



Minnesota Environmental Review Program Assessment 2022 & 2023

Introduction

The Environmental Quality Board (EQB or board) oversees the state’s Environmental Review Program, as authorized in Minn. Statute 116D, and implemented by Minn. Rule 4410. Under these laws, the Board has responsibility for monitoring Environmental Review (ER) Program effectiveness and the authority to make program improvements – which may include modifying ER Program requirements and procedures, adjusting the EAW form, and providing updates to ER guidance. EQB also assists governmental units and members of the public with understanding environmental review rules and fulfills administrative functions for the ER program.

State statutes and rules delegate the authority to apply the rules and complete review of individual projects to other state agencies and local governments (Responsible Governmental Units or RGUs).

Environmental Review Program data and information

The ER program has been collecting data about environmental review projects in Minnesota for many years. In 2020, EQB staff developed the first Data Management Plan (DMP), which established a standardized methodology for collecting and assessing data and information. The goal of data collection under the plan is to understand the program’s effectiveness and identify areas of improvement. In addition to the data and information identified in the DMP, EQB staff consider the need for ER Program changes through feedback from:

- Discussions at Board meetings and Subcommittee meetings
- Advisory panels convened by the Board
- Public comments on periodic rulemaking
- Assessment performed to complete the *Mandatory Category Report* (compiled every three years)
- One-on-one conversations during technical assistance

Annually, EQB staff compile and assess the data and information identified in the DMP and present the results to members of the Environmental Review Implementation Subcommittee (ERIS).

The delegated nature of the ER Program creates numerous challenges for collecting data and information. In addition, the complexity of environmental review means that a multidisciplinary and comprehensive approach is needed to effectively evaluate the resulting social, economic, and environmental outcomes. The Board and EQB staff team continue to look for opportunities for improved data and information collection, analysis, and program evaluation.

The data that is currently collected in the ER Program is heavily focused on representing how many environmental reviews are being completed in a given year. While it is important to understand and continue to analyze those metrics it does not tell us how well environmental review is being done. Moving forward, staff will be working on updating the data management plan to better understand what data can be collected to measure the quality of environmental reviews and if they are achieving the objectives and responsibilities of the program.

Minnesota Environmental Review Program Overview

Table 1: 2022 & 2023 Minnesota Environmental Review Program Overview

Metric	2022 summary	2023 Summary	Description	Metric analysis
Frequency of ER Program process types	<ul style="list-style-type: none"> • 78 EAWs <ul style="list-style-type: none"> ○ 82% by local RGUs ○ 60% located in Greater MN • 7 AUARs • 14 Citizen Petitions • 0 EISs 	<ul style="list-style-type: none"> • 53 EAWs <ul style="list-style-type: none"> ○ 74% by local RGUs ○ 62% located in Greater MN • 6 AUARs • 14 Citizen Petitions • 2 EISs 	This data provides insight on how often ER occurs on an annual basis.	This information is useful in understanding the program and the workload on both RGUs and the EQB.
Frequency of mandatory categories by RGU and by location	<ul style="list-style-type: none"> • 17 different mandatory categories • 4 discretionary 	<ul style="list-style-type: none"> • 16 different mandatory categories • 10 discretionary 	This data provides information as to what types of projects are going through ER. 2022 had a high volume of projects triggering the industrial, commercial, institutional mandatory category.	Greater information could be gained by comparing yearly frequencies of mandatory categories. This information might also help point towards where additional support and guidance may be needed.
Frequency of comment letters submitted on ER projects (EAW's)	<ul style="list-style-type: none"> • Average of 7* letters per project * <i>One project received 7047 comment letters, including this project the average was 97 letters per project.</i> 	<ul style="list-style-type: none"> • Average of 11 letters per project 	This information is intended to provide some insight into public engagement on ER, to support accountability in decision making.	More information is needed to understand the degree to which members of the public engage with the environmental review documents. More information may be gained by asking for the number of substantive comments received during the public comment period.
Time for completing review by ER process type	<ul style="list-style-type: none"> • EAW: 83 days • EIS: NA • AUAR: 160 days 	<ul style="list-style-type: none"> • EAW: 97 days • EIS: 770 days • AUAR: 210 days 	This metric measures the time from when an RGU determines a submittal (usually from a project proposer) is complete to the time an adequacy decision is made.	This measures governmental processes, but not the time needed to gather the data and the information that goes into early draft stages of ER processes. Greater information is needed to better assess the time it takes to complete ER.
Cost of completing review	<ul style="list-style-type: none"> • ER master contract <ul style="list-style-type: none"> ○ 12 contracts started in 2022 	<ul style="list-style-type: none"> • ER master contract <ul style="list-style-type: none"> ○ 13 contracts started in 2023 	The ER master contract was created to streamline ER completion for RGUs.	This program launched in 2020 and has not produced enough information yet to make conclusions on cost of ER. So far, the program has only been utilized by State agencies so there is a need to expand the use to all RGUs.

