MINNESOTA
ENVIRONMENTAL QUALITY BOARD

# April 2022 Environmental Review Implementation Subcommittee meeting packet

## Wednesday, April 20, 2022 | 1:00–4:00 p.m.
## Join online via Webex

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### How to join

Due to the COVID-19 pandemic, the Environmental Review Implementation Subcommittee (ERIS) will convene its April meeting virtually through the Webex online meeting platform. To access the meeting, use the link above. Review the Guide to WebEx Participation for additional information.

### Accessibility

This material can be provided in different forms, such as large print, braille, or on a recording. 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.

### Public engagement opportunities at ERIS meetings

ERIS encourages public input and appreciates the opportunity to build shared understanding with members of the public. Today, ERIS will accept public comment during agenda item 7 on matters discussed in items 4-6.

**Procedure and guidelines for giving public comment:**

- If you wish to speak, please use the "raise hand" feature in Webex during the public comment period.
- Your remarks will be limited to two (2) minutes. When necessary, the Chair may limit commenters' time for remarks to ensure there is equal opportunity for the public to comment.
- When the Chair 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 Chair, to the agenda item at hand.
    - Please be respectful of subcommittee members, staff, and other meeting participants. Avoid questioning motives. Personal attacks will not be tolerated.
- Please note that the Chair will use their discretion for directing public comment to ensure the ERIS's ability to effectively conduct business.
- You may also submit a written comment. Written comments will be reviewed after the meeting and included in the next ERIS meeting packet.

# Agenda

## 1. Welcome and roll call

Sarah Strommen – Chair, ERIS; Commissioner, Department of Natural Resources

- Grace Arnold – Commissioner, Department of Commerce
- Kristen Eide-Tollefson – Public Member, Congressional District 2
- Nancy Daubenberger – Temporary Commissioner, Department of Transportation
- Alan Forsberg – Public Member, Congressional District 1
- Katrina Kessler – Commissioner, Minnesota Pollution Control Agency
- Jan Malcolm – Commissioner, Minnesota Department of Health
- Bryan Murdock – Public Member, Congressional District 8
- Benjamin Yawakie – Public Member, Congressional District 3

## 2. Approval of consent agenda

- Meeting minutes from the January 19, 2022 ERIS meeting (packet page 4)
- Proposed agenda for the April 20, 2022 ERIS meeting

## 3. Executive Director's report

Katie Pratt – Executive Director, EQB

## 4. Update from the Subcommittee for Pilot Program Implementation (SPPI)

ERIS will hear an update on the Pilot Program for integrating climate change into environmental review.

Presenters:

- Nicholas Martin – Chair, SPPI; EQB Public Member, Congressional District 4
- Denise Wilson – Environmental Review Program Director, EQB

## 5. 2021 Environmental Review Program Performance Report

ERIS will hear a presentation on the 2021 Environmental Review Performance Report. Under Minnesota Rules 4410, EQB is responsible for monitoring the effectiveness of the Environmental Review Program and taking appropriate measures to modify and improve its effectiveness. The Performance Report presents 2021 and historical data to inform future data management practices and Environmental Review Program improvement recommendations.

Presenter: Katrina Hapka – Environmental Review Program Coordinator, EQB

Materials enclosed:

- 2021 Environmental Review Program Performance Report (packet page 6)

- Data Management Plan (packet page 18)

## 6. Environmental Review Program continuous improvement process: Proposed approach and next steps

ERIS will discuss a proposed approach to create a standing Environmental Review Program continuous improvement process that will allow the Environmental Quality Board to better address Environmental Review Program needs and updates in a strategic, transparent, and efficient manner.

Presenter: Yasmine Robinson – Program Administrator, EQB

Materials enclosed: Proposed Environmental Review Program continuous improvement process (packet page 26)

## 7. Public comment

ERIS welcomes public comment on agenda items 4-6. Please see guidance and procedures on packet page 1.

## 8. Closing & adjournment

MINNESOTA
ENVIRONMENTAL QUALITY BOARD

# January 2022 Environmental Review Implementation Subcommittee meeting

Wednesday, January 19, 2022 | 2:00-4:00 p.m. | Online via Webex

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## Minutes

### 1. Welcome and Roll Call

Chair Sarah Strommen called the Environmental Review Implementation Subcommittee (ERIS) meeting to order.

Subcommittee Members present: Margaret Anderson Kelliher, Grace Arnold, Kristen Eide-Tollefson, Alan Forsberg, Katrina Kessler, Bryan Murdock, Sarah Strommen, Ben Yawakie.

Subcommittee member proxies present: Daniel Huff (proxy for Jan Malcolm)

Excused: Jan Malcolm

Other Environmental Quality Board members and proxies present: Julie Goehring,) Mehmet Konar-Steenberg, Nick Martin, Kevin McKinnon (proxy for Steve Grove), Paul Nelson, Gerald Van Amburg, Susan Vento (proxy for Charles Zelle)

### 2. Approval of Consent Agenda

- Meeting minutes from July 22, 2021 ERIS meeting
- Proposed agenda for January 19, 2022 ERIS meeting

Motion: Forsberg moved the consent agenda; Anderson Kelliher seconded. Motion carries with unanimous voice vote.

### 3. Presentation of Pilot Program Framework and Metrics

Environmental Quality Board member Nick Martin, Chair of the Subcommittee on Pilot Program Implementation (SPPI), introduced SPPI members and provided a summary of the November and December 2021 SPPI meetings.

Denise Wilson, EQB Environmental Review Program Director, presented the SPPI's recommended Pilot Program framework and metrics. Official kickoff date of the Pilot Program is January 19.

ERIS members asked questions and held a brief discussion.

## 4. Public Comment

ERIS members heard public comment on the Pilot Program framework and metrics.

## 5. ERIS Subcommittee Discussion

ERIS members discussed refining the Pilot Program framework and metrics after the presentation and public comment.

## 6. Closing & Adjournment

Motion: Forsberg moved to adjourn the meeting, seconded by Kessler. Motion carries with unanimous voice vote.

