the design of a dam containing tailings or other mining wastes that have the potential to significantly increase risks or consequences of dam failure, the DNR is the RGU. B. For a new or cumulative appropriation for commercial or industrial purposes of either surface water or ground water averaging 5,000,000 gallons per month; or a new or cumulative appropriation of either ground water or surface water for irrigation of a total of 540 acres or more from one connected source of water, the DNR is the RGU. C. For a new or additional permanent impoundment of water creating water surface of 160 or more acres and for construction or enlargement of a dam with a total upstream drainage area of 25 square miles or more, the DNR is the RGU.</p>	
Email	<p>Mandatory EIS Comments and Recommendations (MN Rules 4410.4400): 1. Subpart 18 – Water Appropriations and Impoundments: For a project that is implemented consistent with the 1998 Mediation Agreement it would be appropriate to eliminate this or exempt this category. The Mediation Agreement process involves regulatory agencies and local interests and certainly provides for input from partners, stakeholders, and the public.</p>	Water Appropriations
Email	<p>Neither EAW nor EIS mandatory categories address Minnesota’s legal requirement to comply with the terms of the Great Lakes Compact. A clear environmental review mandate could have prevented the DNR from approving the diversion of waters from the Lake Superior Basin to the Rainy River Basin by removing pillars of the Laurentian Divide contained within the Peter Mitchell Pit of the Northshore mine without public notice, comment, assessment of potential adverse environmental effects, or review of alternatives. The proposed change ensures that any future withdrawal or diversion of state waters with the potential to exceed Great Lakes Compact thresholds will trigger an EIS. <i>Proposed modifications for text of Minn. R. 4410.4400, subp. 23:</i> Subp. 23. Water diversions.B. For a withdrawal of waters of the state, including either a diversion or a consumptive use with the potential to exceed thresholds the Great Lakes–St. Lawrence River Basin Water Resources Compact, as reflected in Section 103G.801, the DNR is the RGU.</p>	Water Appropriations/Diversions



MANDATORY ENVIRONMENTAL REVIEW CATEGORIES

Legislative assessment report

12/01/2024

This is a report prepared by the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation.

Environmental Quality Board
520 Lafayette Road,
St. Paul, MN 55155
651-757-2873
EQB@state.mn.us
<https://www.eqb.state.mn.us>

Authors and contributors:

Kayla Walsh	Environmental Quality Board
Catherine Neuschler	Environmental Quality Board
Colleen Hetzel	Environmental Quality Board
Jesse Krzenski	Environmental Quality Board
Jenna Ness	Department of Commerce
Kate Fairman	Department of Natural Resources
	Department of Transportation
Katrina Hapka	Pollution Control Agency
Priscilla Villa-Watt	Environmental Quality Board

Upon request, this material will be made available in an alternative format such as large print, Braille, or audio recording.

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Legislative charge

This report fulfills the directive of Minnesota Statutes, section 116D.04, subdivision 5b:

By December 1, 2018, and every three years thereafter, the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation, after consultation with political subdivisions, shall submit to the governor and the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resources a list of mandatory environmental assessment worksheet and mandatory environmental impact statement categories for which the agency or a political subdivision is designated as the responsible government unit, and for each worksheet or statement category, a document including:

- (1) intended historical purposes of the category;*
- (2) whether projects that fall within the category are also subject to local, state, or federal permits; and*
- (3) an analysis of and recommendations for whether the mandatory category should be modified, eliminated, or unchanged based on its intended outcomes and relationship to existing permits or other federal, state, or local laws or ordinances.*

Abbreviations

AUAR	Alternative Urban Areawide Review
BWSR	Board of Water and Soil Resources
CWA	Clean Water Act
DEED	Department of Employment and Economic Development
DOT	Minnesota Department of Transportation
DNR	Minnesota Department of Natural Resources
DPS	Minnesota Department of Public Safety
EAW	Environmental Assessment Worksheet
EIS	Environmental Impact Statement
ER	Environmental Review
EQB	Environmental Quality Board
FAA	Federal Aviation Administration
GEO	Genetically Engineered Organism
HAP	Hazardous Air Pollutants
LGU	Local Government Unit
MDA	Minnesota Department of Agriculture
MDH	Minnesota Department of Health
MEPA	Minnesota Environmental Policy Act
MPCA	Minnesota Pollution Control Agency
NPDES	National Pollutant Discharge Elimination System
PUC	Public Utilities Commission
RGU	Responsible Governmental Unit
SHPO	State Historic Preservation Office
SONAR	Statement of Need and Reasonableness
USDA	United States Department of Agriculture
WWTF	Wastewater Treatment Facility

Executive summary

The Environmental Quality Board (EQB) is responsible for monitoring the effectiveness of the state's Environmental Review Program, taking measures to improve its effectiveness, and providing assistance to all parties involved. The triennial Mandatory Category Report is part of ensuring the state's environmental review process results in the evaluation of the right projects, of the right sizes, at the right times. Mandatory categories (listed in Minn. R. 4410.4300 and 4410.4400) define project types that require environmental review when they reach certain thresholds. This report fulfills the legislative directive (Minn. Stat. 116D.04, subd. 5b) to regularly analyze each mandatory category and propose recommendations for whether it should be modified, eliminated, or remain unchanged. The report also includes some evaluation of broader changes that impact how the mandatory categories are applied to determine which projects must complete environmental review.

This report begins with an overview of the environmental review program, and then includes a methodology section describing how the mandatory category analysis was conducted. It then contains a section on each mandatory category that briefly describes the history of the category, lays out the potential permits that may be needed, and then provides a discussion section. The discussion section describes the experience of those responsible for conducting reviews for that category, public feedback received, and potential steps that could improve the category's effectiveness.¹

For some categories, the discussion section describes opportunities for improved guidance from EQB that would support implementation of the mandatory category; these updates can be made by EQB without recommending changes. Recommendations are made when there is a need to change the environmental review rule language, including updates to existing mandatory categories, threshold changes, or definitions (in Minn. R. 4410.0200) and clarifying rule language. Housekeeping and definition updates provide clarity and should not change current interpretation of the categories; they are recommended under sixteen categories in the body of the report. Recommendations for potential threshold adjustments affect only five categories including:

- fuel conversion facilities,
- air pollution,

¹ Effectiveness is defined using criteria developed in 2023 through EQB's continuous improvement process development; see Appendix A.

- solid waste,
- resorts, campgrounds, and RV parks in shorelands, and
- animal feedlots.

In most cases, the report recommends “no change,” which means that no issues in the way the category functions have been identified at this time. Recommendations are made based on the latest available data.

The mandatory categories are key to fulfilling the intent of the environmental review program. Minnesota is a national leader in state-level environmental review and the Minnesota environmental review program has provided benefits for over fifty years. Throughout that time, environmental review programming has proven its longevity, resiliency, and effectiveness at identifying significant environmental effects and making information available to the public and decisionmakers. This report highlights opportunities for gaining further efficiencies in implementing the mandatory categories.

Next steps

Evaluation of the environmental review program and its mandatory categories, and making any needed changes, is a continuing process. The implementation of any of the mandatory category recommendations will require further conversations to properly consider technical expertise, user experience and potential unintended consequences of any changes. Recommendations included in this report add to existing recommendations to continually strengthen the program’s effectiveness. The EQB will consider all recommendations (from both this report and the continuous improvement process) in their future work planning, guided by the EQB’s 2024 strategic plan. Work planning will establish the changes to be evaluated and implemented, along with resources and timelines for doing so. In the future EQB will explore the efficacy of using the continuous improvement process to also evaluate any needed changes to the mandatory categories and may consider asking for changes to the legislative requirement for this report.

Attachments

Appendix A: *Continuous improvement for environmental review*

This appendix describes EQB’s continuous improvement process and lists programmatic changes that were identified during public engagement for the continuous improvement process.

Appendix B: *Summary of public engagement for Mandatory Category Report, 2024*

This appendix is the memo which was presented to the board in May 2024; it identifies early theming of the feedback EQB received during public engagement for this report.

Program overview

Minnesota Statutes, chapter 116D, the Minnesota Environmental Policy Act (MEPA), establishes a formal process for analyzing public and private projects that have the potential to significantly impact the environment. MEPA gives the Environmental Quality Board (EQB), created by Minnesota Statutes, section 116C.03, the authority to implement that law's objectives and requirements through the promulgation of rules for environmental review, which EQB established in Minnesota Rules, chapter 4410 (Minn. R. 4410).

The objectives of environmental review are to provide usable information to the public and decision-makers, delegate responsibility for reviews to the appropriate governmental unit, reduce delay and uncertainty in the review process, and eliminate duplication. The rules outline the environmental review process and procedures and require certain categories of projects to undergo environmental review. These categories are referred to as mandatory Environmental Assessment Worksheet (EAW) categories (Minn. R. 4410.4300) and mandatory Environmental Impact Statement (EIS) categories (Minn. R. 4410.4400). Projects must complete environmental review (ER) if they are of a type listed in the mandatory category rules and meet or exceed the thresholds set out. The requirements for environmental review are based on the nature, size, and location of the proposed project.

The Minnesota Legislature first required a Mandatory Category Legislative Assessment Report in 2013 (Laws of Minnesota for 2012, Chapter 150, Article 2, Section 3); subsequently, they moved to require the report on a recurring basis (currently three years). The Mandatory Categories Legislative Assessment Report was completed in 2013, 2018, 2021 and now in 2024. Each report evaluated the mandatory EAW and EIS categories.

The ER process does not approve or deny a project. While an individual permit usually focuses on compliance with regulations to protect from one type of impact (such as air emissions or water discharges), environmental review provides a holistic view of many potential environmental effects in a single document. ER provides usable information to the public, regulatory authorities, and other decision-makers, and requires a public comment period. ER supports connection with stakeholders to identify regulatory and community concerns and address them early in the project design process. Additional benefits of environmental review include:

- Support of information-gathering and consideration of project improvements
- Consideration of cumulative potential effects
- Consideration of phased and connected actions

In 2023 EQB established an ongoing environmental review [continuous improvement process](#) (CI process) to support in monitoring the effectiveness of the program and its rules. The goal of the continuous improvement process is to identify and prioritize environmental review program changes in a strategic, transparent, and efficient manner. As part of this process, EQB asked for ideas for program improvements; EQB received thirty-two comments related to creating, revising, or eliminating mandatory categories. These comments were held for consideration in this report. Conversely, many ideas provided during the public engagement for this report related to larger programmatic changes and will be considered separately; see Appendix A for more details. In the future EQB will explore the efficacy of using the continuous improvement process to also evaluate the mandatory categories.

Environmental review roles and responsibilities

The Environmental Review program involves the Environmental Quality Board, local/state governments, the project proposer, and Minnesota residents. Each plays a unique role throughout the process.

Environmental Quality Board (EQB)

EQB's role is focused on program consistency and helping governmental units and interested persons to understand and implement environmental review rules. EQB also monitors program performance and effectiveness. EQB staff compile and publish environmental review-related notices in the weekly *EQB Monitor*. The environmental review rules delegate the authority to complete environmental review to responsible governmental units.

Responsible Governmental Unit (RGU)

An RGU – such as a county, city, or state agency – conducts environmental review by overseeing the preparation and analysis of environmental review documents for individual projects. RGUs apply the environmental review rules to individual projects. They are assigned responsibility for verifying the accuracy of environmental review documents and complying with environmental review processes. The RGU can be a state agency or a local unit of government (county, city, township, etc.) or a special purpose governmental unit (watershed district, solid waste district, etc.). The RGU is the governmental unit determined to have the greatest expertise or authority to approve or deny a project.

Table 1: Environmental Review Roles and Responsibilities

Roles	Responsibilities
Environmental Quality Board	<ul style="list-style-type: none"> Oversight of the rules

	<ul style="list-style-type: none"> • Technical assistance • Create and maintain guidance documents • Data collection and analysis; measure program effectiveness • Continuous improvement • Publish weekly <i>EQB Monitor</i> • Receive and process petitions for environmental review
Responsible Governmental Unit (RGU)	<ul style="list-style-type: none"> • Implement rules • Prepare environmental review documents • Issue notices • Make decisions on petitions and environmental review documents
Project proposer	<ul style="list-style-type: none"> • Provide project details to the RGU
Public	<ul style="list-style-type: none"> • Provide local knowledge and public comment on review documents • Submit petitions to EQB

Report methodology

Minnesota Statute, section 116D.04, subdivision 5b charges EQB and the co-authoring agencies (DOT, DNR, and MPCA) to analyze and make recommendations for each mandatory category as well as identify the category's intended historical purpose and any potential applicable permits. This report was developed through information-gathering, analyses, and collaborative drafting. The following section describes the information sources considered.

Review past reports

Mandatory category reports were published in 2013, 2018, and 2021. In 2019, EQB completed rulemaking that implemented multiple recommendations from the 2013 and 2018 reports. EQB staff reviewed the past reports and their recommendations, with a focus on identifying recommendations that remain relevant.

Review SONARs

Statements of Need and Reasonableness (SONARs) are prepared to accompany changes to the mandatory categories rules that have occurred since 1974 including significant rulemaking efforts completed in 1982, 1988,

2005 and 2019. SONARs provide the basis for examining a mandatory category's intended historical purpose and relevant SONARs are hyperlinked in each mandatory category discussion. No rulemaking has occurred since the 2021 Mandatory Category Report.

Review past EQB data

This report lists the number of review documents completed in each category since the previous mandatory category report. In those three years (2021-2023), a total of 198 mandatory Environmental Assessment Worksheets (EAWs), two mandatory Environmental Impact Statements (EISs), two supplemental EISs, and 19 Alternative Urban Areawide Reviews were completed. There were an additional 24 EAWs and 1 EIS completed that were initiated based on RGU discretion (termed discretionary EAWs/EISs). The count of discretionary reviews can also include EAWs that resulted from petitions. These counts do not include reviews directed by rules other than Minn. R. 4410.

Review state agency RGU input

The Department of Transportation, Department of Natural Resources, Department of Agriculture, Department of Commerce, Department of Health, and the Minnesota Pollution Control Agency reviewed those categories for which they are the designated RGU. The EQB led the analyses for mandatory EAW and EIS categories where EQB is the designated RGU and where a local government unit is the designated RGU. State agency RGUs identified likely permits for mandatory categories where they are the RGU.

Public and LGU engagement

As part of the category analysis, EQB asked for input by way of an online engagement platform (Engagement HQ), an online survey, email, and two listening sessions. Appendix B provides a summary of the demographics and topics covered through this engagement process. Overall, EQB received high interest in this report with over 700 comments received.