Metric	2022 summary	2023 Summary	Description	Metric analysis
Frequency and type of technical assistance provided by EQB staff	<ul style="list-style-type: none"> 284 requests, resulting in 709 points of contact with EQB staff 	<ul style="list-style-type: none"> Frequency not tracked in 2023 	This data is collected to provide some information on program efficiency; it also helps identify EQB staff workload.	The high volume of technical assistance indicates a need to update guidance documents and ER webpages to ensure information is clearly written, effectively communicated, and easy to find.
Perceptions of whether the ER process provided usable information (EAW's)	<ul style="list-style-type: none"> 86% of RGUs indicated that the environmental review process provided usable information. 74% of the time RGUs indicated that the environmental review process identified mitigation measures. 	<ul style="list-style-type: none"> 89% of RGUs indicated that the environmental review process provided usable information. 83% of the time RGUs indicated that the environmental review process identified mitigation measures. 	This data was included to support transparency. This feedback is from surveys that RGUs file after completing a review process. The survey data indicates the ER Program is effectively identifying usable information.	The questions that we ask of RGUs regarding the implementation of ER should not be collecting perceptions, it should be aimed to collect facts. Better information can be gained to understand the implementation of ER by collecting this information after a project that has completed ER has been permitted.
Frequency of unique public participation opportunities	<ul style="list-style-type: none"> 73% of RGUs said the environmental review process provided public participation that would not have otherwise occurred. 	<ul style="list-style-type: none"> 77% of RGUs said the environmental review process provided public participation that would not have otherwise occurred. 	This data has also been included to support transparency. Feedback from RGUs surveyed indicate the ER Program is creating public participation opportunities.	A project undergoing ER has a mandatory public comment period thus adding public participation that would not have happened otherwise. The question that is being asked needs to change to provide better analysis regarding the impact of public participation on a project's outcomes, time, cost, etc.

2022 & 2023 ER Data

Frequency of ER Program process types

This assessment provides information about the following ER Program process types:

- Environmental Assessment Worksheet (EAW)
- Environmental Impact Statement (EIS)
- Alternative Urban Areawide Review (AUAR)
- Petitions for environmental review (which may or may not result in a project undergoing review)

