Environmental Review Implementation Subcommittee

Will Seuffert| Executive Director

Denise Wilson| Director of Environmental Review Program

MINNESOTA
ENVIRONMENTAL QUALITY BOARD

Meeting Objectives

- Build a foundational understanding of:
  - EQB Authorities and responsibilities for the ER Program;
  - How the ER Program currently functions;
  - ERIS's role; and
  - Future ERIS meeting framework
- Discuss current practice for climate impact assessment; with challenges and opportunities for improvement
- Public Input

Questions to Consider

- What additional information do you need?
- Who else would you like to hear from?
- Next steps for further discussion?
- ERIS Leadership?

Minnesota Environmental Policy Act (MEPA)

- The **Minnesota Environmental Policy Act (MEPA)** of 1973 established a formal process for investigating the environmental effects of public and private projects.
- *MS 116D.02 declares that* "….state government, in cooperation with federal and local governments, and other concerned public and private organizations…use all practicable means and measures…. to create and maintain conditions under which human beings and nature can exist in productive harmony….."
- MS 116D.04 directs "*The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets must be prepared as well as categories of actions for which no environmental review is required…*"
- Minnesota Rules chapter 4410: delegate authority

Environmental Review Objectives (4410.0300)

Environmental Effects of a Project

Public access to decision makers

Delegate authority to Responsible Governmental Unit

Eliminate duplication

Reduce delay and uncertainty

Program Characteristics

- Environmental review is broad in scope
- Moratorium on all “final approvals” and construction
- Projects do not pass or fail environmental review – not an approval process
- Defined public process
- Informs project designers early in process
- Opportunity for citizens to petition their government

MR 4410.0400 : Role of the EQB

- Monitor the effectiveness of the Environmental Review Program rules
  - Change Environmental Review Program rules, when needed
- Provide assistance to the public, project proposers and governmental units
- Publish EQB *Monitor (116D.04)*
  - Public meeting notices
  - Comment periods
  - Project documents

Environmental Review Program Roles

Minnesota Statutes and Rules

Board

- Approve rule changes (116D.04 & 045)
- Approve Alt. forms of review/Alt. EAW forms (MS 116D.04 MR 4410.3600 & 1400)

Chair

- Approve EAW forms MR (4410.1300)

EQB Staff

- Develop Guidance
- Implement Rulemaking
- Provide Assistance
- Monitor and report ER Program effectiveness

Subcommittee (New)

- Evaluate program effectiveness
- Provide a public forum
- Make recommendations to the Board for action

Role of the Subcommittee

- Consider program data and previous program evaluations to inform recommendations (historical and ongoing)
- Provide a forum for RGU's, the public, project proposers, and others to address issues of concern
- Recommend (to the Board) State Environmental Review Program improvement initiatives

Effective Environmental Review Program

Rule: Meets the objectives of 4410.0300

- Provide usable information
- Provide systematic access to decision makers
- Delegate authority and responsibility for ER
- Eliminate duplication
- Reduce delay and uncertainty

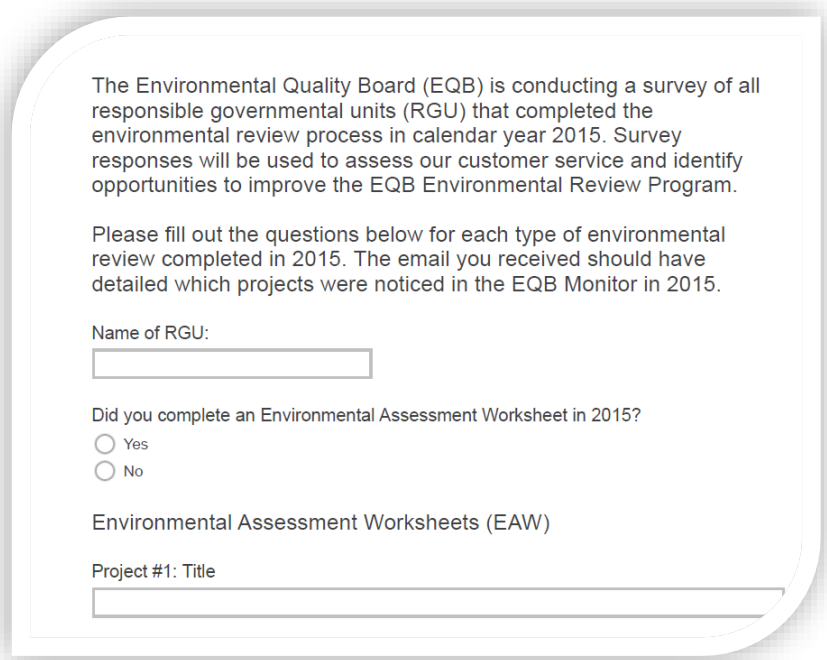
Other Considerations:

- Keeps pace with current science and technology
- Public, Proposers and RGUs understand how the program functions
- Accessibility and Accountability
- Meets the needs of Minnesotans
- Other?

Measuring Effectiveness

Current Practice

- Baseline data collection and annual reporting from Monitor submissions: RGUs, Project Types, etc.
- Real time surveys of RGUs, Project Proposers, and Citizens tied to outcomes defined by MR 4410.0300
- Public Input
- Program Improvement Initiatives



The Environmental Quality Board (EQB) is conducting a survey of all responsible governmental units (RGU) that completed the environmental review process in calendar year 2015. Survey responses will be used to assess our customer service and identify opportunities to improve the EQB Environmental Review Program.