Both members of the public and local government units (LGUs) provided feedback. LGUs complete about 80% of environmental reviews. About one third of survey respondents self-identified as LGUs. EQB also emailed LGUs who completed a review in the last three years for frequently used categories (over 100 projects) seeking feedback on how the mandatory category process functioned in their experience. EQB used LGU feedback from that process to inform the report.

As noted above, ideas received during the CI process that pertained directly to mandatory categories helped inform this report. The [full CI report](#), including a list of these comments, can be found on EQB's website.

Review 2021-2024 legislative directives

Some mandatory category recommendations for modification result from recent legislative changes. The 2024 legislature made updates to the following areas, with which EQB's rules will need to align.

Gas and Oil Production

DNR is directed to include EQB in a Minnesota Gas and Oil Resources Technical Advisory Committee to make recommendations to the Commissioner about a regulatory framework for the production of gas and oil in Minnesota. EQB was also directed to, as needed, adopt, or amend rules to establish mandatory categories for the environmental review of gas and oil production. This will likely include and address helium gas exploration and extraction. If rulemaking for environmental review is needed, EQB is directed to use an expedited rulemaking process and the rules must be proposed by May 2026.

Minnesota Energy Infrastructure Permitting Act

Laws of Minnesota 2024, Chapter 126 (SF 4942) made multiple changes to the state's process for permitting and environmental review of large energy projects such as power generating facilities, energy storage systems, and transmission lines. EQB was directed to make conforming changes to the environmental review rules (Minn. R. 4410) using the expedited rulemaking process. Proposed rule changes will need to be public noticed by November 2025.

Report drafting

Issues identified in this report reflect a cross-section of perspectives and experiences from RGUs, the public, and interested or affected parties. EQB and co-authoring agencies sorted through information from sources listed above to formulate the discussion and recommendations sections of the report for each mandatory category. The implementation of any recommendations will require further conversation, scoping, prioritizing, and work planning. Recommendations identify issues and propose changes, but the report does not prioritize those actions or commit the EQB to fulfilling those recommendations.

Mandatory category analysis

Minnesota's environmental review program successfully provides transparency and efficiency in gathering information on a wide variety of project types. Environmental review is beneficial for all parties because it can help identify potential issues in one process and document. This information-gathering creates an opportunity to anticipate and manage potential problems before the project is built and informs subsequent environmental permits.

This section of the report is organized by project types as they appear in the mandatory category rules (Minn R. 4410.4300 and 4410.4400). Each category begins with relevant rule language and lists:

- Potential RGU(s) for each category
- Hyperlinks to SONARs (past rulemaking documents that include the historical purpose)
- Number of environmental review projects completed for each category in the last three years
- Discussion section
- Recommendation(s)

This report is required to include information on “whether projects that fall within the category are also subject to local, state, or federal permits.” The report provides an extensive list of potential permits for each mandatory category, but permits are always project specific, and projects may have highly individualized permitting needs. Project proposers should always discuss their individual requirements with permitting authorities.

The discussion section of each category constitutes the main evaluation of the potential need for supporting structures or changes to the category. The discussion section includes the RGU's experience implementing the category as well as the EQB's experience and knowledge on common issues that may impact program effectiveness. It also reflects the public perspectives heard during the public engagement process.

The discussion generally aims to provide information on actions that might be needed to provide consistency and efficiency when applying the rules. It includes a variety of actionable strategies that vary in the time and resources needed for implementation. For some categories, the discussion section describes opportunities for actions that would support implementation – such as new or improved guidance or best practices. These guidance updates and supporting tools can be made by EQB and do not rise to the level of a recommendation for change.

Recommendations for change are made when there is a need for a change to the environmental review rule language, including updates to existing mandatory categories, threshold changes, definitions (in Minn. R. 4410.0200), or clarification of terms. In some cases, the report recommends “no change.” EQB will consider these opportunities and recommendations, along with those gathered from the CI process, in future work planning. Carrying out any of the recommendations will require additional work and will likely need to be phased to ensure adequate evaluation of needs, scoping, and engagement with practitioners.

Nuclear fuels and nuclear waste

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 2	EQB, MDH	1982 SONAR) page 112 and 2019 SONAR page 23.	None

Permits

Fissionable materials: Minnesota Department of Health pursuant to Minn. Stat. 144.12. In addition, Minn. Stat. 116C.72 requires legislative authorization of any radioactive waste management facility.

Processing facilities: Minnesota Pollution Control Agency pursuant to Minn. Stat. 115.03 and Minn. Stat. 116.07. Environmental review documents prepared pursuant to these proposed rules would be subject to cooperative state/federal procedures. The U.S. Nuclear Regulatory Commission has jurisdiction over nuclear materials.

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 2	EQB, MDH, DNR, MPCA, Commerce, PUC	1982 SONAR page 112	1 (2022)* 1 (2023)

**The project listed here was a supplemental EIS conducted through the Public Utilities Commission rule process and is not counted in the EQB's total of projects conducted in the last three years.*

Permits

Fissionable materials: Minnesota Department of Health pursuant to Minn. Stat. 144.12. In addition, Minn. Stat. 116C.72 requires legislative authorization of any radioactive waste management facility.

Processing facilities: Minnesota Pollution Control Agency pursuant to Minn. Stat. 115.03 and Minn. Stat. 116.07. Environmental review documents prepared pursuant to these proposed rules would be subject to cooperative state/federal procedures. The U.S. Nuclear Regulatory Commission has jurisdiction over nuclear materials.

Independent spent-fuel storage installation: Operating License and Subsequent License Renewal from the Nuclear Regulatory Commission. Minnesota Public Utilities Commission (PUC) Certificate of Need. Building permits from local government cities or townships.

Discussion

Background

This category includes projects that construct or expand various kinds of nuclear waste storage and disposal facilities as well as nuclear waste processing facilities. It was proposed, according to the 1982 SONAR, “because of the potential for significant adverse environmental and human health effects.” Due to the nature of planning and operating these types of facilities and their disposal needs, these projects happen infrequently. Some housekeeping changes were made to the EAW mandatory category in the 2019 rulemaking. Item C, referring to independent spent-fuel storage installations, was added at that time. The 2023 EIS was for the proposed additional dry cask storage of spent nuclear fuel at one nuclear plant. There was a supplemental EIS in 2022 for another nuclear plant requesting a change in spent fuel storage technology.

RGU Experience

RGUs have shared that it seems unclear when the DNR is the RGU versus MPCA for this mandatory EIS category’s subpart A, particularly for uranium mills.

Public perspective

There were no comments directly related to this mandatory category.

Opportunities for improved guidance

Minn. R. 4410.4400, Subp. 2 A is worded in a way that can create confusion as to who serves as the RGU. EQB interprets this subpart to mean that any project with a uranium mill requires the DNR to be the RGU for that project (not the MPCA) and that construction/expansion/fuel fabrication facilities, and reprocessing plants (without uranium mills) require MPCA to be the RGU. This can be clarified in EQB guidance.

Rule change considerations

Laws of Minnesota 2024, Chapter 126, Article 9 amends Minn. Stat. 116C.83, subd.6 (b) – which requires an EIS for independent spent-fuel storage installations – to make the PUC the RGU for these projects instead of the

Department of Commerce, effective August 1, 2024. EQB was directed to enact rulemaking in Minn. R. 4410 to align with those changes and will therefore update the RGU for this EIS category accordingly.

Recommendation

EQB updates the EIS category to make the PUC the RGU for independent spent-fuel storage installations, as directed by the 2024 Legislature.

Electric-generating facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 3	MPCA, PUC, LGU	1982 SONAR page 115 , 2003 SONAR , and 2019 SONAR page 23	2 (2021) 1 (2022) 1* (2023)

**One electric generating facility EAW was ordered by the PUC due to an expansion.*

Permits

As of the date of this report, permitting is addressed through Minn. Stat. chapters 216B, 216E, and 216F as well as Minn. R. chapters 7849, 7850, and 7854. Amendments to existing regulations and the addition of Minn. Stat. 216I made in Laws of Minnesota 2024, Chapter 126, Article 7 will affect future permitting.

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 3	PUC	1982 SONAR page 115 , 2003 SONAR , and 2019 SONAR page 23	none

Permits

As of the date of this report, permitting is addressed through Minn. Stat. chapters 216B, 216E, and 216F as well as Minn. R. chapters 7849, 7850, and 7854. Amendments to existing regulations and the addition of Minn. Stat. 216I made in Laws of Minnesota 2024, Chapter 126, Article 7 will affect future permitting.

Discussion

Background

This category includes the construction and expansion of various kinds of electric-generating facilities. This category is unique in that the EQB's environmental review rule (Minn. R. 4410) points to procedures under Minn. R. chapters 7849, 7850 and 7854, administered by the PUC. Over time, the relationship between the state's environmental review process (established under MEPA and administered by EQB) and the PUC's separate statutes and rules (related to power plant siting and energy projects) has evolved.

Most recently, the 2024 Legislature passed the Minnesota Energy Infrastructure Permitting Act, which revises many of the permitting and environmental review requirements related to this category. The act repealed multiple rules and statutes that are referenced within this category, including much of Minn. R. 7850, all of Minn. R. 7854, all of Minn. Stat. chapter 216E, and all of Minn. Stat., chapter 216F. The act also directs PUC to amend and adopt rules in permitting and environmental review related to large energy infrastructure facilities — for instance, the new legislation calls out that solar energy generating systems would have an option to conduct local review through the PUC if they are less than 80 megawatts (MW). EQB will need to update the Minn. Rules 4410 to align with these changes.

The PUC's Environmental Impact Statement portion of environmental review is tied to Minn. Stat., chapter 116D, but certain projects have the option of doing an Environmental Assessment through procedures currently outlined in Minn. Stat. 216E.03 (and to be enacted in 2025 in Statute 216I). For instance, the PUC conducted environmental assessments for one solar project in 2021, four solar projects in 2022, and one solar project in 2023. For wind projects, environmental review is a part of the site permit application as prescribed in chapter 216F with an analysis of environmental impacts according to requirements in Minn. R. 7854.0500, Subp 7; PUC used this process for three wind projects in 2021 and two wind projects in 2022. These solar and wind projects are not reflected in EQB's counts in the tables above.

It is expected that more storage systems will be proposed in the future to accommodate increased availability and usability of renewable energy. The legislature has recently clarified that the PUC's environmental review and permitting process applies to energy storage systems with a capacity of 10 megawatts or greater (Minn. Stat. 216I.02, subd. 6). This category is not reflected in EQB's mandatory category rules.

RGU experience

The 2021 Mandatory Category Report lists the following "identified issue" that remains unresolved: "PUC is [the]

RGU for Wind Energy Conversion System operation at 5 MW or more (not 25). A clarity/grammar change would make this rule consistent with PUC statute 216F.” This was proposed by the Department of Commerce, but subsequent updates are now dependent on alignment with the new Minnesota Energy Infrastructure Permitting Act that will incorporate PUC as the RGU for wind energy conversion systems over 5MW into Minn. Stat. 216I. In the past three years, EQB received one petition for a project that falls in this category; it resulted in an EAW.

Public perspective

Some commenters shared concerns that wind turbine projects were not being adequately reviewed because wind projects do not have a mandatory EIS category. Others asked for solar electric-generating facilities to be expressly called out in the PUC’s siting and permitting program, due to potential land use changes and related impacts. Some respondents commented on their concerns for energy storage systems, such as a battery storage facility. These types of facilities are not likely to meet the threshold for square footage to require a mandatory EAW under Minn. R. 4410 but are likely to trigger the new category for energy storage systems over 10 MW with the PUC (Minn. Stat. 216I.02, subd. 6). Currently, under Minn. Stat. 216E.04, subd. 2 (9) "energy storage systems" are applicable projects for environmental review. This statute will be repealed when Minn. Stat. 216I takes effect.

Opportunities for improved guidance

EQB staff and PUC staff could collaborate on designing a guidance that reflects the most recent legislatively directed changes to this category and documents a shared understanding of this category’s history and applicability. EQB also heard questions on whether “construction” in this category applies only to new facilities or also to modifying existing facilities. There does not appear to be any reference in the SONARs that says “construction” is explicitly applicable to new facilities. Minn. Stat. 216E currently, and in the future Minn. Stat. 216I, clarify that the definition of construction does not exclude expansions or modifications. An update to EQB guidance can specify whether existing facilities undergoing expansion or modification do apply.

Rule change considerations

Newly created Minn. Stat. 216I restructures existing PUC law including sections on when energy storage, wind, and solar projects require review. EQB must make conforming changes in 4410 rule updates to align with the changes made in the 2024 Minnesota Energy Infrastructure Permitting Act.

Recommendation

EQB must make conforming changes to this category to align with the changes made in the 2024 Minnesota Energy Infrastructure Permitting Act.

Petroleum refineries

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 4	MPCA	1982 SONAR page 116	None

Permits

City: Conditional Use Permit; Permit for Discharge of Industrial Wastewater; Plan Review and Approval; Building Permit.

County: Conditional Use Permit, Building Permit

State: Air Emissions Permit (MPCA); NPDES Wastewater Discharge (MPCA); NPDES General Construction Stormwater Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank MPCA); Highway Crossing Permit (MnDOT); Utility Permit to work in the State Right-of-way (MnDOT); Fire Marshall (MnDOT); Plan Review for Above Ground Storage Tanks (MnDOT).

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 4	MPCA	1982 SONAR page 116	None

Permits

City: Conditional Use Permit; Permit for Discharge of Industrial Wastewater; Plan Review and Approval; Building Permit.

County: Conditional Use Permit, Building Permit

State: Air Emissions Permit (MPCA); NPDES Wastewater Discharge (MPCA); NPDES General Construction Stormwater Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank MPCA); Highway Crossing Permit (MnDOT); Utility Permit to work in the State Right-of-way (MnDOT); Fire Marshall (MnDOT); Plan Review for Above Ground Storage Tanks (MnDOT).

Discussion

Background

The 1982 rulemaking established this category with the SONAR stating, “This category area is proposed because of the potential for environmental impacts relating to air pollution, transportation, energy use, toxic discharge, spills, water pollution, and odors resulting from these facilities.”

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria, and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Fuel conversion facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 5	MPCA	1982 SONAR page 117 , and 2019 SONAR page 50	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 5	MPCA	1982 SONAR page 117 , 2005 SONAR page 41 and 2019 SONAR page 50	None

Permits

City: Building Permit; Utilities Permit; Industrial Stormwater Agreement; Conditional Use Permit.