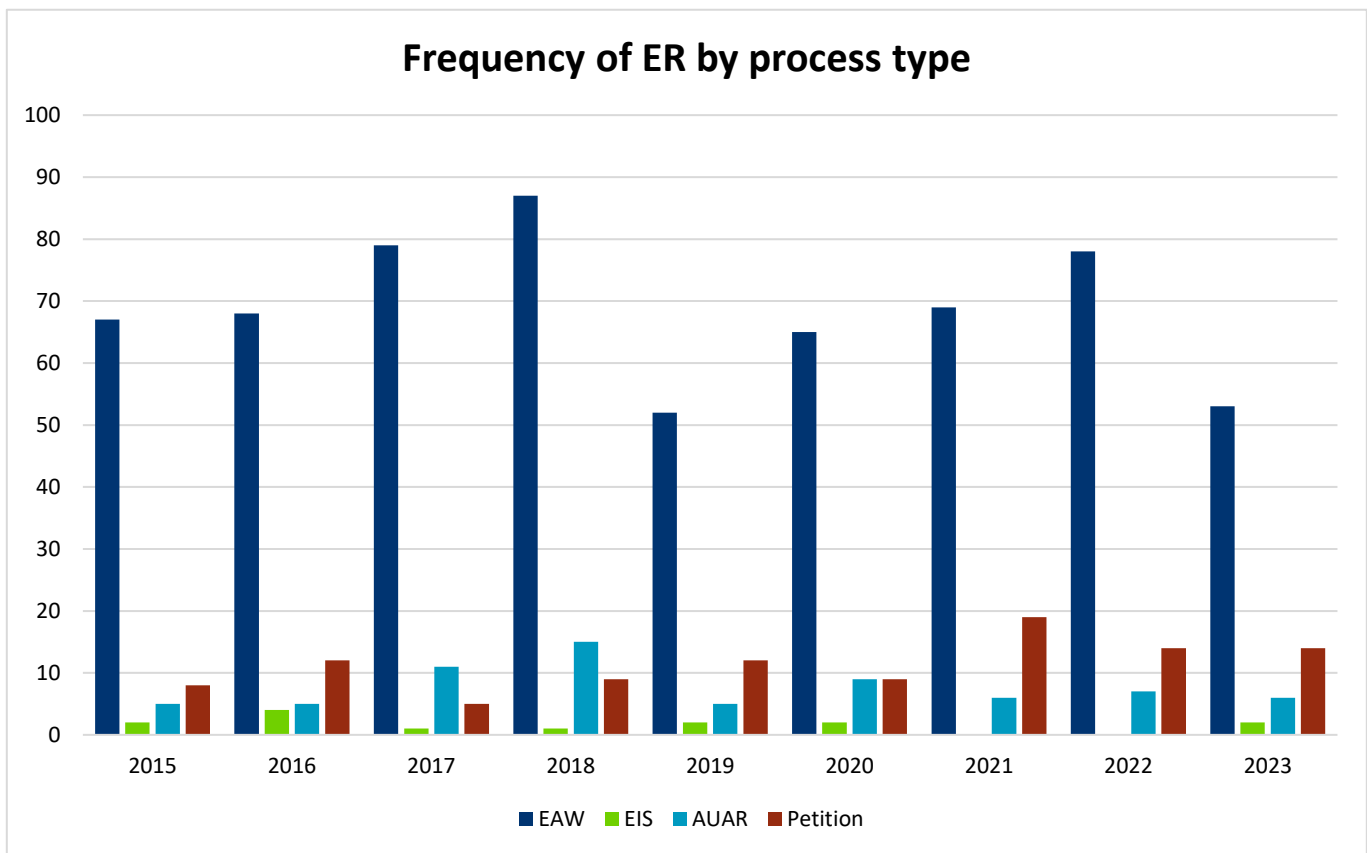
In 2022, RGUs completed a total of 99 processes related to proposed projects while 2023 saw a total of 74 processes: either completing environmental review (EAW, EIS, or AUAR) or determining the need for environmental review in response to a petition. (See [Figure 1](#)):

Table 2: ER process comparison

2022	2023
78 EAWs	53 EAWs
0 EISs	2 EISs
7 AUARs	6 AUARs
14 Petitions	14 Petitions

The frequency of environmental review processes completed in 2022 and 2023 was fairly consistent with the program’s trends over time, within the normal year-to-year variations. 2023 did see a drop in number of EAWs completed from 78 in 2022 to 53, the EQB will continue to monitor to see if this trend continues but would anticipate seeing the number climb again in 2024. It is also somewhat unusual for no full environmental impact statements to be completed; no EISs were completed in 2022.

Figure 1: Environmental review trends over years by environmental review process type



Frequency of mandatory categories by RGUs and geographic location

In 2022, 55 unique RGUs completed mandatory and discretionary EAWs for 78 proposed projects. Local units of government completed 82% and state agencies completed 15% of the EAWs in 2022 (Figure 2). 2023 saw 39 unique RGUs completing mandatory and discretionary EAWs for the total 53 proposed projects. Local units of government completed 74% and state agencies completed 26% of the EAWs in 2023. Consultants were noted as assisting in the EAW process for 87% of projects with a local RGU in 2022 (the 2023 data was partially unavailable for consultant counts). Local RGUs may include watershed districts, soil and water conservation districts, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council.