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# 2021 Minnesota Environmental Review Program Performance Report

# Introduction

The Environmental Quality Board (EQB or Board) oversees the state's Environmental Review Program (ER Program), as authorized in Minnesota Statutes (MS), chapter 116D and outlined in Minnesota Rules (MR), chapter 4410. Under these laws, the Board has responsibility for monitoring ER Program effectiveness and the authority to make program improvements. EQB also assists governmental units and members of the public with understanding and implementing environmental review rules, and fulfills administrative functions for the program.

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

## Environmental Review Program data

In 2020, EQB staff developed a Data Management Plan (DMP) that established a standardized methodology for collecting and assessing data used for monitoring and reporting ER Program effectiveness. The DMP identifies metrics of accountability, efficiency and transparency. These metrics align with objectives of the ER Program (MR 4410.0300) and values expressed in EQB's 2018 Strategic Plan. EQB staff developed these metrics considering readily available ER Program data.

Annually, EQB staff compile and assess the data identified in the DMP and present the results to members of the Environmental Review Implementation Subcommittee (ERIS). This report includes a summary table of the metrics, data collected, and conclusions followed by a more detailed discussion of the data for each metric. Using a consistent, systematic approach for data collection and reporting ensures accurate consideration of potential anomalies that may occur from year to year. In addition to the data 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

Consistently through these engagement opportunities, EQB staff receive requests for more extensive ER Program data beyond what is readily available. Specifically, Board members, government decision makers, businesses, and members of the public have expressed the desire for additional data on the time and cost associated with fulfilling ER Program requirements as well as data on the economic, environmental, and social benefits of the ER Program.

Historically, there have been some efforts by EQB to collect data in these areas, however, those efforts have been labor intensive and have not resulted in robust data. The delegated nature of the ER Program creates numerous challenges for collecting data from other ER Program participants. In addition, the complexity of environmental review means that a multidisciplinary and comprehensive approach is needed to effectively evaluate the social, economic and environmental outcomes that result from an effective ER Program. The Board and EQB staff team continue to look for opportunities for improved data collection, analysis, and program evaluation.

# 2021 Performance Report Overview

**Table 1: 2021 Performance Report Overview**

| Metric | Data collected | Conclusions |
|---|---|---|
| Accountability | • Frequency of ER Program process types<br>• Frequency of mandatory categories by RGU, and by location<br>• Frequency of citizen petitions | The frequency of environmental review in 2021 was consistent with annual variations from year-to-year; except in 2021, there were no EISs completed. This is inconsistent with any year in the period of record.<br>*To determine if action is needed, EQB staff will continue to monitor the frequency of EISs.* |
| | • Frequency of comment letters submitted on ER projects | RGUs reported that they received a minimum of one and a maximum of 1,056 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.<br>*The 2021 data demonstrates that the ER Program provides opportunities for direct access to government decision-makers. However, more data is needed to understand the degree to which members of the public engage with the environmental documents.* |
| Efficiency | • Time and cost of completing review, by ER process type | In 2021, the average time between initial notice and final decision was consistent with data from previous years, for all process types.<br>*More data is needed to assess the cost for implementing environmental review and identify trends over time.* |
| | • Frequency, type, and effectiveness of technical assistance provided by EQB staff | In 2021, there 1,051 points of contact with EQB staff. Over half of the requested technical assistance were questions from RGUs and consultants. One-third of the questions came from members of the public.<br>*The volume of requests affirms that EQB staff are fulfilling their responsibility for assisting governmental units and interested persons in understanding and implementing the rules. Because of the high volume of technical assistance, EQB staff recommend updating guidance documents and ER webpages to ensure information is clearly written, effectively communicated, and easy to find.*<br>*Because of the low response rate to surveys designed to assess effectiveness, EQB staff need to improve how they measure effectiveness of the technical assistance provided.* |
| Transparency | • Perceptions of whether the ER process provided usable information<br>• Frequency of unique public participation opportunities | The majority of RGUs completing review in 2021 indicated that:<br>• The environmental review process provided usable information<br>• The environmental review process identified mitigation measures for reducing potential environmental effects |

| Metric | Data collected | Conclusions |
|---|---|---|
| | | • The environmental review process provided public participation that would not have otherwise occurred for the proposed project<br><br>*Feedback from RGUs' surveyed indicate the ER Program is effectively providing usable information and creating public participation opportunities.* |

# 2021 Data

## Metric 1 - Accountability

One of the primary objectives of Minnesota's ER Program is to encourage accountability in both public and private decision-making. The ER process requirements encourage accountability through informed decision-making. The following data is collected to monitor the consistency with how RGUs are implementing the ER Program processes, as well as the frequency of review for projects that would not have required review.