Please fill out the questions below for each type of environmental review completed in 2015. The email you received should have detailed which projects were noticed in the EQB Monitor in 2015.

Name of RGU:

Did you complete an Environmental Assessment Worksheet in 2015?

Yes

No

Environmental Assessment Worksheets (EAW)

Project #1: Title

Environmental Review Survey

History of Program Evaluations and Recommendations

1990 *Environmental Review: An Unfulfilled Promise*, article in *Bench and Bar of Minnesota* by John H. Herman and Charles K. Dayton (pp 31-38), July

1991 *Recommendations by EQB Technical Representatives*, EQB Tech Reps, July

1992 *Experts Recommend Changes to the Environmental Review Process*, Minnesota Environmental Initiative

1993 *Concepts for Revision of the Minnesota Environmental Review Program*, EQB Subcommittee, March

Paperwork or Protection: A Comparative Assessment of State Environmental Policy Acts, Minnesota Center for Environmental Advocacy, December

1994 *Unfulfilled Promise: Twenty Years of the Minnesota Environmental Policy Act, a Program for Reform*, Minnesota Center for Environmental Advocacy, March

1995 *Interim Results from a 1995 advisory workgroup*, EQB

2000 *Public Input on Environmental Statutes, Processes and Rules*, MPCA

2001 *EQB Topics & Issues for Environmental Review Special Advisory Committee to Consider*, EQB Subcommittee, December

2002 *EQB Analysis of SAC Recommendations,* EQB, December

2003 *Improving Environmental Review in Minnesota: A Survey with Recommendations*, Sierra Club

2007 *Technical Representatives' Report to the Environmental Quality Board on Environmental Review*, EQB Tech Reps, April 11

2009 *Environmental Review Streamlining Report*, MPCA, December

2010 *Bench and Bar of Minnesota – Volume 67, Number 1*, Peder Larson and Julie Perrus, January

2011 *Evaluation Report – Environmental Review and Permitting*, Office of the Legislative Auditor, March

2012 *EQB Evaluation and Recommendation for Improving Environmental Review*, EQB, November 14

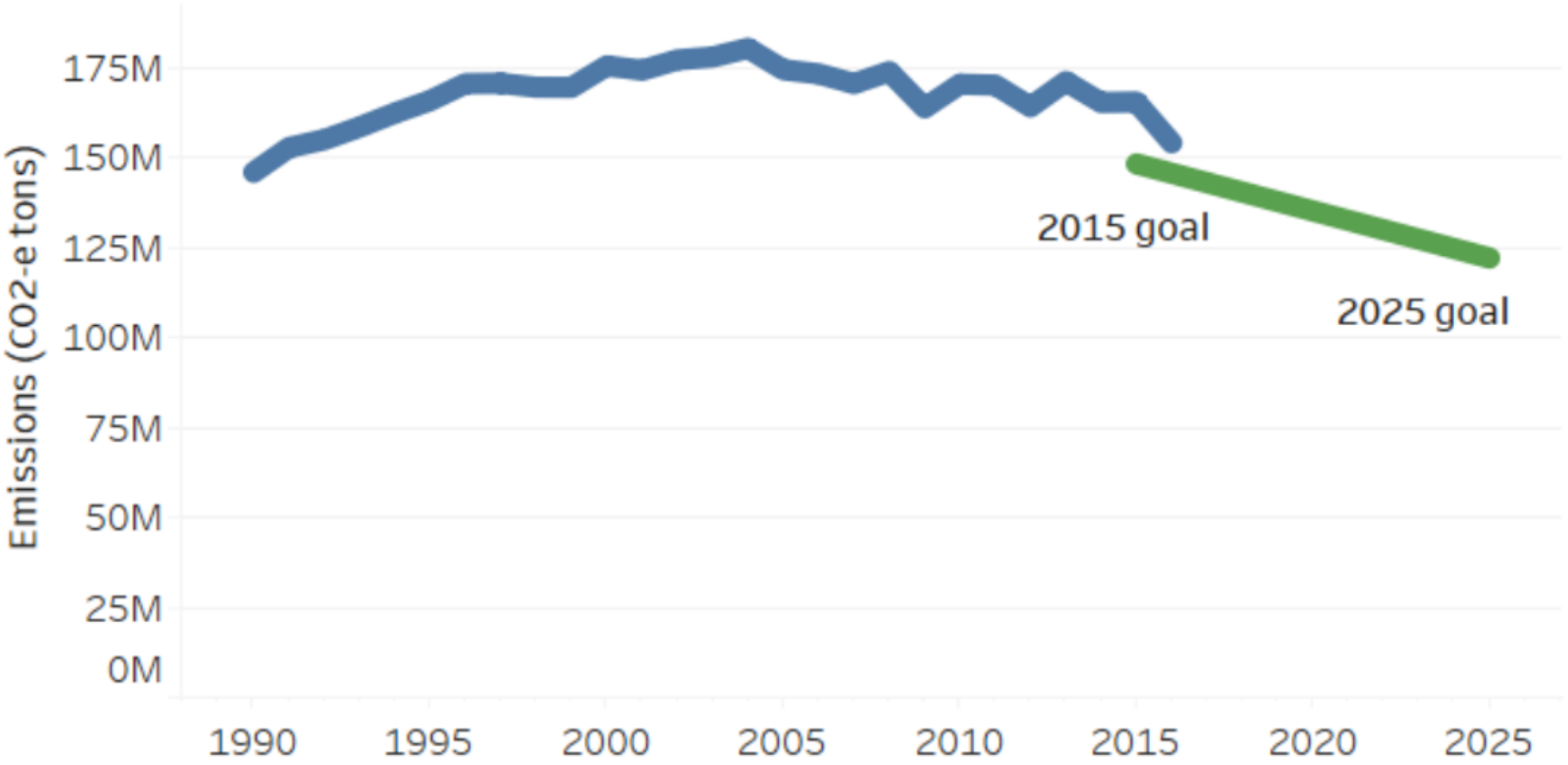
Framework for Future Subcommittee Meetings