Figure 2: RGUs conducting environmental review in 2022

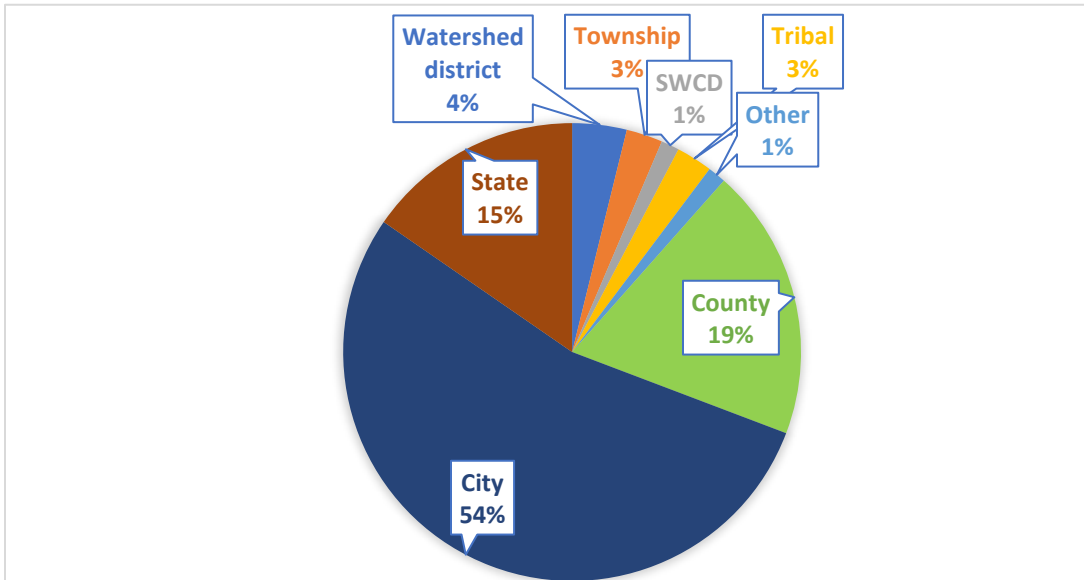
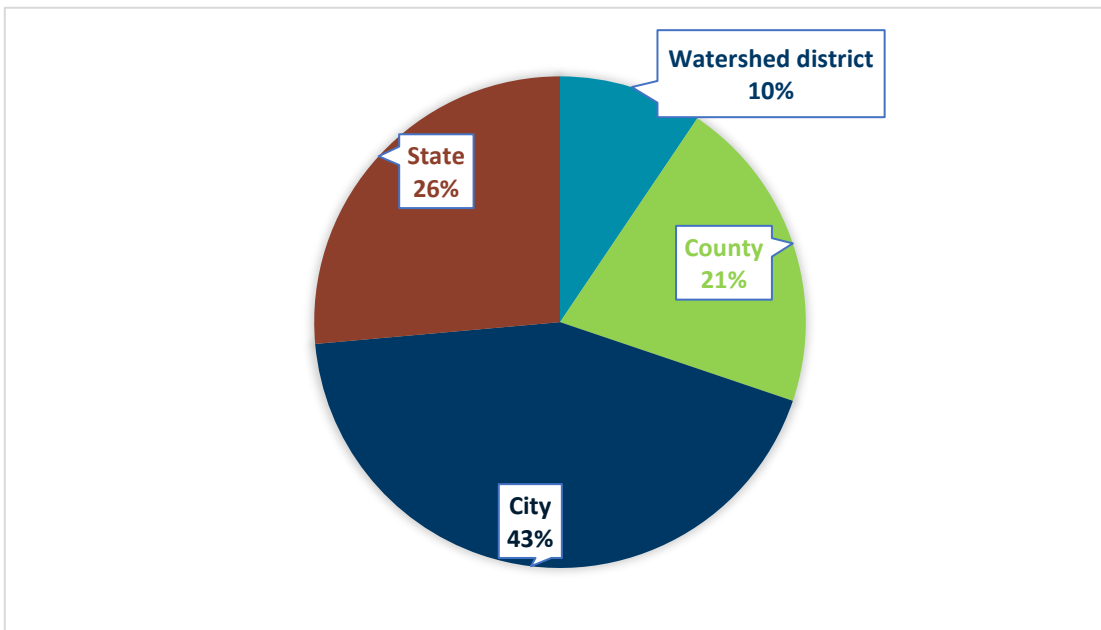