County: Conditional Use Permit; Utilities Permit; On-site Septic Permit; Building Permit; Driveway Permit; Incinerator Permit; Permit to dispose at the County Landfill; Ditch Use Authorization; Watershed Districts; Watershed District Permit.

State: NPDES General Construction Stormwater Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Air Emissions Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Feedlot Permit (MPCA); Industrial By-Products Permit (MPCA); Solid Waste Permit (MPCA); Aboveground Storage Tank Permit (MPCA); Wastewater Treatment Permit (MPCA); Water Appropriation Permit (DNR); Work in Public Waters Permit (DNR); Work in Public Lands Permit (DNR); Natural Heritage and Nongame Database Review (DNR); Agricultural Liming License (MDA); Construction Easements (MN Historical Society); Minnesota State Historical Concurrences on Findings of Cultural Preservation Office Resource Impacts; Mississippi National River and Recreation Area Critical Area Site Plan

Approval; Highway Crossing Permit (MnDOT); Utility Permit to work in the State Right-of-way (MnDOT); Dewatering Well Construction Permit (MDH); Monitoring Well Construction Permit (MDH); Plumbing and Engineering Plumbing Plan Review (MDH); Special Well Construction Area Approval (MDH); Fire Marshal Plan Approval; Above Ground Flammable and Combustible Liquids Review (MN DPS).

Federal: Army Corps of Engineers Section 404 Wetland Permit. U.S. Fish and Wildlife permitting.

Discussion

Background

This category encompasses conversion of coal, peat, or biomass sources to fuels. As detailed in the 1982 SONAR when this category was developed, it was enacted largely based upon information from the 1980s for peat or coal gasification. This category was updated in 2005 to differentiate thresholds for projects either in or outside of the Twin Cities metropolitan area. Changes in 2019 were meant to provide clarifying language for both the EAW and the EIS.

RGU experience

MPCA provides guidance that anaerobic digestion facilities convert biomass to fuel and are therefore considered in this mandatory category. Minnesota is seeing an increased interest in building anaerobic digesters that handle manure, food waste, and other inputs; one fuel conversion EAW has been completed since 2011. No mandatory EAWs or EISs for this category have been completed in the previous three years. One discretionary review took place in addition to the mandatory reviews listed in the chart above.

Public perspective

During the public engagement period for this report, EQB heard interest in anaerobic digesters from individuals and environmental organizations, advocating for EQB to address anaerobic digestion due to concerns over air, soil, water, and public health impacts.

Rule change considerations

EQB may consider adding rule language to explicitly add anaerobic digestion to this category under Subp. 5 A. Defining anaerobic digestion and updating the rule to explicitly include this technology would provide clarity to project proposers and the public. If pursued, EQB may consider changing the threshold to measure the fuel conversion facility's outputs instead of inputs. This would include clarity on how to calculate a project's outputs to consistently apply them to this category's threshold. Having a threshold based on an output aligns with the way other categories' thresholds are measured. If updated, careful considerations should be made to align with exemptions in Minn. Stat. 116D and Minn. R. 4410.4600, so terms and intentions are aligned.

Opportunities for improved guidance

EQB can also update their guidance documents to clarify that anaerobic digesters are fuel conversion facilities.

Recommendation

Clarify in Minn. Rule 4410.4300, Subp. 5 that this category applies to anaerobic digestion facilities. If rulemaking is pursued, also evaluate if changes to all thresholds in this category should be measured based on projects' outputs rather than material inputs as it is currently written.

Transmission lines

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 6	PUC, EQB	1982 SONAR page 118 and 2019 SONAR page 25	1 (2021)* 4 (2022)* 1 (2023)*

**The projects listed here conducted environmental assessments through the Public Utilities Commission process and are not counted in the EQB's total of projects conducted in the last three years.*

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 6	PUC, EQB	1982 SONAR page 118 and 2019 SONAR page 51	1 (2021)*

**The projects listed here conducted review through the Public Utilities Commission process and are not counted in the EQB's total of projects conducted in the last three years.*

Permits

As of the date of this report, route permitting and certificate of need processes are addressed through Minn. Stat., chapter 216E and Minn. R. chapters 7849 and 7850 for projects greater than or equal to 100 kilovolts (kV) and greater than 1,500 feet in length. Changes made in Laws of Minnesota 2024, Chapter 126, Article 7 will affect future permitting and environmental review.

Discussion

Background

The 1982 SONAR says, "This category area is proposed because of the potential for significant adverse

environmental impacts associated with construction, operation, and maintenance of a linear facility, as well as significant social and economic impacts associated with the location of a linear facility.” For certain facilities, the Legislature has prescribed how environmental review must be conducted according to either the EQB’s or the Public Utilities Commission’s process. Some transmission line projects have the option of following environmental review procedures currently outlined in Minnesota Statute 216E.04 Subd. 2.

RGU experience

No projects were completed for this category in the previous three years using Minn. R. 4410. Subsequent updates to this category are dependent on alignment with the new Minnesota Energy Infrastructure Permitting Act that will incorporate new definitions, environmental review procedures, and thresholds into Minn. Stat. 216I.

Public perspective

There were no comments directly related to this mandatory category.

Opportunities for improved guidance

Over time, the relationship between the state’s environmental review process (established under MEPA and administered by EQB) and the environmental assessment and review process (established in statutes administered by PUC) has evolved. Both agencies could benefit from having a well-documented history on such changes and an up-to-date factsheet on how project proposers, RGUs, and the public can navigate between each set of rules. EQB and PUC staff may consider a collaboration on designing a guidance that reflects the most recent legislatively directed changes to this category and documents a shared understanding of this category’s history and applicability.

Rule change considerations

The 2024 Legislature passed the Minnesota Energy Infrastructure Permitting Act, which revises many of the permitting and review requirements related to this category. The act repealed some rules and statutes that are referenced within this category, including much of Minn. R. 7850 and Minn. Stat. 216E. EQB will need to update references in this category to align with these changes. The act also directs PUC to amend and adopt rules in permitting and environmental review related to large energy infrastructure facilities such as transmission lines.

Recommendation

EQB must make conforming changes to Minn. R. 4410 for this category, as directed by the 2024 Legislature.

Pipelines

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 7	EQB, Municipality	1982 SONAR page 119 and 1988 SONAR page 37	1 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 24	PUC	1988 SONAR page 68	1 (2021)* 1 (2022)* 1 (2023)*

**The projects listed here conducted environmental review through the Public Utilities Commission's "partial exemption" process per [Minn. Rules 7852.0600](#) and are not counted in the EQB's total of projects conducted in the last three years.*

Permits

Permitting is addressed through [Minn. Stat.](#), [Minn. R. 7852](#), and [Minn. R. 7853](#).

Discussion

Background

This is a longstanding category. According to the 1982 SONAR, "This category area is proposed because of the potential for significant adverse environmental effects during construction as well as during the use of the facility if a leak should develop." This category is unique due to connections between EQB's rules and those administered by the PUC. For certain facilities, the Legislature has prescribed how environmental review must be conducted according to either EQB's Rules or the Public Utilities Commission's environmental review process.

RGU experience

In the last three years, EQB received four petitions for projects that fit this category; one resulted in an EIS for a carbon dioxide pipeline. The PUC clarified that current rules defining hazardous liquids or gas apply to carbon and helium types of pipelines, setting legal precedent where no further refinements are required to specifically call out carbon or helium in Minn. R. 4410. In 2024, the Legislature passed a bill that mandates an EIS be completed using Minn. R. 4410 for carbon dioxide pipelines (Laws of Minnesota 2024, Chapter 126, Article 9, Sec. 17) and designates the PUC as the RGU.

Public perspective

During the engagement period for this report, commenters shared concerns that having pipeline environmental review take place using PUC rules was confusing, inefficient, and less protective. Commenters also expressed concerns over the transportation of both helium and carbon gas through pipelines, saying that these projects are often controversial and risk leaks and land disturbances.

Opportunities for improved guidance

For clarity in application of this category, EQB could update guidance to reflect that this category applies to helium and carbon dioxide pipelines. As with other certain categories, the relationship between PUC's environmental review process and EQB's environmental review process has continuously evolved. Both agencies could benefit from having a well-documented history on such changes and an up-to-date factsheet on how project proposers, RGUs, and the public can navigate between each set of rules and statutes. EQB and PUC staff may consider a collaboration on designing guidance that reflects the most recent legislatively directed changes to this category.

Rule change considerations

The EQB considers rule updates to this mandatory category subpart, conforming to changes to the Laws of Minnesota 2024, Chapter 126, Article 9, Sec. 17.

Recommendation

EQB must make conforming changes to rule references in this category, as directed by the 2024 Legislature to clarify that carbon dioxide pipelines (as defined in Minn. Stat. 216G.025, subd. 1) require EISs.

Transfer facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 8	MPCA	1982 SONAR page 120 and 2019 SONAR page 28	None

Permits

City: Building Permit; Conditional Use Permit;

County: Conditional Use Permits; Septic System Permit; Watershed Districts; Watershed Permits;

State: NPDES General Construction Stormwater Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Access Permit (MnDOT); Minnesota Natural Heritage Database Search (DNR); Cultural Resources Review (MN SHPO);

Federal: Army Corps of Engineers Section 404 Wetland Permit.

Discussion

Background

This category was first enacted to address facilities for coal and hazardous waste. The 2019 SONAR documents the addition of silica sands projects to this category.

RGU Experience

No projects were completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Underground storage

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 9	DNR	1982 SONAR page 121	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 7	DNR	1982 SONAR page 122	None

Permits

State: Minn. Stat. 103I.681; Minn. R. 6115.0130; Minn. Stat., chapter 216B; Minn. R., chapter 7851.

Discussion

Background

Underground storage relates to projects that store any liquid or gas below ground. This is a longstanding category. There have been no updates since the 1982 rulemaking. The 1982 SONAR says that this category was proposed, in part because an underground storage facility, “has the potential for groundwater contamination and serious human health impacts.”

RGU Experience

No projects were completed for this category in the previous three years.

Public Perspectives

There were no comments directly related to this mandatory category.

Recommendation

No change.

Storage facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 10	MPCA, PUC, MDA	1982 SONAR page 123 , 1988 SONAR page 38 , and 2019 SONAR page 31	None

Permits

City: Building Permit; Conditional Use Permit.

County: Conditional Use Permits; Septic System Permit; Watershed Districts; Watershed Permits.

State: NPDES General Construction Stormwater permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Access Permit (MnDOT); Minnesota Natural Heritage Database Search (DNR); Cultural Resources Review (MN SHPO).

Federal: Army Corps of Engineers Section 404 Wetland Permit.

Discussion

Background

This category encompasses many types of storage including that of coal, hazardous waste, liquified natural gas, and more. This is a longstanding category. According to the 1982 SONAR, “Concerns documenting the need for this category include fugitive dust emissions, leaching, transportation related issues, and water pollution issues.” The 1988 SONAR describes the addition of anhydrous ammonia to the category and the 2019 rulemaking added several items with new thresholds to the category.

RGU Experience

No projects were completed for this category in the previous three years.

Rule change considerations

Certain items require housekeeping updates. For example, subpart E says, “the PUC is the RGU, except as provided in item G”; however, the PUC is also the RGU for item G, making this reference unnecessary.

Recommendation

Consider housekeeping fixes to item E, removing inaccurate references.

Metallic mineral mining and processing

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 11	DNR	1982 SONAR page 124	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 8	DNR	1982 SONAR page 124	None

Permits

Local: Commercial septic tank permit; Building permit; Permit for construction in shoreland area; Zoning variances.

State: Permit to mine; Water appropriation permit; Public water work permit; Dam safety permit; Burning permit; Listed species takings permit; Part 70 operating permit; Title V air permit modification; NPDES General Construction Stormwater general permit; NPDES Industrial Stormwater permit; Section 401 Water Quality Certification; Waste tire storage permit; Storage tank permit; Solid waste permit; Hazardous waste generator and storage; Demolition

debris disposal facility permit; Radioactive material registration; Noncommunity nontransient public water system; Government loan/grant; High Voltage Transmission Line routing permit.

Federal: 404 permit; Permit for tower construction next to existing radar.

Discussion

Background

This category includes mines, stockpiling, and mining tailing basins. This category is longstanding. Since the 1982 rulemaking no updates have been made. Projects are relatively infrequent but are often controversial. EQB has reviewed the category multiple times since program inception and has chosen to keep thresholds where they were initially established.

RGU Experience

DNR has reviewed the existing thresholds and has not identified any rule changes that would improve the implementation of this category at this time. No mandatory reviews were conducted for this category in the last three years.

Public perspective

EQB noticed considerable interest in this category during public engagement opportunities. Leasing of mineral interests was requested to be included within this mandatory category. As a note, per a 2013 Court of Appeals decision a lease sale does not constitute a project, so EQB can clarify this in guidance. Many comments requested programmatic changes that were deemed outside of the scope of the Mandatory Category Report.

Recommendation

No change.

Nonmetallic mineral mining

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 12	DNR, LGU	1982 SONAR page 127 and 2007 SONAR page 42	4 (2021) 8 (2022) 1 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 9	DNR, LGU	1982 SONAR page 127 and 2007 SONAR page 52	None

Permits

Local: Comprehensive plan amend if the community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Interim Use Permit; Local mining permit; Site plan approval; Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or mitigation plan; Road access permit on local road; Building permits for structures.

State: Water appropriation permit; Permit to mine (Reclamation permit); Land lease; NPDES/SDS permit; Clean Water Act 401 certification; Driveway permit (DOT) if state highway.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category applies to sand and gravel mines. This is a longstanding category. The 1982 SONAR says, “This category area is proposed because of the potential for significant effects on ground and surface water quality and quantity, air quality, land use, and the local and state economy.” The 2007 changes include provisions for shorelands.

RGU experience

In the past three years, EQB received nine petitions for nonmetallic mining projects. Seven of these petitions resulted in an EAW. In the last three years, five discretionary reviews were completed in addition to the mandatory reviews listed above. All mandatory EAWs in the last three years were under subpart B, which includes extraction or mining of sand, gravel, stone, or other nonmetallic minerals other than peat. All EAWs were completed by local government units.

Public perspective

EQB received comments identifying cases where an EIS may have been completed decades ago, yet the current science and regulatory environment may have since changed. While the comments were specific to this category, the concept would imply programmatic considerations. This idea is discussed under the heading “expirations” in Appendix A. EQB also received some comments supportive of adding thresholds applicable to project expansions.

