



A Citizen's Guide: An Introduction to Environmental Review

The Environmental Quality Board (EQB) draws together the Governor's Office, five citizens and the heads of 9 state agencies in order to develop policy, create long-range plans and review proposed projects that would significantly influence Minnesota's environment. The Board staff is housed in the State and Community Services Division of the Department of Administration.

University of Minnesota undergraduate student April Loeding and a team of EQB staff members, including Gregg Downing, Jon Larsen and John Wells, prepared this document to simplify and streamline public understanding of the environmental review process. Heidi Johnson at the Department of Administration provided assistance in the graphic design work of the publication. Dr. Terrence Cooper, a Morse-Alumni Distinguished Professor with the Department of Soil, Water and Climate at the University of Minnesota, served as the supervising faculty member for this project.

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This document is not intended as a substitute for Environmental Quality Board rules and should be used in conjunction with the rule provision parts 4410.1000 to 4410.1700. Copies of the rules are available from Minnesota's Bookstore, www.minnesotasbookstore.com, 651-297-3000 or 800-657-3757, or at the Revisor of Statutes homepage at www.revisor.leg.state.mn.us. Further information about the environmental review process is available in the Guide to Minnesota Environmental Review Rules, also located on the EQB website. Upon request, this document will be made available in an alternate format, such as Braille, large print or audiotape. For TTY, contact Minnesota Relay Service at 800-282-5077 and ask for the Minnesota Environmental Quality Board.

Updates and corrections to this document and all its accompanying links, forms, or examples will be posted on the EQB homepage at <http://www.eqb.state.mn.us/review.html>.

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An Introduction to Environmental Review

Objectives

By the end of this document, you will learn:

- The 9 organizations that are a part of the Minnesota Environmental Quality Board.
- The meanings of the abbreviations RGU, EAW, EIS, and AUAR.
- The major process steps of the EAW, EIS, and AUAR processes.
- The types of projects that can and cannot be subject to environmental review.
- The meanings of the terms “mandatory threshold,” “phased actions,” and “connected actions.”

What is environmental review?

The Minnesota Environmental Policy Act of 1973 established a formal process for investigating the environmental impacts of major development projects. The purpose of the review is to provide information about a project’s environmental impacts before approvals or necessary permits are issued. Because unanticipated environmental consequences can be very costly to undo and environmentally sensitive areas can be impossible to restore, environmental review creates the opportunity to anticipate and manage these problems before projects are built.

The process operates according to rules (legally binding regulations) adopted by the Environmental Quality Board (EQB), but it is actually carried out by local governments, state agencies or joint powers organizations. The primary role of the EQB is to advise these organizations on the proper procedures for environmental review and to monitor the effectiveness of the process in general. The environmental review program has no authority to enforce environmental protection measures, regardless of the significance of the environmental impacts. In other words, the review is a source of information and must be integrated with other permitting and approval processes to protect the environment.

Environmental review applies to public and private development projects such as government building projects, shopping centers, residential developments, etc. There are generally three types of analysis documents prepared through environmental review: Environmental Assessment Worksheets (EAWs), Environmental Impact Statements (EISs) and Alternative Urban Areawide Reviews (AUARs).

What is the Environmental Quality Board?

The Environmental Quality Board draws together a representative from the governor’s office (the Chair),

the heads of the 9 state agencies that play a vital role in Minnesota’s environment and development and five appointed citizen members. The 9 state agencies that are a part of the EQB are identified in the box at the top of the next page.

The EQB develops policy, creates long-range plans, and provides oversight for the environmental review process. The governor is responsible for appointing the five citizen members to the board; at least two of the five must be conversant in water management issues in the state.

What is an RGU?

The abbreviation **RGU** is an acronym for “Responsible Government Unit.” In the environmental review process, a responsible government unit is the governmental organization that must oversee the preparation and analysis of environmental review documents. The RGU can be any state agency and any general or special purpose unit of government in the state including watershed districts, counties, towns, cities, port authorities, housing authorities and the Metropolitan Council. However, RGUs cannot be courts, school districts or regional development commissions. The RGU is the governmental unit determined to have the greatest authority to approve or disapprove a project.

What is an EAW? An EIS? An AUAR?