Figure 3: RGUs conducting environmental review in 2023



In 2022, the most frequent project types that required review included: wetlands and public waters (12 projects); residential development (13 projects); nonmetallic mineral mining (8 projects); industrial, commercial, and

institutional facilities (14 projects); and residential development in shoreland (4 projects); together accounting for 65% of projects in 2022. 2023, the most frequent project types were represented by wetlands and public waters (11 projects); residential development (7 projects); and historical places (four projects); together accounting for 42% of projects in 2023. Discretionary EAWs completed in 2023 counted for 19% of all projects conducting EAWs compared to 5% in 2022.

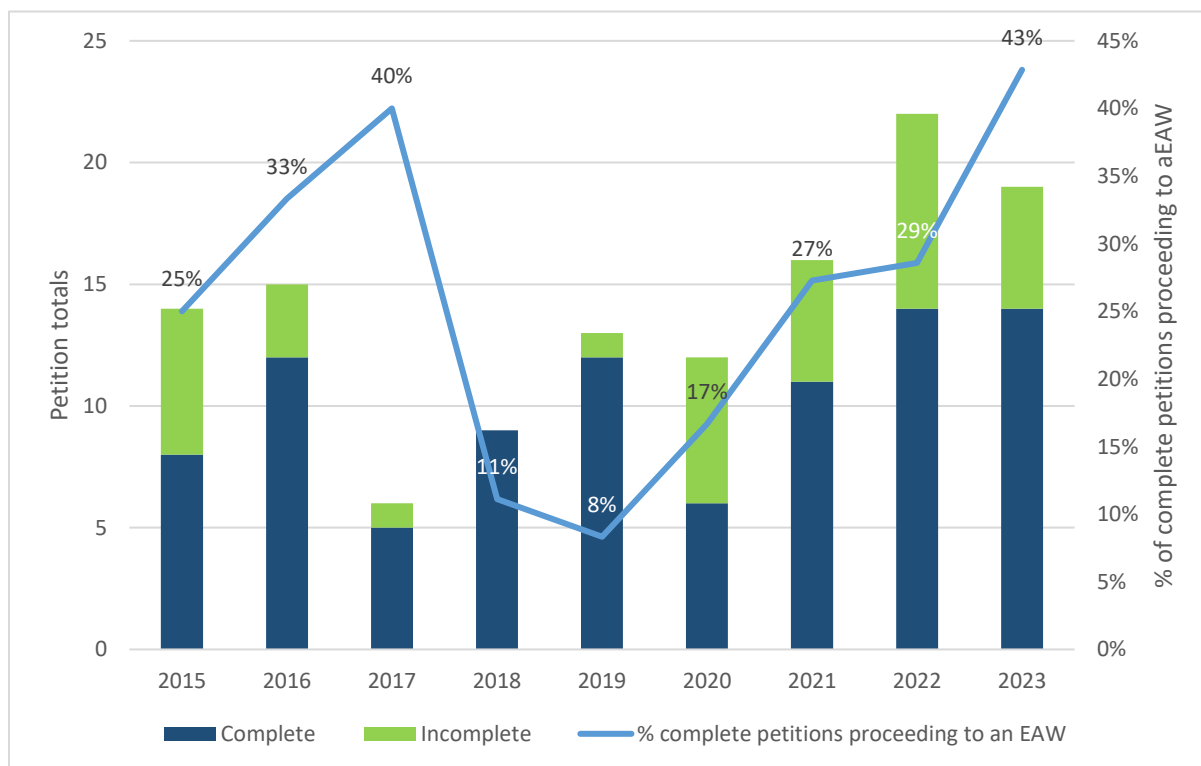
Projects outside the seven-county Twin Cities metropolitan area made up 61% of EAWs completed in 2022 and 2023 combined. Projects in the seven-county Twin Cities metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington) made up 39% of the EAWs completed. See [Appendix A](#) (2022) and [Appendix B](#) (2023) for a further breakdown of EAWs completed by mandatory category.