### Frequency of ER Program process types

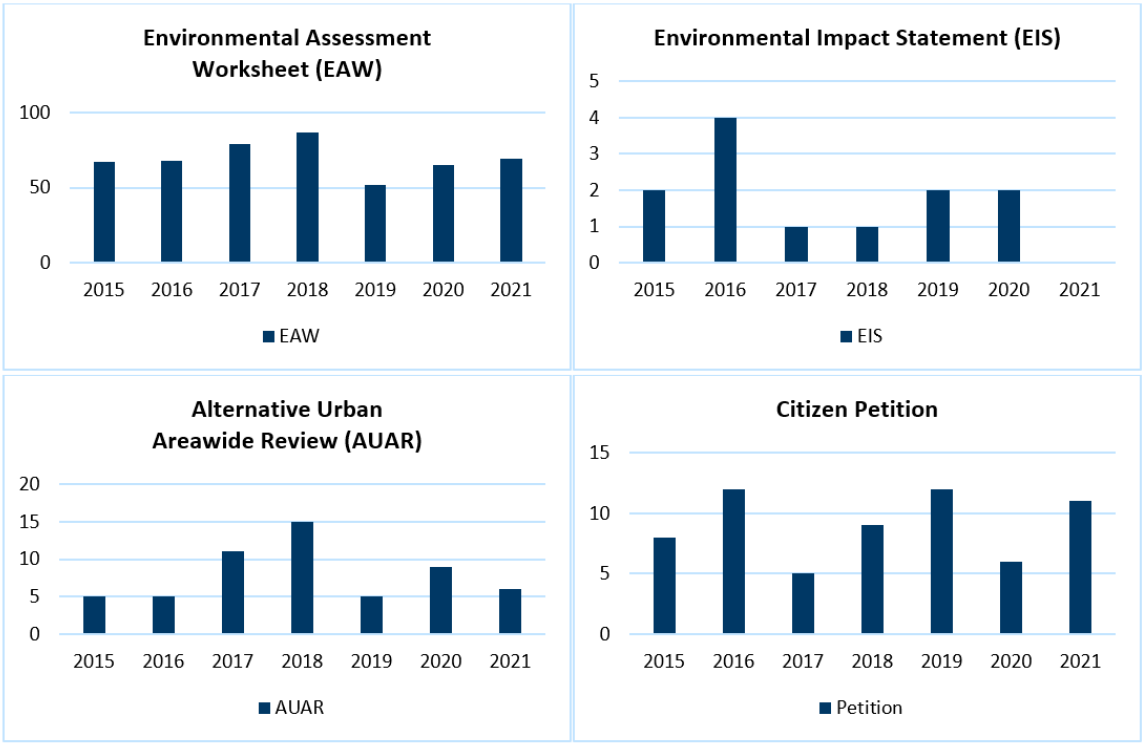
ER Program process types included in this assessment:

- Environmental Assessment Worksheet (EAW)
- Environmental Impact Statement (EIS)
- Alternative Urban Areawide Review (AUAR)
- Citizen Petition

In 2021, 86 proposed projects completed environmental review using the following four ER Program process types (Figure 1):

- 69 EAWs
- 6 AUARs
- 11 Citizen Petitions
- 0 EISs

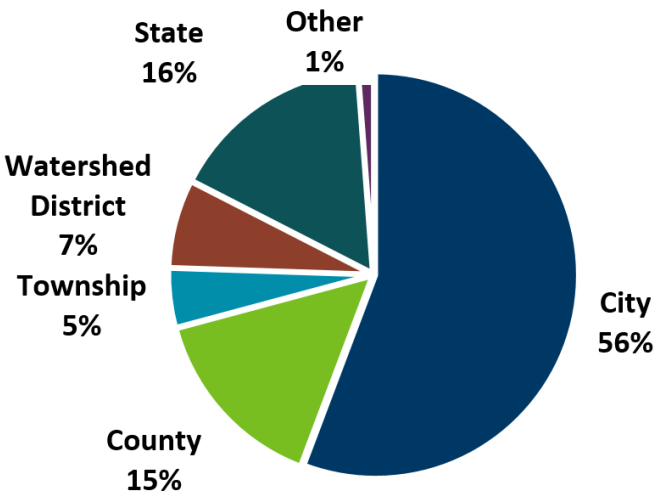
**Figure 1: Environmental review trends over years by environmental review process type**



## Frequency of mandatory categories by RGUs and geographic location

In 2021, 61 unique RGUs completed EAWs for 69 proposed projects. Local units of government completed 84% and state agencies completed 16% of the EAWs (Figure 2). Local RGUs include watershed districts, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council.

**Figure 2: RGUs conducting environmental review in 2021**




The most frequent project types that required review include: wetlands and public waters (16 projects); residential development (seven projects); nonmetallic mineral mining (five projects); industrial, commercial, and institutional facilities (five projects); and mixed residential and industrial-commercial projects (five projects); together accounting for 73% of projects in 2021.

Projects outside the seven-county metropolitan Twin Cities area made up 57% of mandatory EAWs. Projects in the seven-county Twin Cities metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington) made up 43% of the mandatory EAWs (Table 2).

**Table 2: 2021 Environmental Assessment Worksheet Mandatory Categories**

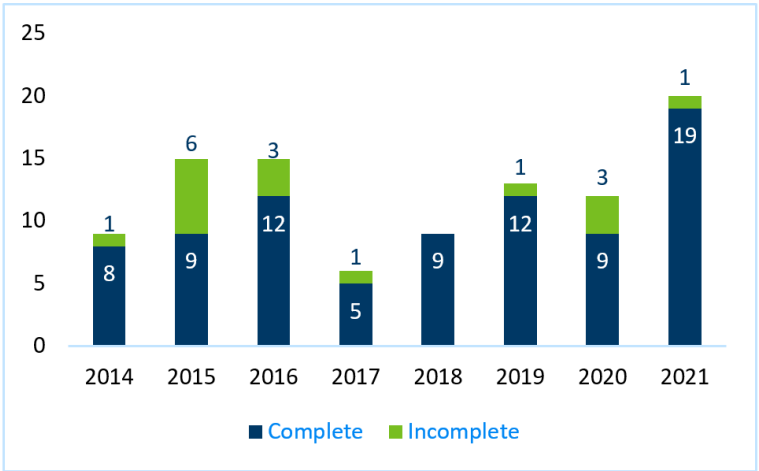
| EAW Mandatory Category reference (MR 4410.4300) | Number of Projects | State RGU # of Projects | Local RGU # of Projects | Located in Greater MN | Located in Twin Cities Metro |
|---|---|---|---|---|---|
| Subp. 3. Electric-generating facilities | 2 | 0 | 2 | 2 | 0 |
| Subp. 12. Nonmetallic mineral mining | 5 | 0 | 5 | 5 | 0 |
| Subp. 14. Industrial, commercial | 5 | 0 | 5 | 0 | 5 |
| Subp. 18. Wastewater | 2 | 2 – MPCA | 0 | 1 | 1 |
| Subp. 19. Residential development | 7 | 0 | 7 | 0 | 7 |
| Subp. 19a. Residential development in shoreland outside of the seven-county Twin Cities metropolitan area | 3 | 0 | 3 | 3 | 0 |
| Subp. 20a. Resorts, campgrounds and RV parks in shorelands | 1 | 0 | 1 | 1 | 0 |