Rule change considerations

EQB suggests future evaluation to determine if there is a need for different thresholds for expansions in both the EAW and EIS category by either percent increase in permitted capacity, acreage, or tons processed or disposed of.

Opportunities for improved guidance

Both the EAW and EIS thresholds ask the RGU to interpret effects during the project's "existence" which is not fully defined by existing rules, SONARs or guidance. EQB could update guidance by adding an interpretation of the phrase "during its existence" to allow for a consistent interpretation of the thresholds in all items of this category.

Recommendation

No change.

Paper and pulp processing mills

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 13	MPCA	1982 SONAR page 129	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 10	MPCA	1982 SONAR page 129	None

Permits

City: Building Permit; Utility Permit; Capacity Allocation Agreement Wastewater Treatment Plant

County: Conditional Use Permit; Building Permit

State: Air Emissions Permit; NPDES Discharge Permit; NPDES General Construction Stormwater Permit; NPDES Industrial Stormwater Permit; Above Ground Tank Permit; Water Appropriation Permit; Highway Crossing Permit; Utility Permit

Discussion

Background

This is a longstanding category. There have been no updates since it was enacted. The 1982 SONAR says, "This

category area is proposed because of the potential for significant effects on water quality, air quality, solid waste generation, and transportation impacts. These potential impacts are regulated by several different agencies. Environmental review would facilitate multi-agency coordination.”

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria, and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Industrial, commercial, and institutional facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 14	LGU	1982 SONAR page 130, 1986 SONAR page 9, and 1988 SONAR page 39	6 (2021) 13 (2022) 2 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 11	LGU	1982 SONAR page 131 and 1986 SONAR page 14	None

Permits

Local: Comprehensive plan amend if the community has a plan; Zoning permits; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Building permits for structures.

State: Driveway permit (MnDOT) if state highway.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category includes a wide variety of developments categorized as industrial, commercial, or institutional. Examples include retail spaces, hospitals, or office buildings. This is a longstanding category. According to the 1982 SONAR, “This category area is proposed because of the potential for significant impacts on water quality, air quality, solid waste generation, hazardous waste generation, transportation, land use, demographic and economic impacts on local economies.” Later rulemaking sought to clarify when this category would be used if projects fall into multiple mandatory categories.

RGU experience

All reviews in this category were conducted by local government units. The majority fell under item A and item B. In the last three years, EQB received one petition for an industrial, commercial, institutional project; it did not result in an EAW. Three additional discretionary reviews took place, in addition to the mandatory reviews listed in the chart above.

Public perspective

EQB heard it can be confusing as to what constitutes a “new use” in this category. For example, EQB was asked if converting an existing commercial building into an industrial building is a new use. Relating to the threshold, EQB heard one commenter suggest lowering square footage thresholds especially for projects in the metro area.

Opportunities for guidance

EQB can improve guidance on what constitutes a “new use” and therefore applies to this category.

Recommendation

No change.

Air pollution

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 15	MPCA	1982 SONAR page 134 , 1988 SONAR page 41 , 2005 SONAR page 34 , 2010 SONAR	1 (2022) 1 (2023)

Permits

City: Building Permit; Conditional Use Permit; Sanitary Sewer Hook-up; Wastewater Discharge Permit; Zoning Certificate; Utility Permit.

County: Watershed District Permit; Conditional Use Permit.

State: Air Emissions Permit (MPCA); NPDES General Construction Stormwater Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); NPDES Wastewater Discharge Permit (MPCA); Above Ground Tanks Permit (MPCA); Very Small Quantity Hazardous Generator License (MPCA); Beneficial Use Approval for ash land application (MPCA); Concurrence on Findings of Cultural Resources Impacts (MN SHPO); Water Appropriation Permit (DNR); Minnesota Natural Heritage Database Search (DNR); Fire Marshall Plan Review; Highway Crossing Permit (MnDOT).

Federal: Threatened and Endangered Species Review (US FWS); Hazardous Waste Generators Identification Number (EPA).

Discussion

Background

This category encompasses any project that emits air pollution at levels defined by the category. This is a longstanding category. According to the 1982 SONAR, “This category area is proposed because of public concern relating to air quality and its impact on human health and the environment, especially via implications relating to acid rain.” Initially, this category applied to parking facilities and stationary sources. Over time, changes were made to remove parking facilities partly because those projects, if large enough, would generally be reviewed through other categories. The State of Minnesota has further prioritized greenhouse gas emissions reductions and mitigation measures for climate change since this category was last updated.

RGU experience

Since 2021, one facility has exceeded the 250 ton per year threshold in item A of this subpart. It is likely that smaller facilities may still have the potential for significant environmental effects. A 100 tons per year threshold would be consistent with the major source threshold used in air emissions permitting under the Clean Air Act.

Public perspective

One comment said air permitting programs make this category unnecessary, but environmental review fulfills a different purpose and is meant to inform permitting. Most related comments asked EQB to consider adding a mandatory EIS category for greenhouse gas (GHG) emissions. Comments say this should be based on the assumed project’s life, or a life cycle assessment of the project.

Rule change considerations

MPCA recommends adding a category for [Hazardous Air Pollutants \(HAPs\)](#) with a threshold of 10 tons per year (TPY) per single HAP, and 25 TPY for a combination of HAPs. HAPs are known to cause cancer and other serious health impacts. This recommendation aligns with the definition of a “major source” of HAPs in the Clean Air Act. The Clean Air Act requires EPA to regulate such pollutants, also referred to as air toxics. There are 188 known HAPs on EPA’s list.

MPCA also recommends lowering the existing threshold of subpart A from 250 tons per year because only one project has triggered this subpart since the threshold was increased in 2011. Lowering the threshold would require further discussions by an interagency team of experts.

MPCA also recommends considering a mandatory EIS category for large emitters of Greenhouse Gases (GHGs). Creating a GHG emissions subpart aligns with the Climate Action Framework, where Minnesota has set goals to reduce its GHG emissions by 50% by 2030 and to achieve net-zero emissions by 2050. If a mandatory EIS category were created, any new projects that emit substantial amounts of GHGs would then be subject to the information-gathering and planning required by an EIS. Establishing a mandatory GHG EIS category would require further discussions by an interagency team of experts.

Recommendation

Consider creating a mandatory EIS category for air pollution, as it relates to criteria pollutants, air toxics, and greenhouse gas emissions; consider changing the EAW threshold in item A from 250 tons per year to a lower amount; consider adding an item to establish separate thresholds for hazardous air pollutants.

Hazardous waste

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 16	MPCA	1982 SONAR page 135 , 1988 SONAR page 41 and 2019 SONAR page 35	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 12	MPCA	1982 SONAR page 135, 1988 SONAR page 59, and 2019 SONAR page 53	None

Permits

City: Building Permit; Conditional Use Permit; Zoning; Fire Department Review.

County: Conditional Use Permit; Septic System Permit; Watershed Districts; Watershed Permits.

State: NPDES General Construction Stormwater permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Air Emissions Permit (MPCA); Access Permit (MnDOT); Minnesota Natural Heritage Database Search (DNR); Work within Waters of the State Permit (DNR); Cultural Resources Review (MN SHPO).

Federal: Army Corps of Engineers Section 404 Wetland Permit.

Discussion

Background

This category includes hazardous waste facilities, including storage and treatment. This is a longstanding category. According to the 1982 SONAR, “This category area is proposed because of the potential for ground and surface water contamination and the resultant human health and environmental impacts that may result from the disposal, processing, and storage of hazardous wastes. Additional concerns include potential air quality, noise and odor impacts, safety questions relating to handling, and transportation and land use issues.” Later changes clarified how the category applied to sensitive areas and clarified terms.

RGU experience

There were no projects completed under this category in the previous three years. The project type, criteria, and threshold are still relevant.

Public perspective

During the engagement process, few comments related to updating the hazardous waste terms or thresholds. One comment noted that current regulations do not call out lithium batteries. The primary issue with lithium batteries

is that their compaction or improper storage can leads to fires. However, this category references the “hazardous waste” definition used in Minn. R., Chapter 7045 and lithium batteries are included in this definition.

Recommendation

No change.

Solid waste

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 17	MPCA	1982 SONAR page 137, 1988 SONAR page 43 and 2019 SONAR page 36	none

Permits

City: License to Operate Waste Transfer Facility; Building Permit; Utility Permit; Conditional Use Permit; Zoning Amendment; Watershed Districts; Watershed Permit; Compost Facilities.

County: Conditional Use Permit; Operating License; Septic Permit; Very Small Quantity Generator Hazardous Waste License.

State: Solid Waste Management Facility Permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); NPDES General Construction Stormwater Permit (MPCA); Metropolitan Area Policy Plan Review (MPCA); Solid Waste Permit (MPCA); Very small Quantity Generators Hazardous Waste License (MPCA).

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 13	MPCA	1982 SONAR page 137 and 2019 SONAR page 53	1*

*The project listed here is a supplemental EIS performed under Minn. R. 4410.3000.

Permits

City: Building Permit; Conditional Use Permit; Zoning; Fire Department Review.

County: Conditional Use Permit; Septic System Permit; Watershed Districts; Watershed Permits.

State: NPDES General Construction Stormwater permit (MPCA); NPDES Industrial Stormwater Permit (MPCA); Above Ground Storage Tank Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Air Emissions Permit

(MPCA); Access Permit (MnDOT); Minnesota Natural Heritage Database Search (DNR); Work within Waters of the State Permit (DNR); Cultural Resources Review (MN SHPO).

Federal: Army Corps of Engineers Section 404 Wetland Permit.

Discussion

Background

This category includes multiple project types including landfills, transfer stations, and solid waste energy recovery and incineration facilities. This is a longstanding category. The 1982 SONAR says, “This category area is proposed because of the potential for significant impacts relating to ground and surface water contamination...Additional environmental concerns relate to methane gas generation, fugitive dust, emissions, odor and noise problems, transportation issues, aesthetic impacts, toxic air emissions and land use issues.”

RGU experience

Three discretionary reviews took place since 2021, in addition to the mandatory reviews listed in the chart above. The MPCA notes that the term “permitted capacity” is used in this category, but that term is not defined in the solid waste rules nor in the environmental review rules.

Public perspective

There were few comments related to this category. One commenter did suggest a mandatory category for commercial composting, but mixed municipal solid waste compost facilities are already included in item E.

Rule change considerations

To provide consistency, “permitted capacity” could be replaced with the term “design capacity,” which means “the total volume of compacted solid waste, topsoil, intermittent, intermediate, and final cover specified in the facility permit, as calculated from final contour and cross-sectional plan sheets that define the areal and vertical extent of the fill area.” Alternatively, permitted capacity could mean “permitted capacity as defined in the existing permit.”

Resource recovery facilities and recycling facilities could be explicitly included in this category, added to Subp. 17 item E. In keeping with the solid waste program rules, it may also be prudent to include construction and demolition land disposal facilities and transfer stations in this category. Such wastes are found to be more environmentally impactful than once thought. This could be accomplished simply by changing references from “mixed municipal solid wastes” to “solid waste” as defined in Minn. Stat. 115A.03. Landfills are unique in the mandatory categories in that they are almost always expanding. Landfills effectively are continuous phased actions

so long as expansions are substantially certain to be undertaken sequentially over a limited period of time. Further discussions by an interagency team of experts are needed.

Recommendation

Consider updating terminology to include all waste types, like ‘construction and demolition’ waste and better align with the MPCA solid waste program’s existing definitions for terms like ‘design capacity.’

Wastewater systems

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 18	MPCA	1982 SONAR page 140, 1986 SONAR page 12, 1988 SONAR page 46, 1995 SONAR page 12, 1997 SONAR page 17, 2005 SONAR page 36, and 2019 SONAR page 37	2 (2021) 2 (2022) 0 (2023)

Permits

City: Conditional Use Permit; Street and Utility Plan Approval; Wastewater Treatment Facility Permits; Building Permit.

County: Highway Access/Entrance Permit; Watershed District Project Approval; Watershed Permit; Application for Minnesota Wetland conservation Act Exemption; Building Permit; Certificate of Wetland Conservation Act Exemption; Utility Permit; Right-Of-Way Permit.

State: Sewer Extension Permit (MPCA); NPDES General Construction Stormwater Permit (MPCA); Section 401 Water Quality Certificate (MPCA); Water Appropriation Permit (DNR); Minnesota Natural Heritage Database Review (DNR); Utility Crossing License (DNR); Work Within Public Waters Permit (DNR); Utility Permit on Trunk Highway Right-Of-Way (MnDOT); Watermain Plan Approval (MDH); Water Extension Permit (MDH); Metropolitan Council Connection Permit; Concurrence on Findings of Cultural Resources Impacts (MN SHPO); WWTF Plans and Specifications Approval (MPCA); SDS Permit for land application of treated Wastewater (MPCA); Sanitary Sewer Extension Permit (MPCA); NPDES/SDS Surface Water Discharge Permit (MPCA); NPDES Industrial Stormwater discharge Permit (MPCA); Air Quality Permit for backup generators (MPCA); Non-degradation to All Waters Review (MPCA); Water Appropriation Permit (DNR); License to Cross Public Lands and Waters (DNR); Natural Heritage and

Nongame Database Review (DNR); Outfall Permits (DNR); Well Abandonment Permit (MDH); Public Facilities Authority Funding Application; Board of Water and Soil Resources Wetland Conservation Act Permits.

Federal: Section 10 Permit for activities affecting navigable waters in the U.S (USACE); Section 404 Permit (USACE); Wastewater Infrastructure Funding Program (USACE); Outfall Permits (USACE).

Discussion

Background

This category includes sewage collection systems and wastewater treatment facilities. This is a longstanding category and multiple changes have been made to this category over time. According to the 1982 SONAR, this category was first proposed because of “problems associated with treatment facilities including ground and surface water pollution due to effluent discharges and sludge and ash disposal, and air pollution from sludge incineration.”

RGU experience

One discretionary review took place, in addition to the mandatory reviews listed in the chart above. The RGU for this category notes several areas for potential clarifications. For example, during previous rulemaking, the words “per day” were inadvertently omitted in the adopted rule language for Item B regarding expansion, modification, or replacement of a municipal sewage collection system. The correct language using “per day” was described in the SONAR. The recommendation to add in the words “per day” was also made in the 2021 Mandatory Category Report.

Public perspective

EQB received no comments specifically relating to this mandatory category.

Rule change considerations

According to notes in the SONAR, this category is intended to read, “...with the capacity of 20,000,000 gallons per day or greater, the PCA is the RGU.” Therefore, EQB should consider correcting Item B to include “per day.”