Two EISs were completed in 2023 ([Appendix C](#)), both of which fell under mandatory EIS categories ([MR 4410.4400](#)), nuclear fuels and nuclear waste, and public waters and public water wetlands. Both projects were completed by State RGUs and were located outside of the Twin Cities metropolitan area.

Frequency of petitions

In 2022 and 2023, 14 complete petitions were submitted each year – they included the required components laid out in Minn. R. [4410.1100, subp. 1 and 2](#) – and EQB staff assigned them to an RGU ([Figure 4](#)). It is important to note that of the 28 total complete petitions, 13 (eight in 2022 and five in 2023) required more than one submittal to the EQB as the original submittal was missing at least one of the required components. Two projects (one each year) deemed incomplete never followed up with a new submittal. This is a high percentage of incomplete submittals and likely indicates a need for updated guidance regarding petitions.

Figure 4: Number of projects petitioned for by year vs the percent proceeding to an EAW



[Table 3](#) (2022) and [Table 4](#) (2023) depicts the project type of each complete petition as it would best align with a mandatory category as well as the number of projects that proceeded through the petition process and resulted in an EAW being required for the project. A petition has a number of routes it can conclude with and they are as

follows; approval (positive declaration on the need for an EAW), denial (negative declaration on the need for an EAW), be placed on hold due to the fact that there is no government approval over the project at that time, or result in a discretionary EAW order from a proposer initiating the process, or an RGU can deny a petition and still order a discretionary EAW. In 2022 and 2023, 4 and 6 respectively, of the complete petitions resulted in an EAW being ordered for a project, see [Figure 4](#) for representation of percent of complete petitions resulting in an EAW being required by year. These numbers are not necessarily reflected in the total EAWs completed in 2022 or 2023 as the total count is comprised of EAWs that have completed an EIS need decision within the year.

Table 3: 2022 Petitions by project type and outcomes

Project type petitioned based on mandatory category reference	Number of complete petitions	Number of complete petitions resulting in an EAW	Number of complete petitions on hold
Subp. 3. Electric-generating facilities	1	1	-
Subp. 7. Pipelines	2	1	1
Subp. 12. Nonmetallic mineral mining	2	2	-
Subp. 19. Residential development	1	-	-
Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area	1	-	-
Subp. 20a. Resorts, campgrounds, and RV parks in shorelands	1	-	-
Subp. 22. Highway projects	1	-	-
Subp. 29. Animal feedlots	2	-	1
Subp. 31. Historical places	1	-	-
Subp. 32. Mixed residential and industrial-commercial projects	1	-	-
No mandatory category – Ditch improvement project	1	-	1
Total	14	4	3

Table 4: 2023 Petitions by project type and outcomes

Project type petitioned based on mandatory category reference	Number of complete petitions	Number of complete petitions resulting in an EAW	Number of complete petitions on hold
Subp. 12. Nonmetallic mineral mining	3	3	
Subp. 14. Industrial, commercial, institutional	1	0	
Subp. 19. Residential development	2	0	

Project type petitioned based on mandatory category reference	Number of complete petitions	Number of complete petitions resulting in an EAW	Number of complete petitions on hold
Subp. 20a. Resorts, campgrounds, and RV parks in shorelands	3	2	
Subp. 31. Historical places	1	1	
Subp. 37. Recreational trails	1	0	
No mandatory category – Ditch improvement project	3	0	3
Total	14	6	3