| 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. 22. Highway projects | 1 | 1 – MnDOT | 0 | 1 | 0 |
| Subp. 24. Water appropriation and impoundments | 2 | 2 – DNR | 0 | 2 | 0 |
| Subp. 26. Stream diversion | 1 | 1 – DNR | 0 | 0 | 1 |
| Subp. 27. Wetlands and public waters | 16 | 2 – DNR | 14 | 11 | 5 |
| Subp. 29. Animal feedlots | 2 | 2 – MPCA | 0 | 2 | 0 |
| Subp. 31. Historical places | 2 | 0 | 2 | 2 | 0 |
| Subp. 32. Mixed residential and industrial-commercial projects | 5 | 0 | 5 | 0 | 5 |
| Subp. 36. Land use conversion, including golf courses | 4 | 0 | 4 | 3 | 1 |
| Subp. 37. Recreational trails | 1 | 1 – DNR | 0 | 1 | 0 |
| Sub-Total | | 11 | 48 | 34 | 25 |
| Total | 59 | | | | |

## Frequency of Citizen Petitions

Petitions were submitted on 20 projects in 2021. From the petitions submitted, 95% included the required components (MR 4410.1100, subp. 1 and 2) and EQB staff assigned them to an RGU (Figure 3). If a petitioner's representative revised and resubmitted an incomplete petition, it is included in the complete petitions.

**Figure 2: Number of projects petitioned for by year**




## Opportunities for public participation in the ER Process

RGUs submitted 75 notices of final decisions on environmental review documents and reported the number of comment letters received for each project. RGUs reported receiving a minimum of one and a maximum of 1,056

comment letters on environmental review documents. On average, 27 comment letters were received per project.

## Conclusions

The frequency of environmental review in 2021 was consistent with annual variations from year-to-year; except there were no EISs completed in 2021. This is inconsistent with any year in the period of record. To determine if action is needed, EQB staff will continue to monitor the frequency of EISs.

RGUs reported that they received a minimum of one and a maximum of 1,056 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. The 2021 data demonstrates that the ER Program provides opportunities for direct access to government decision-makers.

# Metric 2 - Efficiency

Primary objectives of the ER Program are to reduce delay and uncertainty with applicable regulatory requirements. The following data is collected to monitor consistency among RGUs as they implement ER Program procedures. These data also help identify the need for developing and/or improving ER Program guidance.

## Time and cost of completing review, by ER process type

In 2021, the average number of days between an initial EAW notice and decision was 89 days (Table 3). The average time between initial and final notice for AUARs and Citizen Petitions was 114 and 45 days, respectively. There were no EISs completed in 2021.

**Table 3: Average time between initial notice and notice of final decision, by environmental review process type**

| | Average Number of Days | | |
|---|---|---|---|
| **ER Program Process Type** | **2021 (# of reviews)** | **2020 (# of reviews)** | **2019 (# of reviews)** |
| Environmental Assessment Worksheet | 89 (69) | 101 (65) | 81 (52) |
| Environmental Impact Statement | N/A (0) | 1,945 (2) | 676 (2) |
| Alternative Urban Areawide Review | 114 (6) | 170 (9) | 55 (5) |
| Citizen Petition | 45 (11) | 44 (6) | 57 (12) |

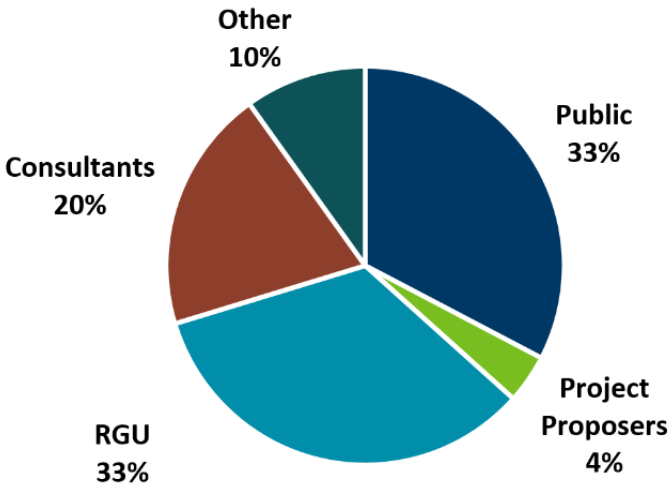
The EQB uses the ER master contract implemented by the Department of Administration to track the cost of ER contracts. In 2021, the master contract was used once, thus there is not enough data to report.

## Frequency and effectiveness of technical assistance provided by EQB Staff

In 2021, there were 444 requests for assistance submitted through emails and/or calls on the designated phone line and email inbox, resulting in 1,051 points of contact with EQB staff. Over half of the questions came from RGUs and consultants. (Figure 4). One-third of the questions came from members of the public.

After concluding the email and/or phone conversation, EQB staff emailed a survey to each person to get feedback on their experience. The survey had a low response rate with only four survey requests resulting in a response.

**Figure 3: Environmental review technical assistance by user type**




## Conclusions

In 2021, the average time between initial notice and final decision was consistent with data from previous years, for all process types. More data is needed to assess the cost for implementing environmental review and identify trends over time.

In 2021, there 1,051 points of contact with EQB staff. Over half of the requested technical assistance were questions from RGUs and consultants. One-third of the questions came from members of the public. The volume of requests affirms that EQB staff are fulfilling their responsibility for assisting governmental units and interested persons in understanding and implementing the rules. Because of the low response rate to surveys designed to assess effectiveness, EQB staff need to improve how they measure effectiveness of the technical assistance provided.

# Metric 3 - Transparency

Two primary objectives of the ER Program include providing the public with access to decision makers and providing useable information concerning the potential environmental effects of a proposed project. The following data is collected to monitor the effectiveness of the ER Program for providing public access to government decision-makers about the potential environmental effects of a proposed project.