Additionally, items C and D refer to municipal or *domestic* WWTF when WWTF is defined as municipal or *industrial* in Minn. R. 4410.0200; these terms should be reviewed for consistency and clarity. For clarity, EQB should also consider adding definitions for the following terms: “design average daily flow,” “average wet weather design flow capacity,” and “design flow capacity.” MPCA also recommends adding clarity to specify the movement of a discharge outfall is considered a “new wastewater treatment facility.” EQB could also consider modifying the definition for “sewage collection system” to include a lift station. Lastly, during housekeeping, the following sentence should be moved to the beginning of the subpart so that it may clearly apply to the entire category and not be housed under Item F: “This category does not apply to industrial process wastewater treatment facilities

that discharge to a publicly owned treatment works or to a tailings basin reviewed according to subpart 11, item B.”

Recommendation

Consider housekeeping updates and defining terms for clarity.

Residential development

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 19	LGU	1982 SONAR page 141 and 1988 SONAR page 47	6 (2021) 11 (2022) 7 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 14	LGU	1982 SONAR page 141 and 1988 SONAR page 63	None

Permits

Local: Comprehensive plan amendment if the community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit or Planned Unit Development Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Driveway permit (MnDOT) if state highway; Public Waters Permit (DNR).

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category includes any residential development, and it is a longstanding category. The 1982 SONAR says, “This category area is proposed because of the potential for significant impacts on land use, demographic and economic impacts on local economies, transportation facilities, wildlife habitat and water quality.”

RGU experience

A relatively large number of projects performed an EAW for this category in the last three years. Three additional discretionary reviews took place, in addition to the mandatory reviews listed in the chart above. The 2021 Mandatory Category report suggested simplifying the formula for calculating this threshold. EQB has received questions on how to interpret the phrases, “permanent” and “potentially permanent.” The 2021 Mandatory Category Report also notes that creating definitions for “private septic systems” and “incorporated” versus “unincorporated” would help in applying this category. In the last three years, EQB received ten petitions for residential development projects. Four of these petitions resulted in an EAW.

Public perspective

Some commenters say this category is overly complex and difficult to enact due to the calculations required. Comments on this category represent differing perspectives on the threshold, ranging from raising the threshold to performing more EISs due to large developments’ potential climate impacts. For more context, one commenter explained the threshold could be increased for the metro region, because those sites are already completing a comprehensive plan every ten years. Many commenters agreed that if no comprehensive plans were in place, then a threshold would be more useful. Many numerical thresholds were offered to EQB, but further conversations would need to take place before formulating any new thresholds that align with program goals for user-friendliness, consistency, and up to date science-based evaluation.

Rule change considerations

EQB can simplify how the formula is presented in rule, so that it is easier to use. EQB should consider definitions in Minn. R. 4410.0200 for the terms “permanent” and “potentially permanent”, “private septic systems”, and “incorporated” versus “unincorporated.”

Recommendation

Consider simplification of computations in rule; consider defining terms in Minn. R. 4410.0200 to clarify when projects meet the threshold.

Residential development in shoreland outside of the seven-county Twin Cities metropolitan area

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 19a	LGU	2007 SONAR page 43	3 (2021)

			4 (2022)
			2 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 14a	LGU	2007 SONAR page 52	None

Permits

Local: Comprehensive plan amendment if the community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit or Planned Unit Development Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Driveway permit (MnDOT) if state highway; Public Waters Permit (DNR).

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category refers specifically to residential development that takes place within shoreland, but outside of the seven-county metro area. This category was added in 2007.

RGU experience

The 2021 Mandatory Category Report says, “Clarification in the shoreline development section could help determine when or if a subdivision might require an EAW.” Also, it suggests that EQB “Clarify the difference between ‘permanent’ and ‘potentially permanent.’” EQB also receives technical assistance questions about the application of “common open space,” indicating that its definition could be improved. EQB received one petition for residential development in shorelands, which did not result in an EAW.

Public perspective

There were no comments specific to residential development in shorelands.

Rule change considerations

EQB can consider defining “permanent,” “potentially permanent,” and “common open space” to help project proposers and RGUs understand if projects meet or exceed the thresholds in this category.

Recommendation

Consider defining terms in Minn. R. 4410.0200, such as clarifying the difference between “permanent” and “potentially permanent” and refining the definition of “common open space” to help clarify when projects meet the threshold.

Campgrounds and RV parks

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 20	LGU	1982 SONAR page 144	2 (2023)

Permits

Local: Comprehensive plan amendment if the community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit or Planned Unit Development Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Driveway permit (MnDOT) if state highway; Water appropriation permit.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category originated as part of the “Recreational Development” category which was proposed because campgrounds and RV parks tended to be near natural areas. The 1982 SONAR says, “This category area is proposed because recreational developments are typically proposed adjacent to areas with significant natural resources. Such development may significantly increase human activity in sensitive areas.”

RGU experience

The project type, criteria and threshold are still relevant.

Public perspective

Commenters shared feedback on campgrounds, but almost all of them pertained to campgrounds in shorelands (Minn. R. 4410.4300, Subp. 20a).

Recommendation

No change.

Resorts, Campgrounds, and RV parks in shorelands

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 20a	LGU	1982 SONAR page 144 , 2007 SONAR page 49 , 2009 SONAR page 28	1 (2021)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 26	LGU	2007 SONAR page 55	None

Permits

Local: Comprehensive plan amendment if the community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit or Planned Unit Development Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Driveway permit (MnDOT) if state highway; Water appropriation permit.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category pertains to resorts or other recreational developments accessible by vehicle, that are located wholly or partially in shoreland. Shoreland ordinances are established and enforced by the county. The 1982 SONAR shows this category was first referred to as “Recreational development” and specifically notes, “This category area is proposed because recreational developments are typically proposed adjacent to areas with significant natural resources. Such development may significantly increase human activity in sensitive areas.” The category was later changed to refer to “shoreland” which is consistent with other changes made throughout the mandatory categories.

RGU experience

One discretionary review took place in addition to the mandatory reviews listed in the chart above. EQB has received questions on the interpretation of “common open space” so evaluation of this definition may be appropriate. The 2021 Mandatory Category Report also suggested a definition for “common open space.” EQB has also received feedback during technical assistance calls that the calculation for this category can be confusing to interpret. In the last three years, EQB received five petitions for projects in this category; two of these petitions resulted in an EAW.

Public perspective

EQB heard concerns that the threshold requirements assume all lakes have the same ability to accommodate the same number of dwelling sites, without considering lake classification (like deep or shallow) or lake carrying capacity. Some comments suggest that the threshold is too high, and others said that the threshold was too low. Other comments said that there should be a mandatory EIS required for RV campgrounds and resort development of RV campgrounds on shallow lake areas or wetland areas, and that there should be consideration of phosphorous sensitivity of the lake, overall lake health trends, wildlife impacts, etc. In further evaluating if there is a need for an EIS category, EQB could consider if these types of concerns may also be covered by other mandatory categories such as Subp. 27.

Rule change considerations

EQB could consider evaluating a threshold proportional to lake size or carrying capacity, improving calculations for readability in rule, and revising the definition for “common open space” to promote consistent interpretation of this category’s thresholds.

Recommendation

EQB could consider simplifying this category’s calculation for better readability in rule, revising the definition for “common open space” in Minn. R. 4410.0200, and beginning further conversations to evaluate the effectiveness of measuring the threshold using a marker of lake carrying capacity.

Airport projects

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 21	DOT, LGU, Metropolitan Airports Commission	1982 SONAR page 145 and 1997 SONAR page 19	None

Permits

Local: Site plan approval; Grading/drainage/erosion control plan; Wetlands mitigation plan; Conditional use permits; Zoning permit; Possible subdivision/platting review; Building permit for structures.

State: NPDES Construction Stormwater General Permit (stormwater pollution prevention during construction).

Federal: FAA 7460 Notification (height, safety and operational hazards related to airspace).

Discussion

Background

This category generally relates to the construction or extension/upgrade of airport runways. According to the 1982 SONAR, "This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, and energy." No projects were completed for this category in the previous three years.

RGU experience

There were no issues identified and no changes recommended.

Public perspective

There were no issues identified and no changes recommended.

Recommendation

No change.

Airport runway projects

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 15	DOT, LGU	1997 SONAR page 19	None

Permits

Local: Site plan approval; Grading/drainage/erosion control plan; Wetlands mitigation plan; Conditional use permits; Zoning permit; Possible subdivision/platting review; Building permit for structures.

State: NPDES Construction Stormwater General Permit (stormwater pollution prevention during construction).

Federal: FAA 7460 Notification (height, safety and operational hazards related to airspace).

Discussion

Background

This category generally relates to the construction or extension/upgrade of airport runways. No projects were completed for this category in the past three years.

RGU experience

There were no issues identified and no changes recommended.

Public perspective

There were no issues identified and no changes recommended.

Recommendation

No change.

Highway projects

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 22	DOT, LGU	1982 SONAR page 146 and 2019 SONAR page 39	2 (2021) 2 (2022) 3 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 16	DOT, LGU	1982 SONAR page 147	None

Permits

Local: Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or wetlands mitigation plan; Shoreland permit; Floodplain permit/approval; Subdivision/platting approval; Conditional use permits; Building permit for structures; Easement Vacation; Watershed District permit (wetland mitigation, stormwater pollutant restrictions, infiltration requirements, or volume control reductions).

State: NPDES Construction (stormwater pollution prevention during construction); 401 Certification (MPCA authority to review 404 permit applications (per CWA)).

Federal: USACE Section 10 (work on structures other than bridges or causeways that affect the course, condition, or capacity of navigable waters of the United States); USACE 404 (regulates the discharge of dredged and fill material into waters of the United States, including wetlands).

Discussion

Background

According to the 1982 SONAR, “This category area is proposed because of the potential for significant impacts related to local and regional land use, local economic and demographic issues, transportation, noise, air quality, energy, water quality, erosion, drainage, water resources, habitat destruction, and construction impacts.” In the last three years, EQB received one petition for a highway project; it did not result in an EAW. Two additional discretionary reviews took place, in addition to the mandatory reviews listed in the chart above. Seven projects completed mandatory review; MnDOT performed three of those EAWs and local governments performed four. Those reviews met thresholds under Items A or B.

RGU experience

There were no issues identified and no changes recommended.

Public perspective

Only a few public engagement comments pertained to this category. One comment asked EQB to clarify exemptions from review of highway projects, particularly the exemptions for “highway safety improvement projects,” and to define “modernization” of existing roadways or bridges. Of note, a “highway safety improvement project” is defined in Minn. R. 4410.0200.

Recommendation

No change.

Barge fleeting

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 23	DOT, Port Authority	1982 SONAR page 149	None

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
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4410.4400. Subp. 17	DOT, Port Authority	1982 SONAR page 149	None
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Permits

Local: Site Plan Approval; Possible subdivision/platting review; Grading permit; Building permit for structures; Conditional use permits (operator facilities).

State: DNR, MPCA and MnDOT (review or permitting of sheet pile at edge of slip).

Federal: USACE Section 404 permit, FAA Temporary Airspace Permit (for construction cranes); FAA Permanent Airspace Permit (with mapping revisions for cranes and building locations in area).

International: Boundary Waters Treaty of 1909 (guarantees international navigable waters be free and open).

Discussion

Background

This category covers the construction or expansion of barge fleeting facilities – those facilities where barges are temporarily held while waiting for other actions (loading/unloading, towing, repairs, etc.). The 1982 SONAR describes that “Primary problems associated with the environmental impacts center on the effects of dredging and [soil] disposal on water quality and habitat disruption for wildlife populations.” There were no projects completed for this category in the previous three years. The project type, criteria, and threshold are still relevant.

RGU experience

There were no issues identified and no changes recommended.

Public perspective

There were no comments directly relating to this category.

Recommendation

No change.

Water appropriation and impoundments

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 24	DNR	1982 SONAR page 150 and 1988 SONAR page 53	1 (2021) 1 (2022)

Permits

Local: Grade and fill permit; Building permit; Conditional use permit; Land use permit.

State: Water appropriation permit; Public water work permit; Utility crossing license; Permit to appropriate from infested waters; Listed species takings permit; Construction stormwater general permit; Tank registration; Air emissions permit.

Federal: 404 permit.

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 18	DNR	1982 SONAR page 150	None

Permits

State: Dam safety permit; Public water work permit

Discussion

Background

This category applies to dams and large water appropriations from surface or groundwater. This is a longstanding category. According to the 1982 SONAR, "This category area is proposed because of the potential for significant impacts related to ground water quantity and quality, dam safety, habitat alteration, flooding, and land use issues." Statewide, water appropriation needs are growing to support community and commercial expansions.

RGU experience

Two discretionary reviews took place, in addition to the mandatory reviews listed in the chart above. The 2021 Mandatory Category report identified issues that are still relevant: "Large water users that modify existing permits or use multiple wells might not surpass the threshold. Cumulative totals of water usage by a single entity/owner/user are not considered in the threshold since the category is limited to 'new appropriations.'" The 2021 report also mentions that "'Continuous parcel' warrants definition since it has been interpreted historically to indicate a parcel that contains no breaks/subdivisions (such as multiple parcels divided by a road). Considering parcels are routinely smaller than 540 acres, this threshold is rarely surpassed though there are many large irrigation facilities."

Public perspective

During the engagement process over eighty comments were received related to water appropriations, most as part of a form letter. In general, commenters highlighted water appropriations as a concern due to increased water use over time in combination with the additional pressures of climate change. Commenters suggested the development of a mandatory EIS category that would apply to large water users. Some comments suggested considering a lower EAW threshold for water appropriations due to environmental impacts resulting from commercial users that propose to transport appropriated water offsite for consumptive uses.

Opportunity for rule change

EQB suggests continued conversations to ensure that the thresholds of this category are serving their intended purpose.

Recommendation

No change.

Marinas

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 25	LGU	1982 SONAR page 151	1 (2022

Permits

Local: Comprehensive plan amend if community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Work in public waters (DNR).

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 19	LGU	1982 SONAR page 151	None

Permits

Local: Grading Comprehensive plan amend if community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Work in public waters (DNR).

Discussion

Background

This category includes the construction or expansion of a marina or harbor. This is a longstanding category. The 1982 SONAR says, “This category area is proposed because of the potential for significant impacts related to water quality, air quality, noise, wildlife habitat, aesthetics, and the use of public resources.”

RGU experience

EQB has fielded questions asking how to calculate areas for ‘maneuvering’ and for ‘an increase in water surface area’. One project was completed in the previous three years.