- Reserved space on the agenda for:
  - RGUs, members of the public, project proposers to raise concerns for discussion
  - Subcommittee members to raise general ER Program issues
  - Public input on the agenda topic
- Topic-focused technical information from EQB and RGU staff
- Technical experts and presenters
- Staff data updates and reports

EQB Workplan: Environmental Review

- Integrate climate analysis into the Environmental Review Program
- Evaluate and consider options to understand and address potential health impacts through environmental review

Next Generation Energy Act



It is the goal of the state to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15 percent below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050. The levels shall be reviewed based on the climate change action plan study.

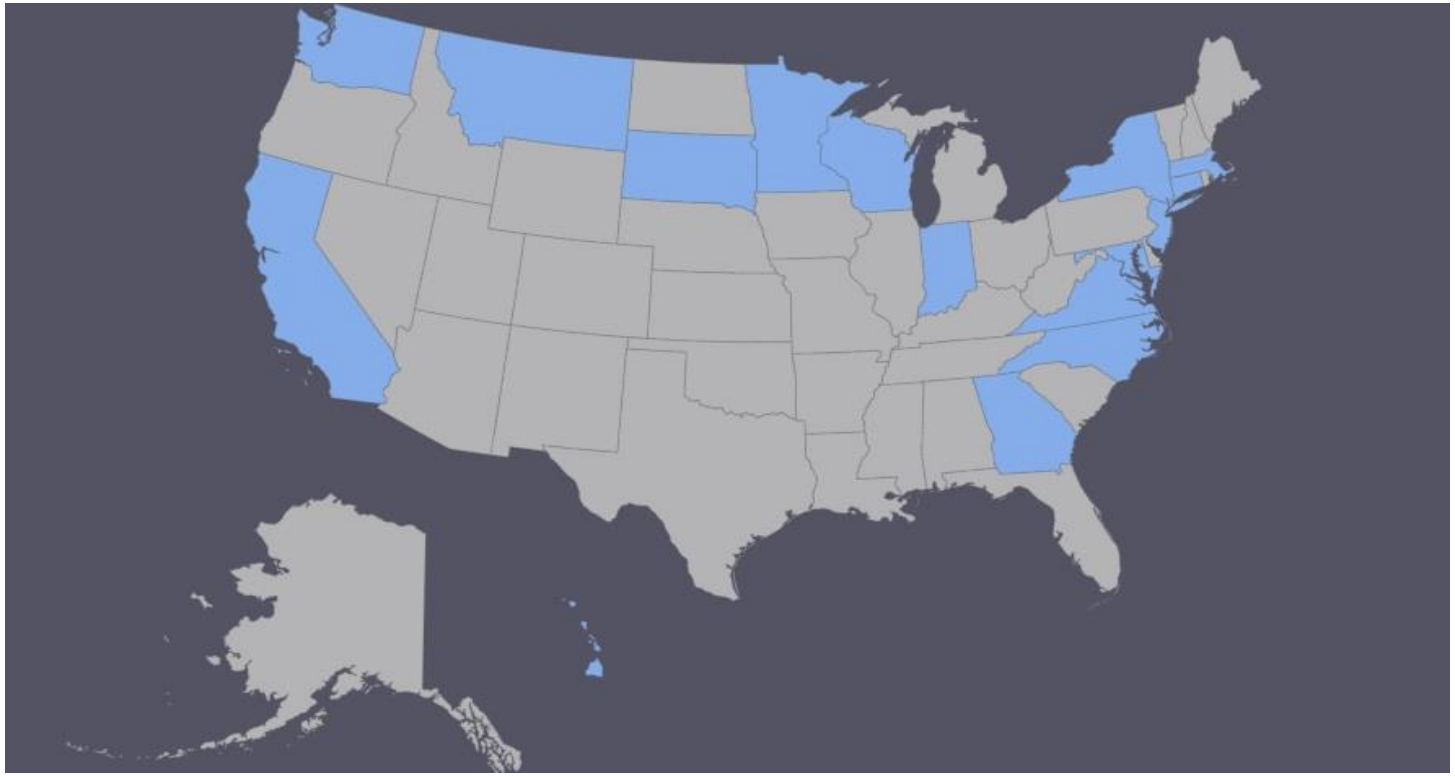
Environmental Review Program Fundamentals

- Roles: Who participates?
- Process: What projects are required to be reviewed and how the review is completed?
- Decision-making: How are decisions made?