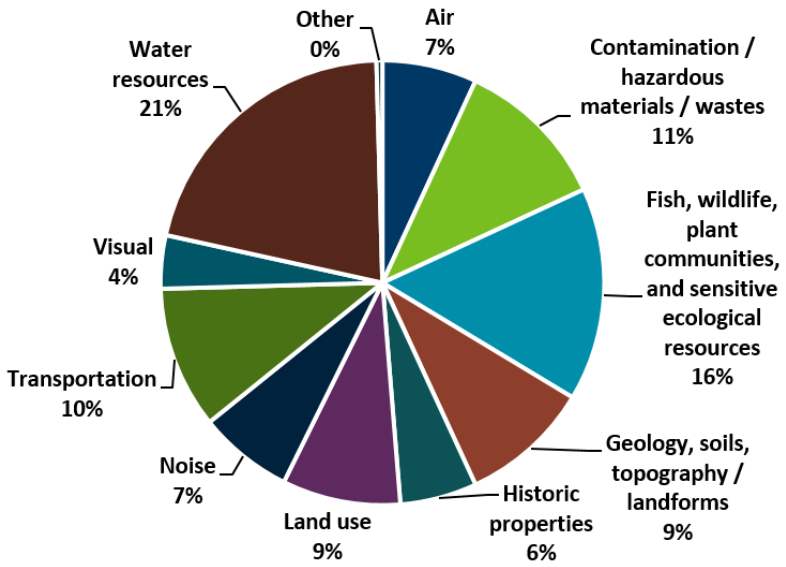
## Perceptions of whether the ER process provided usable information

In 2021, RGUs submitted 75 notices of final decisions on environmental review documents and were asked to affirm or deny the following two statements:

1. *The ER process was useful in identifying the proposed project's environmental effects that would not have otherwise been identified by required governmental approvals, including permits*.
2. *The ER process identified mitigation measures for potential environmental effects. If RGUs affirmed this statement, they were asked to indicate the type of mitigation.*

From the responses collected, 79% of RGUs indicated that the environmental review process provided usable information. RGUs indicated 81% of the time that the environmental review process identified mitigation measures for reducing potential environmental effects. The most frequent types of mitigation identified include water resources (21%), fish/wildlife/plant communities and sensitive ecological resources (16%), and contamination/hazardous materials/wastes (11%) (Figure 5).

**Figure 4: Frequency and types of mitigation**




## Frequency of unique public participation opportunities provided by the ER Program

In 2021, RGUs submitted 75 notices of final decisions on environmental review documents and were asked to affirm or deny the following statement:

> *The environmental review process provided opportunities for public participation that would not have otherwise occurred for the proposed project through required governmental approvals, including permits.*

From the responses collected, 76% of RGUs said the environmental review process provided public participation that would not have otherwise occurred for the proposed project.

## Conclusions

The majority of RGUs completing review in 2021 indicated that:

- The environmental review process provided usable information.
- The environmental review process identified mitigation measures for reducing potential environmental effects.
- The environmental review process provided public participation that would not have otherwise occurred for the proposed project.

Feedback from RGUs surveyed indicates the ER Program is effectively providing usable information and creating public participation opportunities.

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# Minnesota Environmental Review Program
# Data Management Plan

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## Table of Contents

# Introduction

The Environmental Quality Board (EQB or Board) oversees the state's Environmental Review Program (ER Program), as authorized in Minnesota Statutes (MS), chapter 116D and outlined in Minnesota Rules (MR), chapter 4410. Under these laws, the Board has responsibility for monitoring ER Program effectiveness and the authority to make program improvements. EQB also assists governmental units and members of the public with understanding and implementing environmental review rules, and fulfills administrative functions for the program.

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

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

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

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

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

Based on the data collected for that year, annually, EQB staff produce an ER Program Performance Report that compares the annual data to previous years to identify trends, and reports ER Program metrics.

## Purpose and scope of the Data Management Plan

The Data Management Plan is consistent with the values of transparency, accountability, and efficiency identified in EQB's 2018 Strategic Plan, and the ER Program objectives identified in MR 4410.0300. The purpose of the Data Management Plan is to standardize data collection procedures and establish baselines for ER Program data that EQB staff compile from available data sources, to monitor and track ER Program effectiveness. The annual ER Program Performance Report makes recommendations based on the annual and historic data for ER Program improvement.

## Outcomes of ER Data Management Plan

1. **Informed metrics to evaluate program effectiveness** – Metrics collected for the assessment and evaluation of program effectiveness are intentional.
2. **Data collection standardization** – Establishes procedures for the collection of a reliable data set for the assessment of the Environmental Review Program effectiveness.

## Tools for change

EQB has the authority to implement changes for improving effectiveness of the ER Program through the following processes and efforts:

**Table 1: Tools for change**

| | Rulemaking | Environmental Assessment Worksheet (EAW) form | Generic Environmental Impact Statement (GEIS) | Alterative Review approval | Training, outreach, and guidance |
|---|---|---|---|---|---|
| **Charge** | MS 116D.04, subd. 5a | MS 116D.04, subd. 2a(a) and MR 4410.1300 | MR 4410.3800 | MS 116D.04, subd. 4a and MR 4410.3600 | Board and Staff Directed |
| **Purpose** | Used to create or modify Environmental Review Program requirements in MR 4410. | Adjust standard EAW form that includes required information for all project types or custom form for a specific category of projects. | A means of providing a comprehensive analysis of a given region, issue, or type of activity. | Alternative Review processes must address substantially the same issue as the EAW and EIS process and use procedures similar in effects to those of the EAW and EIS process. | EQB staff can provide technical assistance, presentations, and web guidance to improve implementation of the rules. |

## Data sources

The following are data sources that reflect EQB's ER Program roles, responsibilities and authorities assigned through statute and rule.