Public perspective

There were no comments directly related to this mandatory category.

Opportunities for guidance

EQB can evaluate existing guidance resources and opportunities to ensure consistent application of terminology for terms like ‘maneuvering’ and ‘increase in water surface area.’

Recommendation

No change.

Stream diversion

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 26	DNR, LGU	1982 SONAR page 152 , 1997 SONAR page 20 , and 2019 SONAR page 41	1 (2021) 3 (2022)

			2 (2023)
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Permits

Local: Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Land alteration permit; Conditional use permit.

State: Work in public waters (DNR).

Federal: Section 404 Clean Water Act.

Discussion

Background

This category applies broadly to projects that impact the flow of streams; it is applicable to a variety of projects such as culverts, banks stabilizations, restoration activities and other projects. The 1982 SONAR says, “This category area is proposed because the alteration of watercourses affects flooding in downstream and adjacent areas, wildlife habitat, fisheries resources, water quality, and area land use.” EQB rulemaking in 1997 amended subpart 26 to add the word “realignment.” The SONAR says, “Realignment often means straightening, which has a serious effect on water flows and stream habitat.” 2019 rulemaking aligned exemptions in 4410.4600 to also reflect the addition of the word “realignment.”

RGU experience

Of the six environmental reviews that took place, four were completed by local government units. The 2021 Mandatory Category Report says there needs to be definitions for “diversion,” “realignment,” and “channelization.” This recommendation still stands, and the need was affirmed by some LGU feedback.

Public perspective

Some commenters said stream restorations should be exempt. EQB also heard that sometimes projects are proposed that result in fewer improvements to streams to avoid an EAW.

Rule change considerations

EQB can work with technical experts to develop definitions in Minn. R. 4410.0200 for the terms “diversion,” “realignment,” and “channelization” to eliminate uncertainty and provide consistency in application of this category.

Recommendation

Consider adding definitions for terms like “diversion” and “realignment” to Minn. R. 4410.0200.

Public waters, public waters wetlands, and wetlands

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 27	DNR, LGU	1982 SONAR page 153, 2005 SONAR page 39, and 2019 SONAR page 42	16 (2021) 12 (2022) 11 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 20	DNR, LGU	1982 SONAR page 153 and 2019 SONAR page 55	1 (2023)

Permits

Local: Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Conditional use permit.

State: Work in public waters (DNR).

Federal: Section 404 Clean Water Act.

Discussion

Background

This category relates to certain types of changes within waters and was first called “Wetlands and Protected Waters.” This is a longstanding category. Forty-two projects were completed in the past three years. The 1982 SONAR says, “This category area is proposed because of the potential for significant impacts related to flood control, erosion control, water quality, wildlife habitat, recreation, and aesthetics.” Changes made in 2005 aligned terminology with amended State water laws. Changes in 2019 renamed the title of the category and updated the definition of “wetland.”

RGU experience

Thirty reviews in this category were conducted by local government units. In the last three years, EQB received one petition for a public waters/wetlands project; it did not result in an EAW. In the last three years, EQB received five petitions for ditch improvement projects, none of which resulted in an EAW. Two discretionary reviews took place, in addition to the mandatory reviews listed in the chart above. The 2021 Mandatory Category Report identified the

following suggestion which remains relevant: “Overlay districts should be examined and investigated for historical purpose and effectiveness in current context.”

Public perspective

EQB received a wide array of comments with some saying this category is unnecessary and others looking to include more projects under review in this category. Broadly, respondents highlighted the importance of documenting cumulative impacts to water quality. Comments asked EQB to consider revising thresholds so EAWs may be required when there are cumulative impacts to five or more wetland basins or wetland impacts of a certain acreage. Respondents mentioned that requiring an EIS for a dam removal — which may exceed a threshold in this category because it results in the elimination of a public water — is onerous and may result in a less ecologically sound option being selected in the name of avoiding an EIS.

Recommendation

No change.

Forestry

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 28	DNR	1982 SONAR page 154 and 1997 SONAR page 21	None

Permits

Local/State/Federal: Timber sale.

Discussion

Background

This category includes clearcutting and harvesting of timber. According to the 1982 SONAR, this category started as “Agriculture and Forestry” and was enacted due to the “potential for significant impacts relating to water quality, soil erosion, and land use.” According to the 1997 SONAR, this subpart was proposed to apply only to forestry activities.

RGU experience

There were no projects completed in this category in the past three years.

Public perspective

Item A of this subpart specifically mentions timber harvesting on public lands. Commenters shared concerns for deforestation activities not covered by this category because they are on private lands - because of their potential to contaminate groundwater with herbicides, pesticides, fungicides, and fertilizers and due to widespread loss of fire-adapted forest and habitat. Commenters shared concerns over losing fire-adapted forest and emitting greenhouse gases from deforestation.

Recommendation

No change.

Genetically engineered wild rice

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 28	EQB	2007 SONAR page 56	None

Permits

State: The EQB issues a release permit unless the Board has authorized an agency with a significant environmental permit. The EQB determined that the MDA had a significant environmental permit for agriculturally-related GEOs. The MDA has the authority to regulate GE wild rice per Minn. Stat., chapter 18F.

Federal: The USDA has jurisdiction over agriculturally- related GEOs. USDA works within the Coordinated Framework for the regulation of Biotechnology (EPA, USDA-APHIS, FDA). The MDA cooperated with the USDA in regulation of agriculturally related GEOs.

Discussion

Background

This category is for the release of genetically engineered wild rice. The 2007 SONAR says, “This new subpart establishes a mandatory category for preparation of an EIS for any project proposed in Minnesota that would involve the release and a permit for a release of genetically engineered wild rice. The 2007 session of the Minnesota Legislature enacted a law making this specific requirement.”

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria, and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Animal feedlots

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 29	MPCA, County	1982 SONAR page 156 , 1988 SONAR page 55 , 2005 SONAR page 42	2 (2021) 1 (2022) 1 (2023)

Permit

Local: Conditional Use Permit; Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or wetlands mitigation plan; Zoning; Building permits for structures; Discharge to Surface Waters.

State: NPDES/SDS Feedlot Permit (MPCA); NPDES Construction Stormwater Permit (MPCA); Water Appropriations Permit (DNR); Board of Animal Health (DNR); Notification to Compost Dairy Cattle (DNR); Fire Marshall (DNR); Plan Review (DNR).

Federal: NPDES administered by State.

Discussion

Background

This category includes animal feedlot facilities. It is a longstanding category. The 1982 SONAR says, “This category is proposed because of the potential for significant environmental impacts relating to ground and surface water quality, odors, and local land use issues.” Thresholds were adjusted in 2005.

RGU experience

The MPCA almost always serves as the RGU for animal feedlot projects that meet or exceed the mandatory category thresholds. In 2000 MPCA created an alternative feedlot form, which EQB approved for use. MPCA is proposing changes to State Disposal System (SDS) and National Pollution Discharge Elimination System (NPDES) general feedlot permits. Proposed changes specifically address manure application to fields. MPCA is currently

developing updates to their alternative EAW form for animal feedlots to coincide with the requirements of the revised feedlot permits, as well as to reflect changes to the overall EAW form, such as addressing climate resilience and greenhouse gas emissions. EQB will need to approve any updates to the alternative form. EQB will need to analyze the changing regulatory landscape and engage with experts before taking any meaningful steps toward updating this category. In the last three years, EQB received two petitions for feedlot projects, neither of which resulted in an EAW because the projects were exempt from review.

Public perspective

This category received many comments during the engagement period of this report. Overall, interest surrounded the potential for nitrate pollution resulting from feedlots and their related activities (like manure land application), especially in sensitive areas. Commenters pointed out that manure structures may not be in sensitive areas, but manure may be land applied to sensitive areas. The rule does not directly address land application of manure although it is a part of the project's operation; the threshold only relates to construction or expansion of a facility. EQB heard requests that the current EAW threshold in this category be lowered, rooted in a desire to avoid agriculture-related pollution of waterways. One organization stated the need for an EIS for large feedlots.

Rule change considerations

The SONAR seems to imply that the exemption for feedlot connected actions was only meant to apply to multi-site hog operations. Thus, it seems appropriate for EQB to further research and evaluate this topic. Furthermore, EQB could consider evaluating the current EAW threshold and adding an EIS threshold.

The EAW threshold is 1,000 animal units and 500 animal units in sensitive locations; those sensitive locations are specifically listed in rule. One example of a sensitive location is an area within a drinking water supply management area. However, this term is specific to state programming and does not recognize Tribal or federal equivalents. Therefore, a solution like the one proposed in the 2021 Mandatory Category Report remains relevant; it says, "consider adding the following language to the list of sensitive locations in order to capture projects impacting Tribal Nations: '...delineated under chapter 4720, or federally delineated under similar criteria'". However, there is no similar federal criteria and further review is needed.

If rulemaking should occur, the following housekeeping changes should be made at that time:

- a. This category should use the term "floodplain" instead of "flood plain" as the former is defined in Minn. Stat. 103F.105.
- b. Delete reference to Minnesota River Project Riverbend area as it no longer exists.

- c. Define exemptions for connected actions to include only hogs or all categories.

Recommendation

Consider evaluating possible threshold changes, adding an EIS threshold, evaluating exemptions from connected actions, and housekeeping updates.

Natural areas

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 30	DNR, LGU	1982 SONAR page 157 and 2019 SONAR page 44	none

Permits

Local: Comprehensive plan amendment if community has a plan; Zoning; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Master plan per Minn. Stat. 86A.09.

Federal: National Park or forest management plans.

Discussion

Background

This category includes projects resulting in permanent physical encroachment on certain lands. This is a longstanding category. According to the 1982 SONAR, “This category is proposed because natural areas are publicly owned properties that have been set aside to preserve significant natural resources for future generations. These are sensitive areas of unique quality which may be significantly impacted by inappropriate development. Environmental review is necessary for these activities to allow public involvement in decisions affecting publicly owned resources.”

RGU experience

No projects have been completed for this category in the previous three years. The project type, criteria, and threshold are still relevant.

Public perspective

Commenters suggested protecting natural areas such as the Superior National Forest or the Boundary Waters Canoe Area Wilderness, but none suggested direct changes to the category.

Recommendation

No change.

Historical places

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 31	LGU, the permitting state agency	1982 SONAR page 157 , 1997 SONAR page 21 , and 2005 SONAR page 39	2 (2021) 3 (2022) 4 (2023)

Permits

Local: Demolition permit (building permit); Zoning.

State: Environmental Site Assessments (if state funding is provided).

Discussion

Background

This category includes the destruction (in whole or part) or the moving of a historic property. This is a longstanding category. According to the 1982 SONAR, “This category area is proposed because there is very little government authority to protect sites listed on the National Register of Historic Places. The requirement for environmental review prior to the destruction of such facilities is needed to provide the public an opportunity to take part in decisions that may significantly affect the preservation of our national [heritage]. Historical resources are protectible natural resources under the Minnesota Environmental Right Act at Minn. Stat., ch. 116B.”

RGU experience

Nine of the ten reviews in this category (listed in the chart above) were completed by a local governmental unit. One discretionary review took place, in addition to the ten mandatory reviews listed in the chart above. In the last three years, EQB received two petitions for a historical project; one resulted in an EAW. Research confirms that construction and demolition waste going to landfills is environmentally impactful, yet this category does not seem

to fully encompass such effects. An alternative EAW form could be designed to better meet the unique needs of this project type.

Public perspective

One comment shared the EAW form for these projects can be difficult to complete, since the form does not directly pertain to building demolition. Some commenters believed modifications or removal of historic places is already handled responsibly and would result in no environmental impact.

Rule considerations

Further evaluation is necessary to determine the long-term relevancy of this category before EQB can offer constructive rulemaking recommendations.

Recommendation

No change.

Mixed residential and industrial-commercial projects

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 32	LGU	1988 SONAR page 55	5 (2021) 6 (2022) 2 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 21	LGU	1988 SONAR page 66	None

Permits

Local: Comprehensive plan amendment if the community has a plan; Zoning; Subdivision/platting approval; Conditional Use Permit or Planned Unit Development Permit; Site plan approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Building permits for structures.

State: Driveway permit (MnDOT) if state highway.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category includes projects that have mixed residential and industrial-commercial projects. The 1982 SONAR explains the purpose of this category: “This new subpart is included to close a loophole in the existing rules. Currently, a project consisting of a mix of residential and commercial uses (e.g., a condominium complex with retail shops and office space) only requires an EAW if either the residential component or the commercial component exceeds its respective threshold. This means that projects which nearly equal thresholds for two categories are not reviewed, despite the fact that they may have the potential for significant environmental effects.”

RGU experience

The 2021 Mandatory Category Report for this category says, “EQB staff support issues identified from LGUs that the criteria and threshold for these categories be modified, to provide greater clarity in determining if ER is required for a proposed project.” At that time EQB recommended considering a possible change in thresholds, and that recommendation still stands. In the last three years, EQB received two petitions for projects under this category; one resulted in an EAW.

Public perspective

There were no comments directly related to this mandatory category.

Rule change considerations

EQB can consider housekeeping rule changes to better illustrate how to calculate this threshold. This will provide clarity in interpreting the thresholds for RGUs and project proposers.

Recommendation

EQB should consider making housekeeping changes to this category that uses a calculation that improves readability of the subpart.

Communications towers

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 33	LGU	1988 SONAR page 56 and 1997 SONAR page 22	None

Permits

Local: Conditional Use Permit; Zoning permit; Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or wetlands mitigation plan; Site plan approval; Building permits for structures; Road access permit local road.

State: Driveway permit (MnDOT) if state highway.

Discussion

Background

This category includes construction of a communications tower. The 1997 SONAR says, “The current category for communication towers is based on well-documented hazards to birds posed by towers over 500 feet tall.” It was later noted in the 1997 SONAR that tower location can be as much a factor in bird mortality as tower height. Therefore, changes were made to account for low-flying birds in the vicinity of wetlands or along river bluffs.

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Sports or entertainment facilities

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 34	LGU	1988 SONAR page 57	1 (2023)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 22	LGU	1988 SONAR page 66	None

Permits

Local: Comprehensive plan amendment if community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Building permits for structures.

State: NPDES; Highway improvements.

Federal: Highway improvements.

Discussion

Background

This category includes facilities such as stadiums, horse racing tracks, entertainment venues, or amphitheaters. The 1988 SONAR says, “This new category is proposed in order to have a more appropriate threshold measure for facilities of this type...Presently, these facilities are covered by the general industrial commercial-institutional category, which has a threshold based on gross floor space. The problem with this relative to sports or entertainment facilities is that the nature of the use of the floor space is entirely different from that in industrial, retail, office, or typical industrial commercial uses.”