Federal vs State Environmental Review

National Environmental Policy Act (NEPA)

Minnesota Environmental Policy Act (MEPA)



Common Terms

- Environmental Assessment Worksheet (EAW)
- Environmental Impact Statement (EIS)
- Mandatory Category: categories of project types that are required to be reviewed, if they exceed a threshold
- Threshold: criteria used to determine if a project requires an EAW or EIS
- Responsible Governmental Unit (RGU)

Environmental Review Roles

EQB

- Monitors Effectiveness
- Provides Technical Assistance
- Publishes Project Notices

RGU

- Applies Rules
- Make decision on ER Documents

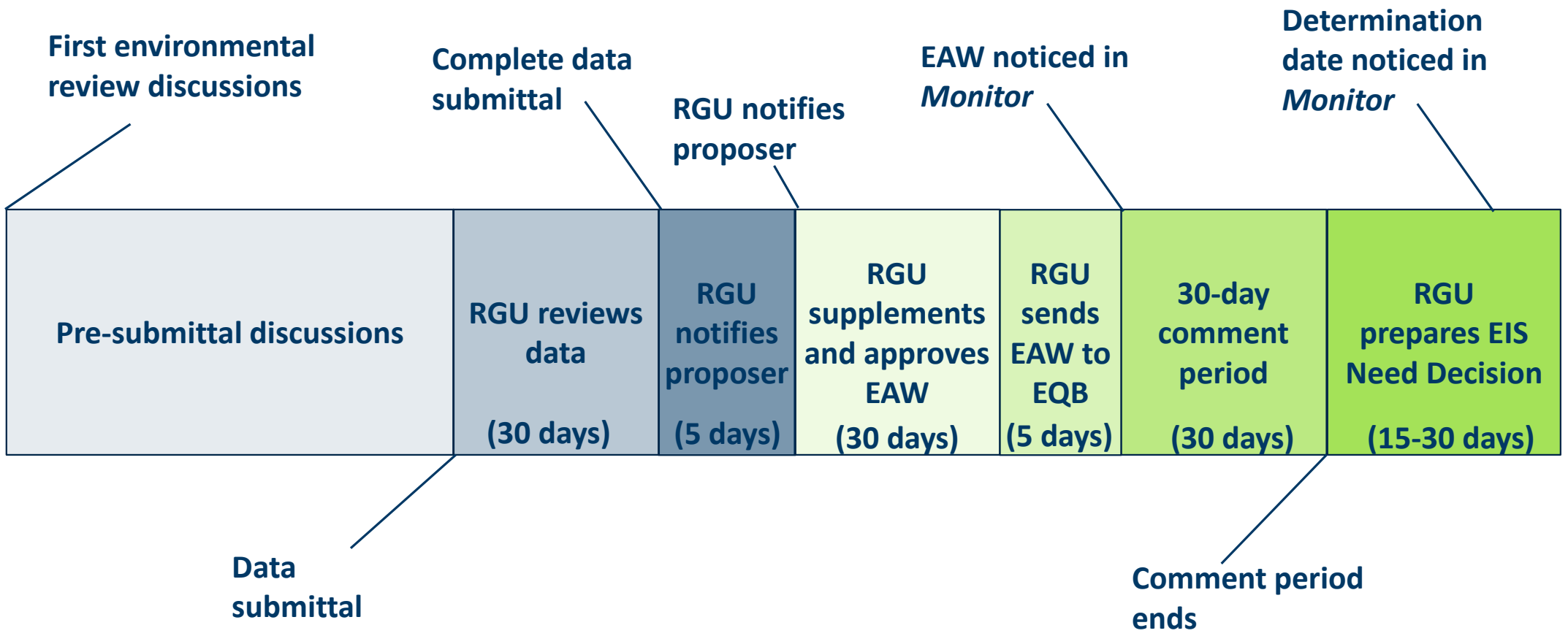
Project Proposer

- Provides Project Details to RGU

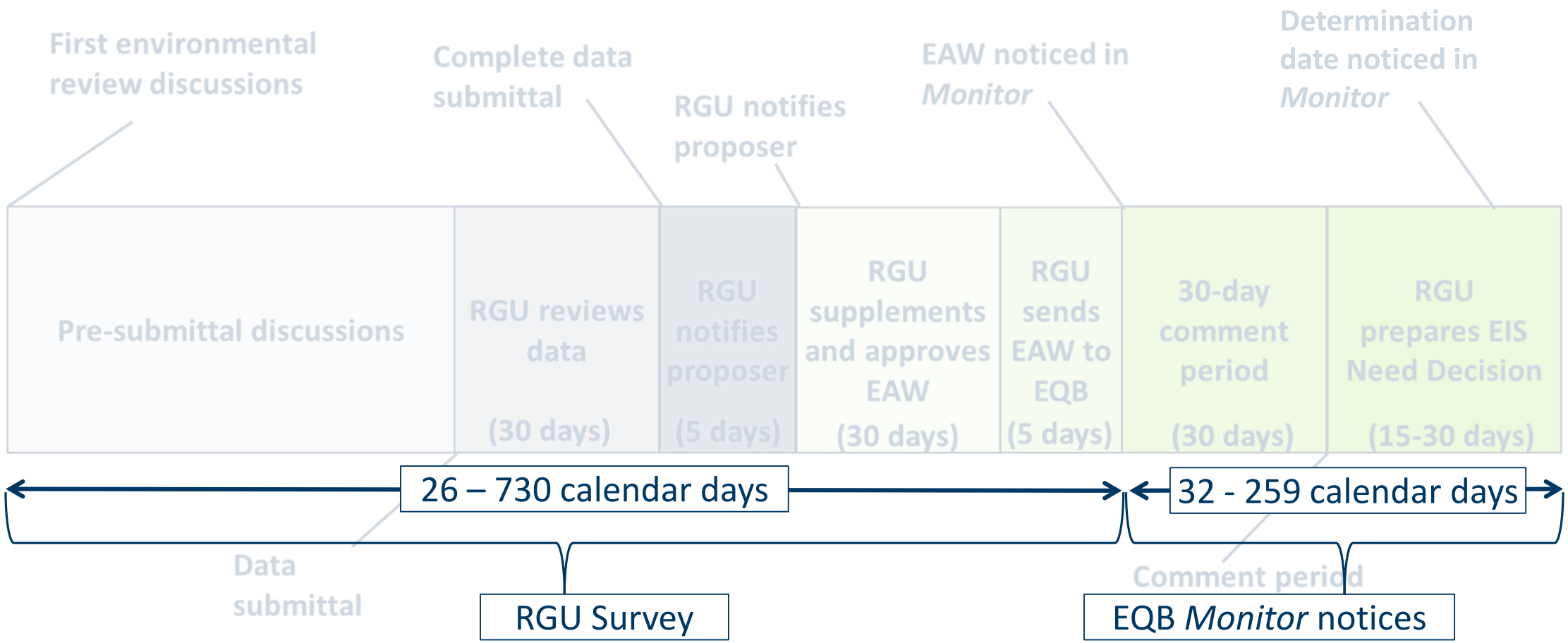
Public

- Provides Local Knowledge
- Informs Decision-making

EAW Process (pp. 2 - 5)



Timeline: Depends on Project Complexity and Controversy



EIS Process

MR 4410.4400

- Category
- Threshold
- Government Agency

MR 4410.1700

Scoping, Draft EIS, final draft EIS, Adequacy

- **Narrow focus**
- **Alternatives**