- *EQB Monitor* submission form: The *EQB Monitor* is a weekly publication for notices required by MR 4410. The submission form is available on EQB's website and used by RGUs, RGU's consultants, and governmental staff to provide content for the *Monitor*. These submissions account for most project specific data.
- Historical ER Program data: Since 2015, the EQB has collected data through annually updated *Monitor* submission forms and surveys. Data collection methodology varied between 2015 and 2020, but the data sets from those years are valuable to set a baseline for trends.
- Minnesota Department of Administration master contract: Annually, EQB staff track and report data from the environmental review and technical services master contract.
- Technical assistance tracking: EQB provides information on Minnesota's Environmental Review Program to RGUs, project proposers, consultants, and members of the public via a telephone help line and email inbox. Staff track data related to the phone calls and emails received.
- Technical assistance survey: Following completion of response to a technical assistance question, EQB staff distribute a survey to the individual via email.

- Local Government Unit outreach: Local government units comprise the majority of responsible government units. EQB will conduct targeted outreach to local responsible government units to provide them with an opportunity to influence ER Program improvement efforts and guidance.

# Environmental Review Program Metrics

This Data Management Plan establishes the framework for describing data collected and how that data is assessed, using the metrics of accountability, efficiency, and transparency. The ER Program Performance Report provides EQB members with an annual assessment of ER Program effectiveness as well as EQB staff recommendations for program improvements, based on these metrics.

## Accountability

One of the primary objectives of the requirements in Minnesota's Environmental Review (ER) Program rules (MR 4410) is to encourage accountability in both public and private decision-making. Environmental review documents contain information that address the potential for significant environmental effects of a proposed action. Through required notices, public meetings and responses to comments, the ER process requirements encourage project proposers and responsible governmental units to be accountable for providing project information to other governmental units and members of the public early in the decision making process.

The information provided in ER Program documents is meant to be used as a guide in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality. However, these documents are not intended to be used to justify a decision, nor should indications of adverse environmental effects necessarily require that a project be disapproved (MR 4410.0300).

**Table 2: Data for Accountability**

| Objective | Data tracked | Data Source |
|---|---|---|
| • Encourage accountability in public and private decision-making by providing project information to other governmental units and members of the public early in decision-making process<br>• Delegate authority and responsibility to the governmental unit most closely involved in the project | • Frequency of ER Program process types (Baseline 2015)<br>• Frequency of Mandatory Categories and RGUs by geographic location (Baseline 2019, Revised 2020)<br>• Frequency and completeness of Citizen Petitions (Baseline 2012)<br>• Frequency of comment letters submitted on ER projects (Baseline 2021) | *EQB Monitor* submission form (2015 to Present) |

### Data Tracked

#### Frequency of ER Program process types

This data is used to better understand the statewide impact of the ER Program requirements. Regardless of the reason for preparation, RGUs must provide an opportunity for members of the public and other government agencies to review their ER documents and submit comments for consideration in decision-making. These RGUs are accountable for providing justification of their decision by the requirement to respond to those comments and prepare a record of decision.

**Frequency of Mandatory Categories and RGUs by geographic location**

Environmental review is required for a proposed project type that falls into one or more of the mandatory categories, if the proposed project meets or exceeds the thresholds described in MR 4410.4300 and 4410.4400. Depending on the mandatory category, different state agencies or local governments are designated to complete the review. These rules also set thresholds for project types that identify the appropriate review process, based on the potential for significant environmental effects of that project type. In 2020, staff began to report on the geographical location of projects undergoing mandatory environmental review, ensuring that EQB staff provide the guidance on a particular mandatory category to the appropriate audience.

**Frequency and Completeness of Citizen Petitions**

The roles of the EQB and RGU in the petition process are defined in Minnesota statute and rule (MS 116D.04 and MR 4410.1100). EQB staff review the petition; determine that it complies with the signature and content requirements, designate the RGU, and forward the petition to the designated RGU. Once the RGU receives the petition, they evaluate the material evidence submitted by the petitioners and make the decision on the need for an EAW based on criteria defined in rule.

**Frequency of Comment Letters Submitted for ER Projects**

Providing public comment on ER documents is one mechanism that members of the public can hold decision-makers accountable for responding to specific environmental concerns. RGUs are expected to maintain a record of comments received with specific responses to all substantive and timely comments on ER documents (EAW – MR 4410.1700, subp. 4; EIS – MR 4410.2600, subp. 4b; Alternative Urban Areawide Review (AUAR) – MR 4410.3610, subp. 5c). In 2021, EQB staff began tracking the number of comment letters per project; this functions as a proxy for the accountability encouraged by the public in public and private decision-making.

## Efficiency

Primary objectives of the ER Program rules are to reduce delay and uncertainty with how these requirements are implemented; as well as to eliminate duplication with other similar regulatory requirements that may apply to those proposed projects (MR 4410.0300). Minnesota Rules, chapter 4410 describe the types of projects that require mandatory review, the procedures for how the review will be performed and criteria used for making decisions on environmental documents. By including these requirements in rule, project proposers can anticipate when review is required and how long portions of the process will require. Rule procedures and EQB guidance and assistance aids government agencies in efficiently applying the rules to a proposed project and make it clear when public engagement is required.

**Table 3: Data for Efficiency**

| Objective | Data Tracked | Data Sources |
|---|---|---|
| • Reduce delay in implementing the ER Program procedural requirements<br>• Reduce uncertainty with interpreting, applying and implementing MR 4410 requirements<br>• Assist Responsible Governmental Units (RGUs) and interested persons in understanding and implementing the rules<br>• Where relevant, eliminate duplication between ER Program procedures and requirements of other approvals | • Average time of project review, for each process type; (Baseline 2015, Revised 2021)<br>• Cost of environmental review; (Baseline 2015, Revised 2020)<br>• Frequency, type, and effectiveness of technical support provided by EQB staff; (Baseline 2015, Revised 2021) | • *EQB Monitor* Submission Form (2015 to Present)<br>• Minnesota Department of Administration Master Contract (2020 to Present)<br>• Technical Assistance Tracking (2018 to Present)<br>• Technical Assistance Survey (2021) |

## Data Tracked

### Environmental Review: Cost and Time

Minnesota Rules chapter 4410 (EAW - MR 4410.1000-.1700; EIS - MR 4410.2000-.3200; AUAR – MR 4410.3610; Citizen Petitions - MR 4410.1100) describes the timeline and steps for each environmental review process type. RGUs are required, by rule, to submit notification after they make a decision on the need for an EIS, adequacy on an EIS or AUAR, and the need for an EAW. EQB staff publish the notice of availability of initial and final ER documents in the EQB *Monitor*. Public comment periods begin when notices are published.