Opportunities for public participation in the ER Process

RGUs submitted 78 notices in 2022 and 53 in 2023 of final decisions on environmental assessment worksheets and reported the number of comment letters received for each project. RGUs reported receiving a minimum of zero and a maximum of 7,047 comment letters on environmental review documents. The number of comment letters may vary based on the level of controversy and/or the level of effort by an RGU to ensure public concerns are considered during the review process. In 2022, on average, 97 comment letters were received per project, however that number is heavily influenced by one project that received over 7,000 letters. If that project is removed from the calculation, the average comment letters received per project was seven. In 2023, the average number of comment letters received per project was 11.

Appendix A: 2022 Environmental Assessment Worksheet Mandatory Categories

EAW Mandatory Category reference (MR 4410.4300)	Number of Projects	State RGU # of Projects	Local RGU # of Projects	Located in Greater MN	Located in Twin Cities Metro
Subp. 3. Electric-generating facilities	1	0	1	0	1
Subp. 12. Nonmetallic mineral mining	8	0	8	7	1
Subp. 14. Industrial, commercial, institutional	14	0	14	3	11
Subp. 15. Air pollution	1	1	0	1	0
Subp. 18. Wastewater	2	2	0	1	1
Subp. 19. Residential development	13	0	13	4	9
Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area	4	0	4	4	0
Subp. 22. Highway projects	2	1	1	1	1
Subp. 24. Water appropriation and impoundments	1	1	0	1	0
Subp. 25. Marinas	1	0	1	1	0
Subp. 26. Stream diversion	3	1	2	1	1
Subp. 27. Wetlands and public waters	12	4	8	9	3
Subp. 29. Animal feedlots	1	1	0	1	0
Subp. 31. Historical places	3	1	2	3	0
Subp. 32. Mixed residential and industrial- commercial projects	3	0	3	1	2
Subp. 36. Land use conversion, including golf courses	3	0	3	2	1
Subp. 36a. Land conversions in shoreland	1	0	1	1	0
Subp. 37. Recreational trails	1	0	1	1	0
4410.1000 Subp. 3. Discretionary	4	0	2	4*	0
Sub-Total		12	64	47	31
Total	78			*2 Tribal RGU EAWs	

Appendix B: 2023 Environmental Assessment Worksheet Mandatory Categories

EAW Mandatory Category reference (MR 4410.4300)	Number of Projects	State RGU # of Projects	Local RGU # of Projects	Located in Greater MN	Located in Twin Cities Metro
Subp. 7. Pipelines	1	1	0	1	0
Subp. 12. Nonmetallic mineral mining	1	0	1	0	1
Subp. 14. Industrial, commercial, institutional	2	0	2	2	0
Subp. 15. Air pollution	1	1	0	1	0
Subp. 19. Residential development	7	0	7	4	3
Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area	2	0	2	2	0
Subp. 20. Campgrounds and RV parks	2	0	2	2	0
Subp. 22. Highway projects	3	1	2	2	1
Subp. 26. Stream diversion	2	0	2	1	1
Subp. 27. Wetlands and public waters	11	3	8	9	2
Subp. 29. Animal feedlots	1	1	0	1	0
Subp. 31. Historical places	4	0	4	3	1
Subp. 32. Mixed residential and industrial- commercial projects	2	0	2	0	2
Subp. 34. Sports or entertainment facilities	1	0	1	0	1
Subp. 36. Land use conversion, including golf courses	2	0	2	2	0
Subp. 37. Recreational trails	1	1	0	1	0
4410.1000 Subp. 3. Discretionary	10	6	4	2	8
Sub-Total		14	39	33	20
Total	53				

Appendix C: 2023 Environmental Impact Statement Mandatory Categories

EIS Mandatory Category reference (MR 4410.4400)	Number of Projects	State RGU # of Projects	Local RGU # of Projects	Located in Greater MN	Located in Twin Cities Metro
Subp. 2. Nuclear fuels and nuclear waste	1	1	0	1	0
Subp. 20. Public waters and public water wetlands	1	1	0	1	0
Total	2	2	0	2	0