- **Environmental, economic, and social impacts**

2018: Projects Completed
EAWs (93)/ EISs (2)/ Petitions (1)

Mandatory Environmental Assessment Worksheet Categories (Total = 80 EAWs)

Subp. 12, Nonmetallic mineral mining (DNR or LGU)	10
Subp. 14, Industrial, commercial, and institutional facilities (LGU)	3
Subp. 17, Solid waste (PCA)	2
Subp. 19, Residential Development (LGU)	16
Subp. 21, Airport projects (DOT, METC or LGU)	1
Subp. 22, Highway Projects (DOT or LGU)	8
Subp. 26, Stream diversion (LGU)	5
Subp. 27, Wetlands and Public Waters (LGU)	11
Subp. 29, Animal feedlots (PCA or LGU)	13
Subp. 31 Historical Places (LGU)	2
Subp. 32, Mixed residential and industrial-commercial projects (LGU)	4
Subp. 36, Land use conversion, including golf courses (METC or LGU)	1
Subp. 37, Recreational trails (DNR orLGU)	4

Other Environmental Assessment Worksheets (Total = 13 EAWs)

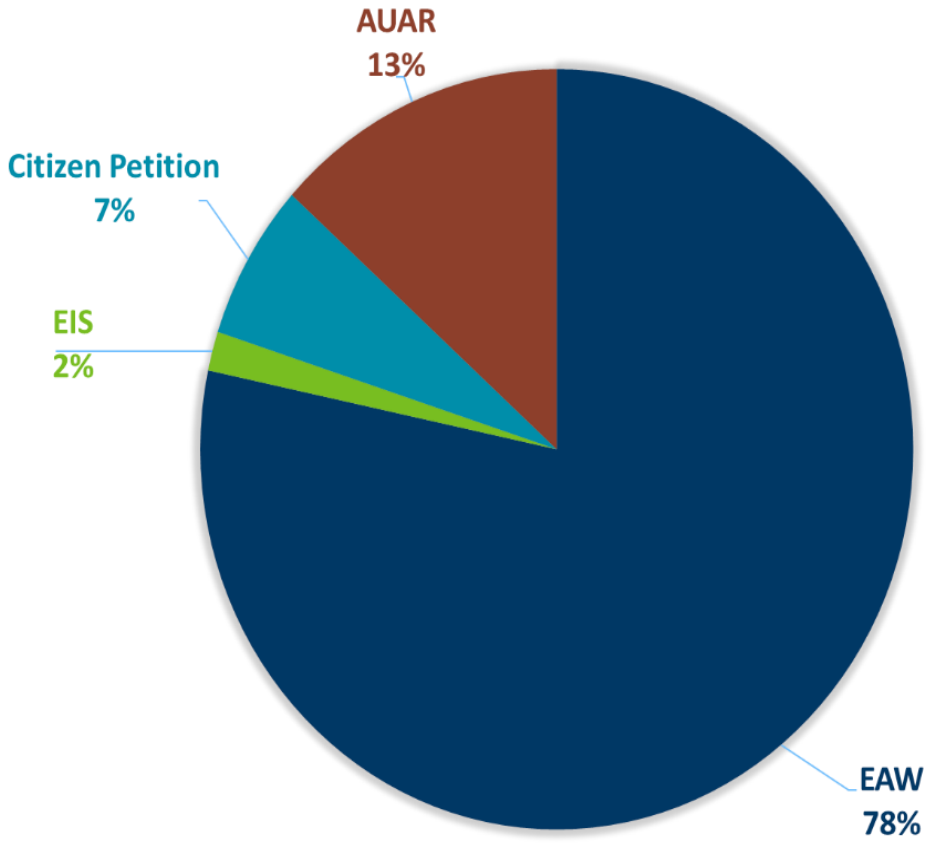
Discretionary EAW - RGU	9
Discretionary EAW - Project Proposer	2
Discretionary EAW - Citizen Petition (7 petitions denied)	1
Joint EA/EAW	1