Variation in date between project submissions could occur due to pace of completion and extensions of public comment period and decision-making. Tracking the average time it takes between publications in the EQB Monitor provides an indication of duration for each environmental review process.

Altogether, the time it takes to complete ER Program procedures, as well as, the costs for preparing ER Program documents, will be monitored and help identify when ER Program improvements are needed. These metrics will inform EQB on the impacts of the environmental review process on RGUs and project proposers. Surveys to project proposers, and RGUs were the primary method of collecting data for this metric from 2017 to 2020. In the surveys, RGUs and Project Proposers were asked to estimate the total cost to prepare the final environmental review document.

In 2020, EQB staff began to regularly track and report environmental review master contract consultant bids and length of contracts. Environmental consultants prepare many ER Program documents. They are often hired by project proposers to assist in submitting their project data and by RGUs to assist in preparing technical assessments of project data. While not a measure of complete cost, regular tracking and reporting of the environmental review master contract bids and length of contract will provide a standardized and reliable proxy for environmental review process costs and time of projects.

### Frequency, Type, and Effectiveness of Technical Support Provided by EQB Staff

The EQB provides a range of technical support resources to RGUs, Project Proposers, and members of the public to facilitate their implementation and understanding of the Environmental Review Program. The environmental review help line and environmental review email address are the two primary methods to connect with EQB staff for ER Program technical assistance.

From 2018 to 2020, surveys to members of the public was the primary method of collecting data related to effectiveness of technical support. In the surveys, members of the public were asked about satisfaction with EQB technical support resources and with EQB staff support. In 2018, EQB staff began tracking the frequency and type of calls, in January 2020, staff began tracking follow-up calls, and in September 2020, staff began tracking emails in a similar way. Tracking emails alongside calls will offer a comprehensive view of technical assistance provided by EQB staff. In January 2021, EQB staff began distributing a survey to people who reached out to the EQB for technical assistance by phone or email. The follow-up questions in the survey will provide direct and immediate feedback towards understanding effectiveness of technical assistance and how it can improve. Based on low response rates in 2021 to surveys designed to assess the effectiveness, EQB staff need to find a better way to measure effectiveness of technical assistance provided.

# Transparency

Two primary objectives of the requirements in the ER Program include providing the public with systematic access to decision makers and providing useable information concerning the potential environmental effects of a proposed project (MR 4410.0300). The ER Program requirements implement these objectives by:

- Identifying the Responsible Governmental Units in the applicable mandatory category of project type (MR 4410.4300 and 4400)
- Providing the opportunity for members of the public and other government agencies to review and comment on the environmental documents (MR 4410.1500)
- Requiring responses to comments received during the comment period (MR 4410.1700)
- Publishing the notice of the record for RGU decisions on the ER documents (MR 4410.1700)

"A first step in achieving a more harmonious relationship between human activity in the environment is understanding the impact which a proposed project will have on the environment" (MR 4410.0300). ER process requirements ensure transparency in disclosing information about any potential environmental effects of a proposed project, ensure the opportunity for the public and other government agencies to provide additional information, and require publication based on RGU decisions. In addition, final ER documents include information that can be used to support meaningful participation in other government decision making.

**Table 4: Data for Transparency**

| Objective | Data Tracked | Data Source |
|---|---|---|
| • Provide usable information to the project proposer, governmental decision makers and the public<br>• Provides the public with systematic access to decision makers | • Usable Information in ER documents (Baseline 2019; Revised 2021)<br>• Frequency of unique public participation opportunities provided by ER Program (Baseline 2021) | *EQB Monitor* submission form (2021) |

## Data Tracked

### Usable Information in ER documents

Surveys to members of the public, project proposers, and RGUs are the primary method of collecting data for this metric. However, the members of the public survey was not distributed prior to 2018 and the project proposer survey was not distributed prior to 2017. In the surveys, RGUs and Project Proposers were asked if the document provided usable information on possible environmental effects of a project. Due to low response rates on previous surveys, in 2021 the EQB began tracking the data through the *EQB Monitor* submission form to increase the consistency and response rates.

### Frequency of Unique Public Participation Opportunities Provided by ER Program

Participation from members of the public is an important part of the environmental review process. Members of the public participate through Citizen Petitions, attending public meetings, providing comments during public comment periods, and appealing final decisions. The environmental review process improves public access to decision makers throughout the state. In 2018, the EQB started a survey that was made available on the EQB website, advertised in the *EQB Monitor*, and shared via social media. The survey gathered information on public involvement and attitudes towards environmental review in Minnesota. In 2021, the EQB began tracking the data through the *EQB Monitor* submission form to increase the consistency and response rates.

MINNESOTA
ENVIRONMENTAL QUALITY BOARD

# Internal Memo

**Date:** April 20, 2022

**To:** Environmental Review Implementation Subcommittee (ERIS)

**From:** Yasmine Robinson, Environmental Review Program Administrator

## RE: Proposed Environmental Review Program Continuous Improvement Process

Minnesota's Environmental Review Program (ER Program) was created to anticipate a wide variety of proposed projects, and to provide usable information to communities, decision makers, and project proposers. Since the creation of the program, program updates have occurred through legislative direction, mandatory category evaluation, and other initiatives. However, these program improvement initiatives have occurred often in response to a specific project type rather than a comprehensive and forward-looking approach to adapting the program to future needs.