The **EAW** – Environmental Assessment Worksheet – document is designed to provide a brief analysis and overview of the potential environmental impacts for a specific project and to help the RGU determine whether an EIS is necessary. Of the three environmental review documents, EAWs are usually the shortest at 15-50 pages in length. The EAW consists of a standard list of 31 questions and is meant to set out the basic facts of the project’s environmental impacts. It usually takes about 2-3 months for a project to complete the entire EAW



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The 9 state agencies that are a part of the EQB:



Minnesota Pollution Control Agency



process. The EAW is not meant to approve or disapprove a project, but is simply a source of information to guide other approvals and permitting decisions. [If you would like to look at an example of a completed EAW, please click here.](#)

The **EIS** – Environmental Impact Statement – is a much more detailed analysis of environmental effects. It can frequently take as long as one year for a project to complete the entire EIS process. Unlike the EAW, the EIS does not have a questionnaire type format or a standardized list of questions. Instead, the focus is on the key environmental, social and economic issues that are likely to result from the project, and a detailed analysis of those issues. The EIS also examines whether there are alternative project designs or locations that would result in fewer environmental impacts. [If you would like to look at an example of a completed EIS, please click here.](#)

The **AUAR** – Alternative Urban Areawide Review – is designed to look at the cumulative impacts of anticipated development scenarios within a given geographic area. The AUAR is a planning tool that local governments can use to understand how different development scenarios will affect the environment of their community. It is a way of performing an environmental analysis in advance, before major development occurs in an area, and to use the information to guide local planning and zoning decisions.

Future projects in the area will not require individual EAW and EIS documents as long as they are consistent with the development scenarios discussed in the AUAR and project proposers implement the mitigation measures required by the AUAR Mitigation Plan. [If you would like to look at an example of a completed AUAR, please click here.](#)

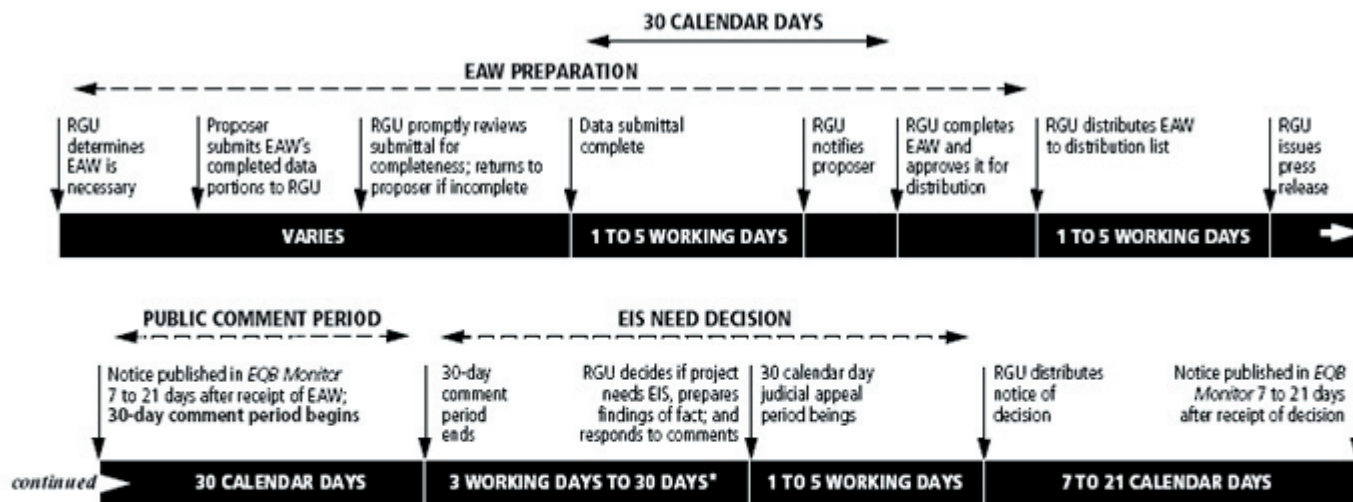
What are the major process steps for an EAW? An EIS? An AUAR?

The steps in the environmental review process depend on the type of document. The general process steps for each document are on the following pages.



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ENVIRONMENTAL ASSESSMENT WORKSHEET PROCESS



* Can vary depending on RGU.