RGU experience

One EAW was completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category.

Recommendation

No change.

Release of genetically engineered organisms

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 35	EQB, Permitting State Agency	1991 SONAR page 23	None

Permits

State: The EQB has statutory authority related to permitting GEOs and serves as the coordinating organization within Minnesota for GEO-related state and federal regulatory activities. Additionally, the EQB can approve a

different agency to oversee the regulation of certain GEOs. The board approved the MDA’s oversight of agriculturally related GEOs in 1995. MDA works closely with the federal GEO coordinated framework for the regulation of agriculturally related GEOs.

Federal: The Coordinated Framework for Regulation of Biotechnology (EPA, USDA-APHIS, FDA)

Discussion

Background

This category includes the release of a genetically engineered organism. According to the 1991 SONAR, “This new mandatory EAW category is proposed to carry out the statutory mandate of Minn. Stat. § 116C.94 that the board adopt rules to require an EAW for the proposed release of genetically engineered organisms. The requirement for an EAW for the release of a genetically engineered organism is needed because a number of potentially serious environmental impacts could result from such activities, if not properly conducted.”

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category. EQB is actively reviewing the overall federal and state regulatory structure related to GEOs and may have recommendations for changes in the future.

Recommendation

No change.

Land use conversion, including golf-courses

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 36	LGU	1988 SONAR page 54 and 1997 SONAR page 22	3 (2021) 3 (2022) 2 (2023)

Permits

Local: Comprehensive plan amendment if community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Land use amendment; Site plan approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures; Grading/drainage/erosion control plan.

State: Water appropriation permit; Driveway permit if state hwy.

Federal: CWA 404 permit.

Discussion

Background

Most often, golf courses were the project types triggering this review. Originally part of a subpart titled “agriculture and forestry,” this mandatory category became its own subpart as explained in the 1988 SONAR.

RGU experience

This category is regularly used with nine EAWs completed in the last three years. The project type, criteria and threshold are still relevant.

Public perspective

Some comments shared concerns of habitat loss and biodiversity loss, but none specifically mentioned changes to this category.

Recommendation

No change.

Land conversions in shoreland

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 36a	LGU	2007 SONAR page 55 and 2019 SONAR page 45	1 (2022)

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 27	LGU	2007 SONAR page 55	None

Permits

Local: Comprehensive plan amendment if community has a plan; Rezoning if the community has zoning; Subdivision/platting approval; Conditional Use Permit; Site plan approval; Grading/drainage/erosion control plan; Shoreland permit; Floodplain permit/approval; Wetland Conservation Act approval and/or wetlands mitigation plan; Road access permit on local road; Building permits for structures.

State: Water appropriation permit; Driveway permit (MnDOT) if state highway; Permit to mine (Reclamation permit); Clean Water Act 401 certification.

Federal: Clean Water Act 404 permit (wetlands).

Discussion

Background

This category was added to address concerns in shoreland areas. According to the 2007 SONAR, “This subpart proposes two thresholds, one for sensitive and the other for nonsensitive shorelands, of 40 and 80 acres, respectively, of permanent conversion of naturally vegetated land, including forests.” Rulemaking in 2019 clarified the category with the term “permanent conversion.”

RGU experience

No projects were completed for this category in the previous three years. The 2021 Mandatory Category Report said, “Clarification in the shoreline development section could help determine when or if a subdivision might require an EAW.” This recommendation remains relevant.

Public perspective

No comments specifically mentioned changes to this category.

Opportunity for guidance update

Shoreline can be measured from flood stage or from a high-water line, so EQB can work with DNR to provide more guidance on how the RGU and project proposer can measure.

Recommendation

Consider housekeeping change for consistency of terms and clarifications for when an EIS is required.

Recreational trails

EAW overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4300. Subp. 37	DNR, Governmental unit sponsoring the project, LGU	2004 SONAR and 2019 SONAR page 46	1 (2021) 1 (2022) 1 (2023)

Permits

Local: Permission to cross land; Land alteration permit; Site permit application; Roadway utility permit; Wetland Conservation Act approval and/or wetlands mitigation plan; Approval for bridges lease amendment; Land use zoning approval; Subdivision/platting approval; Conditional Use Permit; Grading/drainage/erosion control plan; Road access permit on local road.

State: Construction stormwater general permit; 401 certification Section 4(f) evaluation; 401 certification; State trail plan amendment; State funding; Special use permit for highway crossings; Lease agreement State grant; Public water work permit; WCA mitigation plan; SNA permit to cross & trail maintenance agreement; Driveway permit (MnDOT) if state highway.

Federal: Federal grant; Clean Water Act 404 permit; Clean Water Act 401 certification.

Discussion

Background

This category includes trails and vehicle recreation areas; it was initiated by a legislative directive. Trails are subject to in-depth planning processes, which are described in the 2004 SONAR. Trails are divided into two main groups- motorized use and non-motorized use.

RGU experience

RGUs experience these projects to be frequently controversial. In the last three years, EQB received two petitions for trail projects. Neither resulted in an EAW. One discretionary review took place, in addition to the mandatory reviews listed in the chart above. The 2021 Mandatory Category Report said that this category, “Warrants further examination and investigation of discrepancy between paved and unpaved trails threshold, as well as how category applies to trails in Twin Cities Metropolitan Area.”

Public perspective

EQB received a wide range of feedback, but most comments asked for stricter review of trails. Comments asked broadly for re-evaluation of trails on public lands, an EIS threshold for new trail systems, ensured evaluation of connected and phased actions, and for EQB to consider wildlife movements across trail corridors.

Opportunity for guidance

EQB can work with RGUs to provide updated guidance on this category so that there is a better shared understanding of terms within the current context of recreational development. Any re-evaluations of thresholds or definitions should be considered after guidance is considered and updated as needed.

Recommendation

No change.

Water diversions

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 23	DNR	1988 SONAR page 67	None

Permits

State: Water appropriation permit; Minn. Stat. 103G.265; Minn. Stat. 103G.801

Discussion

Background

This category applies to water diverted to areas outside the state. The 1988 SONAR says, “This new category is proposed at the suggestion of the DNR and is in recognition of the awareness that has developed in recent years that the state may be faced in the future with the question of whether and under what circumstances it should permit the diversion of water to other parts of the country.” Minn. Stat. 103G.271 subd. 4.b. prohibits the bulk transfer or sale of water greater than 50 miles from the source or up to 100 miles for public, private, and rural water suppliers. This statutory change occurred within the past 5 years.

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

There were no comments directly related to this mandatory category and no projects were completed for this category in the previous three years.

Recommendation

No change.

Incinerating wastes containing PCBs

EIS overview

Rule Language	Responsible Government Unit	Intended historical purpose	2021-2023 projects
4410.4400. Subp. 25	MPCA	1995 SONAR page 17	None

Permits

Local: Comprehensive plan amendment if the community has a plan; Rezoning if the community has zoning; Land Use plan; Conditional Use Permit; Site plan approval; Grading/drainage/erosion control plan; Wetland Conservation Act approval and/or wetlands mitigation plan; Building permits for structures.

State: Air permit; Hazardous Waste (RCRA) treatment or storage permit, NPDES General Construction Stormwater Permit; NPDES Industrial Stormwater Permit, Wastewater permit

Federal: Title V Air permit

Discussion

Background

PCBs stands for polychlorinated biphenyls. According to the 1995 SONAR adding this subpart was, “necessary to bring the rule into conformance with Minn. Stat., section 116.38, subd. 2...The primary environmental concern with the burning of PCBs is the emission of hazardous combustion products and their fate in the environment, including human health impacts.”

RGU experience

No projects were completed for this category in the previous three years. The project type, criteria and threshold are still relevant.

Public perspective

One respondent said this mandatory category could be expanded to include incineration of flame-resistant materials containing any chemical in the PFAS (per- and polyfluoroalkyl substances) family of chemicals. EQB will closely follow the evolving regulatory framework for PFAS and address any gaps for including PFAS in environmental review in the future.

Recommendation

No change.

Additional considerations

Some of the feedback received impacted multiple mandatory categories or the overall implementation of Minn. R. 4410.4300 and 4410.4400. The following items discuss potential broader changes to how the mandatory categories are implemented.

Three-year look-back - Minnesota Rule 4410.4300, Subp. 1 is often referred to as the “three-year look-back” rule. The [1988 SONAR](#) (page 37) explains that language was added to clarify that multiple stages of a single project must be considered in total when comparing the project to mandatory category thresholds: “This amendment is intended to emphasize to persons who are about to screen a project against the mandatory EAW categories that it is the whole of the project which is potentially subject to review.” The 1995 SONAR for a rulemaking that revised this language says, “It is recognized that because of the policy of not counting anything already approved or built, a potential loophole exists through which review can be circumvented. By segmenting larger projects into smaller pieces and staging them over time without revealing the true size of the whole upfront, proposers can avoid EAW thresholds even though the whole project, if considered together, would exceed the thresholds.”

In 1997 the rule was further amended to state existing stages or components of a project would be required to be included as part of the project unless they were constructed more than three years previously, “The three year period was chosen because it represents the amount of time historically considered by the EQB staff to typically represent ‘a limited period of time’ as used in the definition of ‘phased actions’ at part 4410.0200, subpart 60. Therefore, the proposed revision would count only those existing project stages that would have met the test of being part of a phased action with the current proposal if the current proposal had been acknowledged when the earlier stage was under review.”

Some RGUs, including DNR and MPCA have asked for clarifications to this subpart to ensure it accomplishes its intended purposes and is easily interpretable for all categories. This may include defining terms like “cumulative total” or clarifying if an RGU should consider decommissioning components of an existing project. Further evaluation is needed.

Housekeeping update – EQB notes several additional opportunities for housekeeping updates throughout Minn. Rules 4410. One such example includes that Minnesota Rule 4410.4400 references subparts “2 to 25,” but this is incorrect since there are 28 subparts. This should be updated to read, “An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25 28.” Another example is that EQB should rename all mentions of an “ordinary high-water mark” within the mandatory categories to an “ordinary high-water level” as the latter is defined in rule.

Adding new categories – EQB heard from RGUs and members of the public that adding certain project types to mandatory categories could provide a level of certainty for project proposers. Evaluation of new category ideas is needed; the co-authors have no recommendations at this time.

Appendix A

Continuous improvement for environmental review

Some input EQB received during public engagement for the mandatory category report suggested broadly scoped programmatic changes. Some of these suggestions are better evaluated through the EQB’s [continuous improvement process](#).

Continuous improvement process steps

In June 2023 the Board approved a continuous improvement process that involves performing the following steps on a regular basis:

1. EQB staff solicit ideas for program improvements.
2. EQB staff review the scope of the improvements.
3. EQB staff evaluate and score improvements using a program effectiveness prioritization matrix.
4. EQB staff plan for implementation of improvements.
5. ERIS completes review of implementation planning.
6. Board completes review and directs staff to implement selected projects.

The prioritization matrix referenced in step three identifies nine characteristics of an effective program: scientific integrity, environmental protection, measurability, inclusivity, user-friendliness, accessibility, consistency, quality assurance, and accountability.

Topics of programmatic interest

The mandatory category report documents recommendations for specific individual mandatory category rule subparts, while the continuous improvement process was designed to help EQB consider broad program initiatives. The following items reflect themes EQB heard as feedback during preparation of this report. Due to their programmatic nature, they are out of scope for the recommendations of this report. These topics were considered in the 2023 continuous improvement process and remain open recommendations that should be evaluated for future inclusion in EQB's work. Each would require substantial interagency collaboration to further scope, define, and prioritize.

- Tribal cultural resources** – The ER program is meant to consider historic and cultural properties. For example, the EAW form asks for information on historic structures, archaeological sites, and/or traditional cultural properties near the site. It is important that project proposers and RGUs are able to assess if the proposed project activities will impact Tribal cultural resources, then work to ensure that any projects impacting those resources receive adequate consideration within environmental review. This methodology would need to be co-developed with Tribes that share geography with Minnesota, following procedures outlined in EQB's Tribal Coordination and Consultation Policy. Further conversations can help EQB determine how best to address Tribal cultural resources; beginning this work is on EQB's workplan for state fiscal year 2025.
- EAW and EIS expirations** – EQB rules generally require a project to undergo a new review only if there has been a "substantial change" to the project since the environmental review was initially completed. The measure of "substantial change" was first added in 1988 rulemaking as explained in the [1988 SONAR](#) (page 11). Language further clarifying "substantial change" was added in a 2006 rulemaking in response to similar concerns as were expressed to EQB during the preparation of this report. The [2006 SONAR](#) (page 12) explains: "It has been pointed out to the EQB staff that if a project is not built for a long time and there is no time limit on the 'shelf-life' of the EAW, there could be substantial changes in the circumstances in which the project would be built that could affect the potential for environmental impacts of the project that were not addressed in the EAW...The EQB considered addressing the issue by adding a time limit on the 'shelf-life' of an EAW." However, a specific expiration timeline applicable

to all projects was found to be unreasonable; instead, the clarifying language around “substantial change” was added. Further interagency discussion on this topic is needed to determine if things have changed since this idea of expirations was last considered.

- **Cumulative impacts** - Environmental review rules use and define both “cumulative impacts” and “cumulative potential effects.” The consideration of “cumulative impacts” in permitting, particularly air permitting, is an ongoing topic of interest and development. Over the long-term, EQB should consider changes to the definitions in 4410.0200 be consistent with the state’s needs for information and data to support environmental decision-making.
- **Considering health impacts** – Health impacts assessments (HIAs) are intended to help investigate the potential health impacts of a policy, program, or project – both positive and negative – to inform decisionmakers. HIAs are one tool to help elevate health in environmental reviews; further conversations (amongst state agencies, environmental groups, the public, or any interested party) can help EQB and RGUs determine if health is being adequately considered in the environmental review process and if not, what is the appropriate scope and tool to do so. The board considered integrating health impacts more officially into environmental review in 2016, but action has been deferred as the board voted to first integrate climate change into the EAW.

Appendix B

Summary of public engagement for Mandatory Category Report, 2024



Memo

Date: May 3, 2024

To: Environmental Quality Board Members

From: Environmental Review Program Administrator, Kayla Walsh

RE: Analysis of feedback on mandatory categories

This memo provides a summary of feedback received during the process of engagement on the mandatory categories for Environmental Assessment Worksheets (Minn. R. 4410.4300) and Environmental Impact Statements (Minn. R. 4410.4400). EQB staff extended our outreach efforts for the 2024 Mandatory Category Report. In addition to public feedback, EQB asked all technical representatives to provide feedback directly to EQB. Technical expertise and professional judgement will be used by EQB and co-authoring agencies to determine final recommendations in the report.