In response to this, Environmental Quality Board (EQB or Board) staff request staff support from EQB-member agencies to convene an interagency ER Program Continuous Improvement Team that will be tasked with creating a standing process for ER Program improvement, designed to help prioritize program changes in a strategic, transparent, and efficient manner. The process will allow EQB to respond more effectively to emerging environmental concerns and technical advances in tools, resources, and scientific knowledge.

### A brief look back at past program improvement efforts

The 1973 Legislature established the EQB as a forum that provides Minnesotans access to leadership and coordination across Minnesota state agencies on priority environmental issues that are interdisciplinary and cross-jurisdictional. As a public-facing board, the EQB strives to engage Minnesotans and provide greater access to conversations regarding the future of our environment. As a result, the EQB has a general responsibility to "monitor" and "take appropriate measures to modify and improve" the effectiveness of the environmental review rules. (Minnesota Rules 4410.0400)

Over the lifetime of the ER program, there have been many efforts to identify needed program improvements However, because of the complexity of environmental issues and variety of perspectives on the ER Program's purpose and processes, there have been few significant changes since the program revisions of 1982 when, most notably, decision-making authority was decentralized from EQB to local units of government.

In 2007, a the Board requested a report from EQB technical representatives to evaluate the ideas that resulted from previous reports, studies, and efforts related to improvement of the ER Program. This report grouped the recommendations from 10 efforts undertaken between 1990 and 2002 into categories, including perceived delays in the environmental review process, lack of check and balances on responsible governmental unit (RGU) decisions, and follow-through of mitigation measures. The report discusses possible reasons why many of the larger recommendations were never acted upon, and concludes that if the ER Program is to undergo large changes, a new approach is needed in order succeed in implementation.

A 2011 evaluation report drafted by the Office of the Legislative Auditor examined the environmental review process, briefly surveyed previous evaluation efforts and presented key findings as well as recommendations related to improving timeliness of review and meeting program objectives. One finding from this report described that, "environmental reviews do not fully meet the objective on providing access to decision makers. The process is structured to provide such access, but it has flaws, such as that the methods for notifying people about EAWs' availability do not reach everyone they should."

In 2017, EQB convened an advisory panel composed of members with diverse viewpoints with the goal of reaching consensus and proposing changes to modernize the ER Program. The Environmental Review Advisory Panel (ERAP) produced a report that provided recommendations that spanned a wide cross-section of topics including streamlining, climate change, health impacts, and public engagement. The panel was able to reach consensus on many of the problem statements and recommendations, but could not agree on many of the next steps and identified that more work was needed in some areas, such as health impact assessments.

Since the completion of the ERAP report, EQB staff have implemented some of the recommendations, including an initiative to incorporate climate change and greenhouse gas calculations into environmental review, expanding opportunities for public engagement through surveys targeted at reaching RGUs and citizens, as well as robust public engagement that informed the most recent mandatory categories rulemaking process. However, most of the larger and more comprehensive recommendations have never been implemented, and most of the concerns that initiated past evaluation efforts are still concerns today, including insufficient notification methods, lack of checks and balances on RGU decision making, and lack of health assessments.

Although there is broad consensus within all of the previous reports that the adaptation of the program over time is important, none of them have identified a process that would achieve their goals. ER Program improvement has consistently faced challenges due changing priorities under different administrations, a lack of Board member and EQB staff time, staff and Board member turnover, divergent views about the value of environmental review for the state, controversy around specific projects undergoing environmental review, and the level of technical complexity of environmental review.

## Possible elements of a Continuous Improvement Process

The ER Program Continuous Improvement Team will develop a recurring program improvement process that will identify and prioritize program changes in a strategic, transparent, and efficient manner. This process will build on the past evaluation efforts outlined above, but will focus more specifically on near-term program changes that the Board can act on. These changes could range from small, non-controversial updates to larger, more complex changes that require consensus building, engagement, rulemaking, or other approaches. The Continuous Improvement Process will also help EQB respond more effectively to emerging environmental

concerns and technical advances in tools, resources, and scientific knowledge. Below are possible elements of a Continuous Improvement Process:

- Deliverable: A Continuous Improvement Process that provides:
    - A comprehensive list of needed program changes based on past and current program evaluation efforts and input from state and local RGUs, Tribal nations, project proposers, and the public
    - A method for deliberating on and prioritizing program changes relative to available staff time and resources
    - A regular process of updating the continuous improvement approach to address emerging concerns and new information
    - A clear indication of action steps, and the timeline and resources needed for those action steps
- A standing interagency team comprised of technical experts from EQB member agencies to help develop the Continuous Improvement Framework (EQB would develop a project charter with more specific details about the team)
- Regular deliberation of ERIS members and the Board as a whole on the structure, framing, and content of the continuous improvement, with Board decision points on action steps
- Regular opportunities to collaborate with, and get input from, local units of government, Tribal nations, project proposers, and the public
- Other elements as identified by the Board

## Conclusion

Since the creation of the Minnesota Environmental Protection Act (MEPA) and the ER Program, the world has changed drastically. We have access to information and technologies that did not exist when the program was created. The ways we communicate that information has also changed, and Minnesota has experienced population growth, new land uses, industries, and technologies, climate change, and a greater awareness of environmental justice and Tribal rights. In order to support innovation in areas such as renewable energy, the program improvement process must help the ER Program respond to changing conditions and new challenges.

As we approach the 50$^{th}$ anniversary of MEPA, EQB staff recognize the opportunity to utilize this milestone to reflect on the ER Program, its future, and to take the next step towards structuring and sustaining a standing continuous improvement process that will allow the ER Program to adapt now and in the future. The plethora of previous program evaluation attempts is evidence that a more holistic approach is necessary to ensure that the ER Program continues to provide usable information about potential environmental effects using the most up-to-date technology, knowledge, and resources relevant to the challenges of today and the future.