Reason for EIS

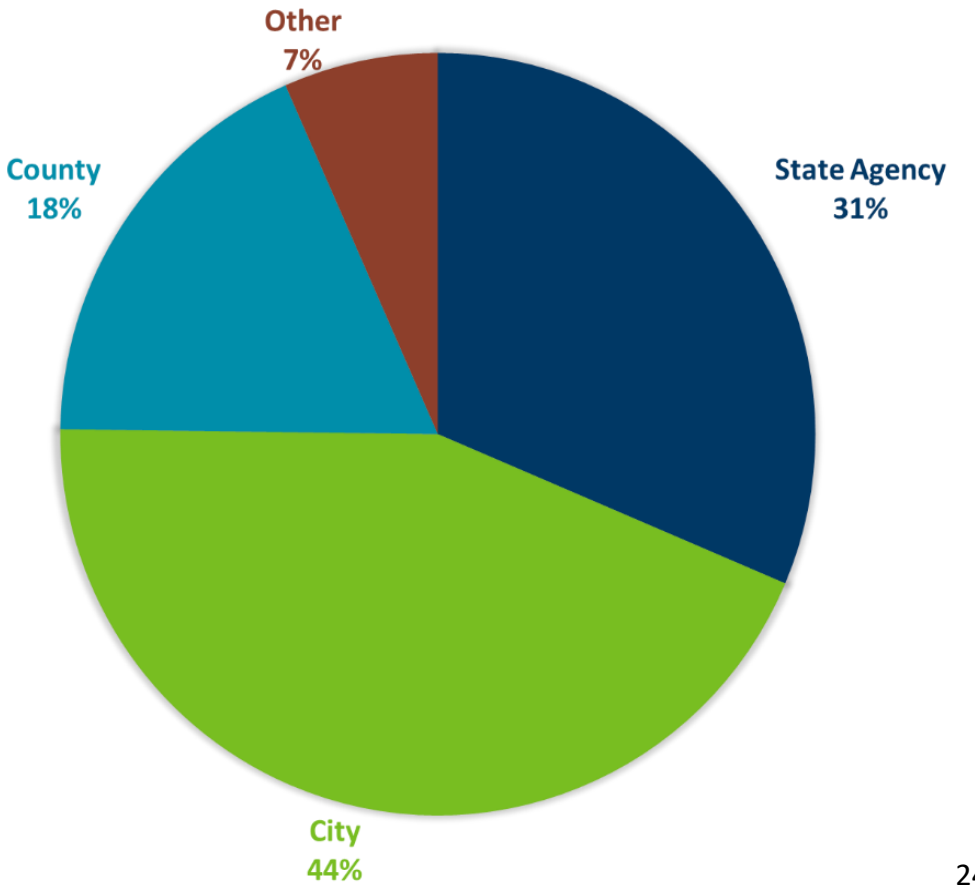
Discretionary	1
Mandatory - Subp. 18, Water appropriation and impoundments.	1