EQB intends for the 2024 mandatory categories report to be a thorough review of all mandatory categories, focused on the following key goals:

- Reviewing the intended purpose or history of each mandatory category
- Identifying new project types that may need to be the subject of a mandatory category
- Providing a discussion that lays the groundwork for potential future updates to the categories and their thresholds

The report will provide a “state of the state” on the mandatory categories and their use, followed by potential recommendations for changes, or identification of areas where further evaluation is needed. The recommendations will center on those changes that will continue to move towards an effective ER Program through better alignment with our effectiveness criteria.

EQB staff recognize and appreciate the thoughtful involvement of the public and environmental review practitioners in the process to date and we look forward to future discussion. EQB staff have read and summarized all comments. Feedback was extensive, and in some cases went beyond the anticipated scope of the final mandatory categories report. Ideas will be documented and further discussed under the appropriate mandatory category section of the report or, as appropriate, in other EQB work products.

Methodology

In addition to Board meetings, Tech Rep meetings and any meetings requested by Tribes or stakeholders, the following mediums were used to collect feedback:

- Engagement HQ
- Online survey
- Emails
- Roundtable (virtual listening session)

Participants were asked to submit one set of information; however, there is no way to cross-check submittals to ensure the same person did not submit ideas through more than one medium.

Engagement HQ

Engagement HQ is a web-based platform that allows users to post their ideas in response to a question. The question EQB posed is: *“What kind of projects should go through environmental review and why? If suggesting a new category, include an explanation. Consider what types of projects have environmental impacts that would benefit from having environmental review. What specific health, equity, or environment concerns do you have related to these types of projects?”*

Engagement HQ was open from January 30, 2024, until the end of the day February 28, 2024. EQB staff promoted this link for the following groups to share with their networks: board members, technical representatives, cities, counties, members of the EQB monitor gov-delivery listserv, known advocacy organizations, tribal representatives, and more.

Engagement HQ tracked 1,800 total visits to the page. There were 35 engaged participants who contributed 39 ideas and 9 comments on others’ ideas. There was a total of 80 upvotes, or agreements with others’ ideas. This means there were 128 contributions, overall. Table 1 identifies common themes EQB heard from Engagement HQ.

Table 1. Topics and themes identified in feedback on engagement HQ

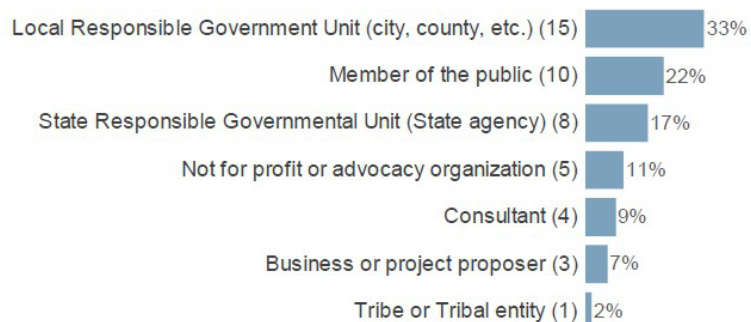
Topic	Number of posts	Number of total upvotes of all posts
Greenhouse gas emissions	22 posts, most mention measuring using life cycle impacts and choosing a threshold for an EIS	61
RV Campground	7 posts, specifically pertaining to RV campground thresholds near lakes and shorelands. This may be in relation to a recent petition on one specific proposed project.	6
Drainage	4 posts, especially mentioning agricultural drainage projects such as new ditches, drain tiling on croplands, and considering the cumulative impacts of such projects.	4
Alternative reviews	1 post gave detailed information recommending withdrawal of EQB approval for the Public Utilities Commission’s alternative review process for pipelines.	5

Other notable topics included suggesting an EAW be required for pre-mining activities such as mineral leasing and exploratory drilling; requiring an EIS for all mining expansions; suggesting the addition of an EIS threshold for water appropriations; including a Health Impacts Assessment as a part of all EISs; and establishing an expiration timeline for reviews.

Online survey

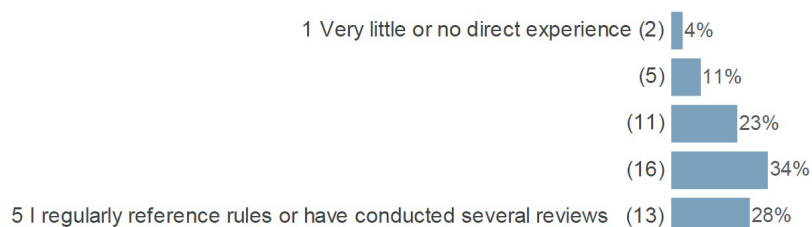
Overall, 51 respondents completed the online questionnaire. About 33% of respondents said they identified as a local government unit and 17% said they were a state responsible governmental unit.

Which group do you most identify with for the purpose of this survey?



Respondents were well-informed, with over 85% identifying a moderate to high level of experience in environmental review.

On a scale of 1 to 5 please rate your level of experience with Minnesota's Environmental Review Program (1 Very little or no direct experience /)



Thirty-six respondents answered the question: "Are reviews generally being conducted by the right entity at the right level of government?" Responses show that 64% said "yes" and 36% said "no."

In a follow up question, EQB asked "If not, list which project types should be reviewed by a different entity and why." In response to this, we heard that "many times, Tribes are not consulted." We also heard that many projects at the local level require expertise beyond the responsible governmental units' capabilities. This results in higher costs, necessitating the hiring of consultants. Put succinctly by one commenter, "Local RGUs, like cities and counties, often do not have the expertise needed to conduct environmental reviews, and they often favor the local development proposed." Another commenter shared concerns over potential conflicts of interest, saying "The RGU should not be the same as the permit approver." This was also discussed during a subsequent listening session where similar sentiments arose, but EQB also heard that some local units of government appreciate having RGU discretion and that all local governments operate differently.

When asked if any existing mandatory categories need changes, 87% (thirty-four) of survey respondents said "yes." Through the survey, EQB received an additional 91 substantive comments on mandatory categories. A summary of popular topics is listed in Table 2, below.

Table 2. Topics and themes identified in feedback via the survey

Topic	Number of comments
Campgrounds	4 ideas ranging from making mandatory EAWs or EISs for all projects on lakeshores to raising the thresholds to result in fewer EAWs
Drainage	3 ideas pertaining to requiring EAWs for agricultural drainage such as drain tiling, and properly assessing cumulative impacts to water from drainage projects
Feedlots	3 ideas asking for review of manure application in sensitive areas
Forestry	4 ideas ranging from saying this category is not useful to saying it should have no exemptions, and it should involve an EIS to address cumulative effects from all actions that require deforestation
Industrial	4 ideas ranging from needing clarity of terms to increasing the threshold because many impacts are already addressed in comprehensive planning
Land Use	4 ideas ranging from exempting land use to lowering its threshold for conversion of forest or native vegetation to better know the anticipated habitat and biodiversity
Mining	3 ideas including requiring an EIS for any mine expansion
Public Waters	8 ideas such as making dam removals easier and reducing certain thresholds
Residential	17 ideas saying the threshold should be raised or the category exempt, or that the rules are overly complex and difficult to comprehend
Streams	18 ideas mostly asking for clarification, an accelerated review process, or exemption for trout stream restoration
Trails	5 ideas asking for clarification of terms, cumulative impacts of trail systems, or requiring an EAW for trail additions over one mile
Water Appropriations	3 ideas mostly asking for lower thresholds

Comments range widely from urging deletion of entire categories to lowering thresholds of those same categories (resulting in more reviews). For example, some respondents suggest eliminating Minn. R. 4410.4300 Subp. 27 (Public Waters), while other suggest lowering the threshold. Some respondents asked for expedited reviews for stream restorations. Some also said the residential subpart is overly complex. As with other modes of feedback, all comments will be considered in the recommendations brought forward in the report.

Emails during the survey period

Some participants opted to directly email EQB staff their comments, instead of taking the survey. Staff received 122 separate emails amassing a total of 470 comments. Comments were on behalf of individual members of the public and some environmental organizations. One form letter resulted in high numbers of comments related to the topics of mining, water appropriations, and health impacts statements. Table three shows some common themes EQB read in the emails.

Table 3. Topics and themes identified in feedback via emails

Topic	Number of comments
Enforcement	4
Expirations	73
Feedlots	4
Greenhouse Gas Emissions	3
Health Impacts Assessments	84
Mining	144
Water Appropriations	76

The following are examples of quotes from the feedback, to serve only as examples. Feedback is considered in the recommendations made in the report.

Enforcement: *“Enforcement should have the most stringent criteria and the most significant funding. Rules mean nothing if they are not enforced.”*

Expirations: *“All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren’t allowed to rely on outdated facts and outdated scientific knowledge.”*

Feedlots: *“The mandatory category requiring EAWs for animal feedlots should be revised in two ways. First, Subp. 29(B) should be revised to add vulnerable groundwater areas, as identified for the Minnesota Department of Agriculture’s Groundwater Protection Rule, to the list of “sensitive locations” where animal feedlots with more than 500 animal units must undergo an EAW. These areas, which have coarse textured soils, shallow bedrock, or karst geology, have already been identified as areas where nitrate can move easily through soil and into groundwater, contaminating drinking water sources... Second, the rule should be revised to remove the following sentence, “The provisions of part 4410.1000, subpart 4, regarding connected actions do not apply to animal feedlots.” No other EAW section includes this exception, and there is no reason animal feedlots—which are a significant source of water pollution in Minnesota—should be allowed not to consider connected actions when determining whether an EAW is required.*

Greenhouse Gas Emissions: *“A new mandatory EIS category should be added to require an EIS for any project that emits a significant amount of GHG emissions, based on a lifecycle analysis. As part of the Climate Action Framework, Minnesota has set goals to reduce its GHG emissions by 50% by 2030 and to achieve net-zero emissions by 2050....In a rulemaking, EQB could determine whether an EIS should be triggered based on an absolute threshold, if different types of projects should have different triggering thresholds, or whether a project could avoid an EIS if it demonstrates it will reduce its emissions over time.”*

Health Impact Assessments: *“Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.”*

Mining: *“EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn’t relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.”*

“EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.”

Water Appropriations: *“EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.”*

Listening session

EQB hosted two virtual roundtables in the month of April. Each meeting lasted one hour. Participants totaled 56 attendees, although some attendees were members of EQB or did not participate. The purpose of these two sessions was to provide an additional medium for feedback; commenters could verbalize new ideas or expound on ideas they’ve already submitted. Using a Mentimeter survey in real-time, about half of participants identified as “new” commenters across both sessions.

Themes identified in the roundtables aligned with what EQB heard through written feedback. Several commenters explained their concerns over conflicts of interest in having RGUs do environmental review on a project they may have a vested interest in. Commenters also discussed the benefits and drawbacks of having local government units conducting reviews.

Of note, one commentor did submit a letter with 106 signatories making specific recommendations for anaerobic digesters, saying that “Anaerobic manure digesters present significant environmental risks to our rural communities’ air, soil, water, and public health.... Given these concerns, it is essential to lower the environmental review threshold of anaerobic manure digesters from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year within the MN EQB’s 2024 Mandatory Categories for thorough environmental review.”

The topic of cumulative impacts was also important to commenters. They expressed concerns over connected and phased actions not properly being addressed and asked for a stronger assessment of cumulative impacts. It was again noted that there should be an EIS for water appropriations, pipelines that carry helium or carbon dioxide, and feedlots. Mining, greenhouse gas emissions, and instituting health impacts assessments were all themes of conversation that aligned with previous feedback. EQB also heard from commenters who were concerned over fragmented review of off-road vehicle trails. Meetings were not recorded, but EQB staff took notes. Comments from the roundtable listening session will be addressed in the report.

Summary

EQB has performed more outreach for the 2024 Mandatory Category Report than for prior reports. Overall, EQB is very pleased to see interest in environmental review programming from both the public and practitioners. Commenters made it clear that Minnesota is a beautiful place to live, work and play and that we can all rally around protecting and improving our land, air, and water. EQB staff have much gratitude for the engagement received on this report thus far.

From all written sources (EHQ, the survey, emails) EQB received 680 substantive written comments. Additionally, about 25 separate comments on mandatory categories were documented by notetakers during listening sessions. Popular topics include, but are not limited to: cumulative impacts, expirations for EAWs and EISs, greenhouse gas emissions, water appropriations, health impacts assessments, mining, and feedlots.

For each mandatory category in the report, EQB plans to include a discussion section that summarizes what we've heard and what potential changes warrant further evaluation. It is important to the success and long-term usefulness of this report that concerns about each category are properly summarized and addressed. That way, in future years, we can fully track the progress made toward finding appropriate solutions and greater effectiveness of the environmental review program.

From: Nozal, Gail
Sent: Friday, August 30, 2024 7:45 AM
To: MN_EQB_Info <info.EQB@state.mn.us>
Cc: Karen Zumach
Subject: Feedback on August 21 Emerald Ash Borer Update

You don't often get email from gail.nozal@davey.com. [Learn why this is important](#)

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

I attended the August 21, 2024 EQB meeting for the Emerald Ash Borer (EAB) update.

I did not have a chance to provide public comment so I have elected to email my comments.

I represent the Minnesota Shade Tree Advisory Committee as the Vice President. As a volunteer committee member as well professionally I do quite a bit of outreach to communities on a variety of urban forestry issues. The last fifteen years the predominant focus has been Emerald Ash Borer. It has been fantastic that the legislature has provided funds to the MN DNR for ReLeaf and EAB grants. Those have helped communities a tremendous amount. More is still needed, especially outside of the 10 county metro area. In my travels and attending the Coalition of Greater Minnesota Cities, there are many cities that have heard of EAB but don't have the capacity to address the issue because many staff are wearing multiple hats and many times trees are near the bottom of the list. The recent grant release for the DNR will assist with building capacity but more financial assistance is needed for inventory, management planning, tree treatments, tree planting and especially tree removal. In small communities that our company provides consulting services for the calls about EAB have gone up 4X in the last year.

I would urge your continued coordination with the state agencies and the governor's office to provide more support for this growing crisis in communities.

Gail Nozal
Minnesota Shade Tree Advisory Committee