2018 Environmental Review Program Data

Completed by Process Type



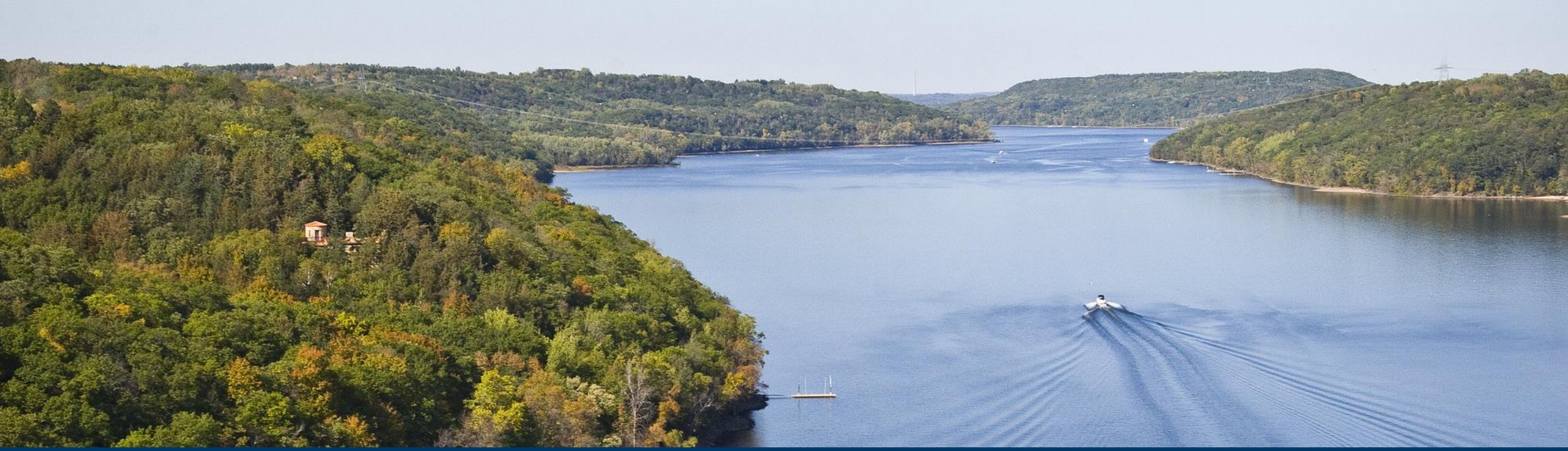
Completed by Government Agency Type



MINNESOTA
ENVIRONMENTAL QUALITY BOARD

Next up:
Integrating Climate Change in ER

Questions?



Integrating Climate Change in ER

Denise Wilson| Director of Environmental Review Program

Melissa Kuskie| MPCA, Manager – Certifications, Environmental Review & Rules Section

MINNESOTA
ENVIRONMENTAL QUALITY BOARD

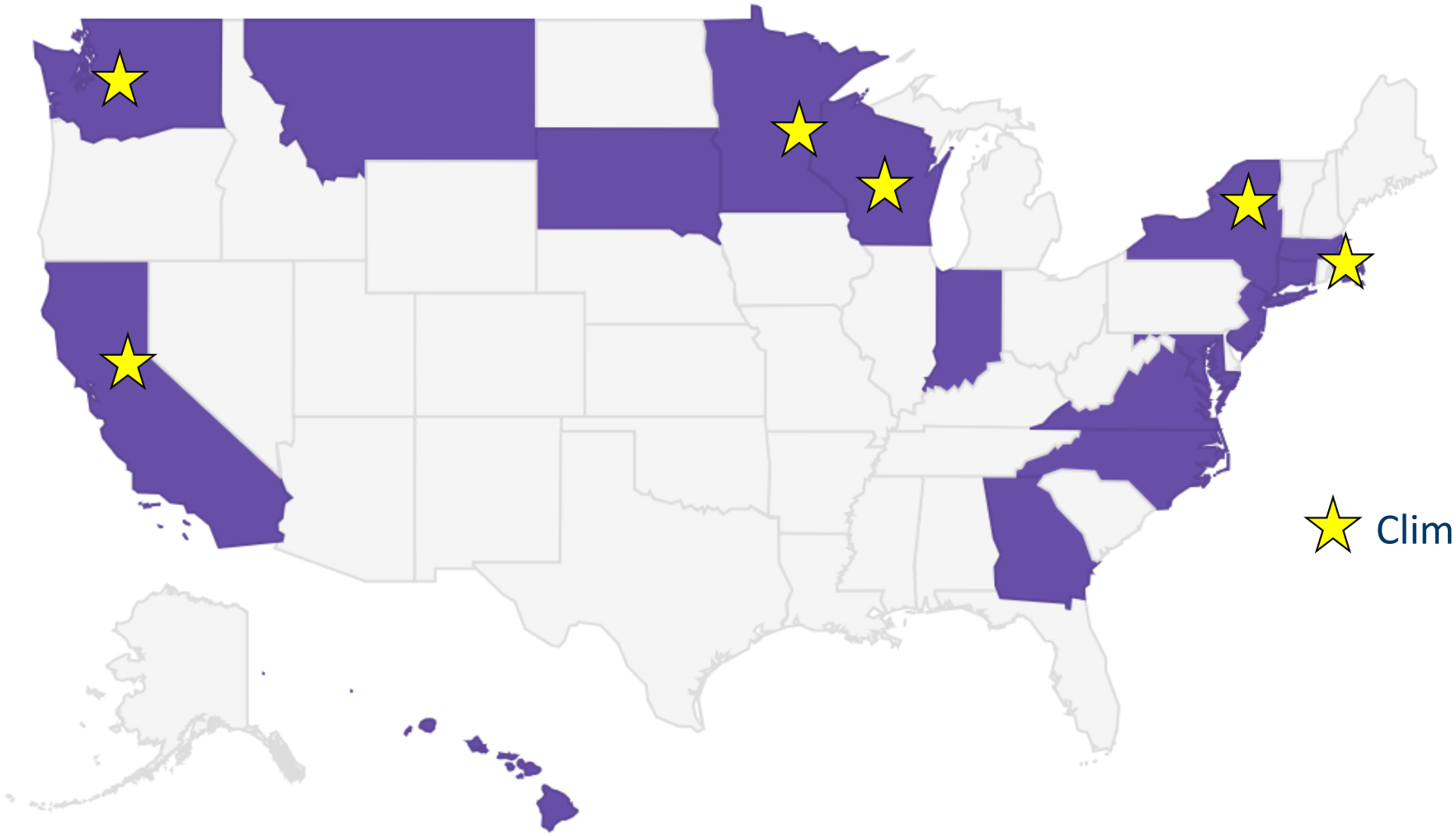
Why Climate Information in ER?

- Climate information is critical for effective planning and regulatory approval decisions
- Most mandatory EAW and EIS categories include sources of greenhouse gas emissions
- Adaptation and mitigation planning are needed for reducing the impact of climate change
- *"There isn't a consistent approach for assessing climate-change related impacts in the environmental review process."*

NEPA Climate Impacts Assessment

- Quantify Greenhouse Gas Emissions
- Use Greenhouse Gas Emissions as a proxy for climate analysis
- All Greenhouse Gas Emissions are cumulative – no cumulative effects analysis
- Consider mitigation and adaptation
- Uses available information
- Significance: based on experience and expertise

Other States' Programs



★ Climate impact assessment

GHG as a threshold for Environmental Review
(pp. 6 - 15)

Current Requirements: MN 4410 Subp. 15. Air Pollution

B. For construction of a stationary source facility that generates a combined 100,000 tons or more per year or modification of a stationary source facility that increases generation by a combined 100,000 tons or more per year of greenhouse gas emissions, after installation of air pollution control equipment, expressed as carbon dioxide equivalents, the PCA shall be the RGU.

(> 100,000 MT CO2e new or expansion = EAW Required)

Current Requirements: EAW Form
(pp. 16 – 17; pp. 18 - 26)

Question 16. Air-Stationary source Greenhouse Gas emissions

Question 19. Cumulative potential effects

Question 20. Other potential environmental effects

MR 4410.1700: Need for an EIS

Potential for significant environmental effects, the following factors shall be considered:

1. Type, extent, and reversibility of environmental effects
2. Cumulative potential effects
3. Extent to which regulatory authority can effectively mitigate environmental effects
4. Extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies

Case studies – MPCA as the RGU

- Greenhouse gas emissions
  - Subp. 15 project: University of Minnesota – combined heat and power (CHP)
  - Non-subp. 15 projects:
    - MinnErgy – dry mill ethanol production facility
    - Rice County Landfill – landfill expansion
  - Subp. 29 (feedlot) project: Daley Farms
- Climate adaptation
  - Just getting started…Burnsville Sanitary Landfill SEIS Scoping

University of Minnesota – Combined Heat & Power EAW (2014)

- Descriptions of emissions units and air pollution control equipment
- Quantitative analysis of existing facility and proposed project annual emissions for GHGs (CO2e)
  - Included with quantitative analysis of criteria/other permitted air emissions
- Brief discussion of federal GHG regulatory changes (2014), CHP efficiency relevance to GHG emissions
- Cumulative analysis briefly described regional GHG emissions reductions from system and reduced utility electricity purchases

MinnErgy – Dry Mill Ethanol Production Facility (2008)

- GHG information described separate from criteria/permitted pollutants (but note the year)
- Quantitative description of potential annual CO2 emissions by categories of emissions sources (e.g., “ethanol production,” or “dryer/thermal oxidizer stack,”), and facility-wide GHGs by pollutant (TPY and CO2e TPY)
- Comparison to statewide GHG emissions
- Detailed description of energy conservation methods/efficiencies employed at facility
- Very general description of expected regional climate change impacts (nothing connected to project)

Rice County Landfill Expansion (2017)

- Short qualitative description of air emissions: “Air emissions primarily consist of greenhouse gases such as methane (CH4) and carbon dioxide (CO2)…The project will generate landfill gas similar to what is already generated.”
- Description of landfill gas management – passive gas collection system
- Notes that Rice County reports (and will continue to report) annual GHG emissions to MPCA
- Cumulative impact analysis uses similar language

Daley Farms Dairy Expansion (2018)

- No GHG analysis (feedlot EAW form does not request GHG information)
- MN Court of Appeals just reversed and remanded back to MPCA for further review on the basis that MPCA did not consider potentially significant effects of GHG emissions

Burnsville Sanitary Landfill SEIS Scoping – Adaptation (2019)

- The SEIS will evaluate the liner and leachate collection system for the project and how it will perform during a 500-year flood event of the Minnesota River
- The SEIS will compare the pre- and post-project surface water discharge rates for 2-year, 10-year, and 500-year storm events
- SEIS will include examination of mitigation measures for an extreme (over 500-year) flood event at the landfill

Case studies – MPCA as the RGU

- Variability of analysis
  - Does it require an air emissions permit?
  - How readily are we able to estimate emissions on a project level?
  - What (if any) mitigation measures are reasonably available?
  - What can be said about cumulative effects

Continued Discussion - Climate Impacts Assessment

- What type of climate information is needed?
- How should climate information inform decision making – on environmental review documents?
- What additional information do you need?
- Who else would you like to hear from?
- Building from ERAP Climate Recommendations

MINNESOTA
ENVIRONMENTAL QUALITY BOARD

Thank You!

Follow Us!

@MnEQB

Minnesota Environmental Quality Board

Denise Wilson

denise.wilson@state.mn.us

651-757-2523