NOTES

Time frames are diagramed as prescribed in the rules and should be considered minimum estimates.

Day can mean either calendar or working day depending on the timeframe listed for a specific event. If the text lists 15 or fewer days, they are working days; calendar days are 16 or more days (4410.0200, subpart 12). Working days exclude Saturdays, Sundays and legal state holidays.

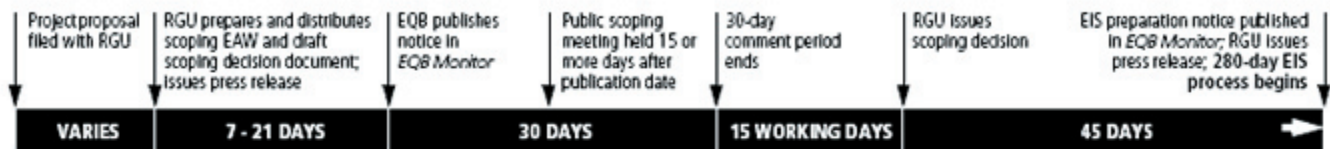
How to count a period of time. The first day of any time period is not counted but the final day is counted (part 4410.0200, subpart 12). The last day of the time period ends with normal business hours, generally at 4:30 p.m. No time period can end on a Saturday, Sunday or legal state holiday.

The 30-day period for EAW comments begins on the biweekly publication date of the EQB Monitor, which is always on Monday. Thirty days from a Monday always falls on a Wednesday, so the comment periods end on Wednesday unless it is a legal holiday.

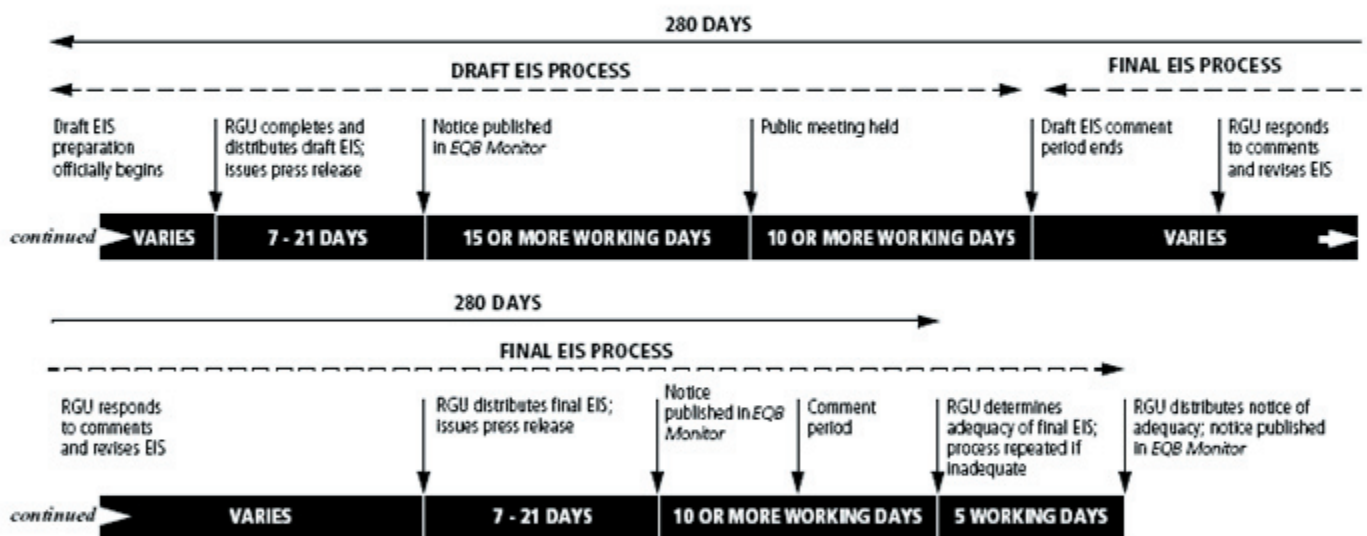


ENVIRONMENTAL IMPACT STATEMENT PROCESS

Scoping process for a mandatory or voluntary Environmental Impact Statement*



EIS preparation and review



* Scoping process differs for a discretionary EIS.

NOTES

Time frames are diagrammed as prescribed in the rules and should be considered minimum estimates.

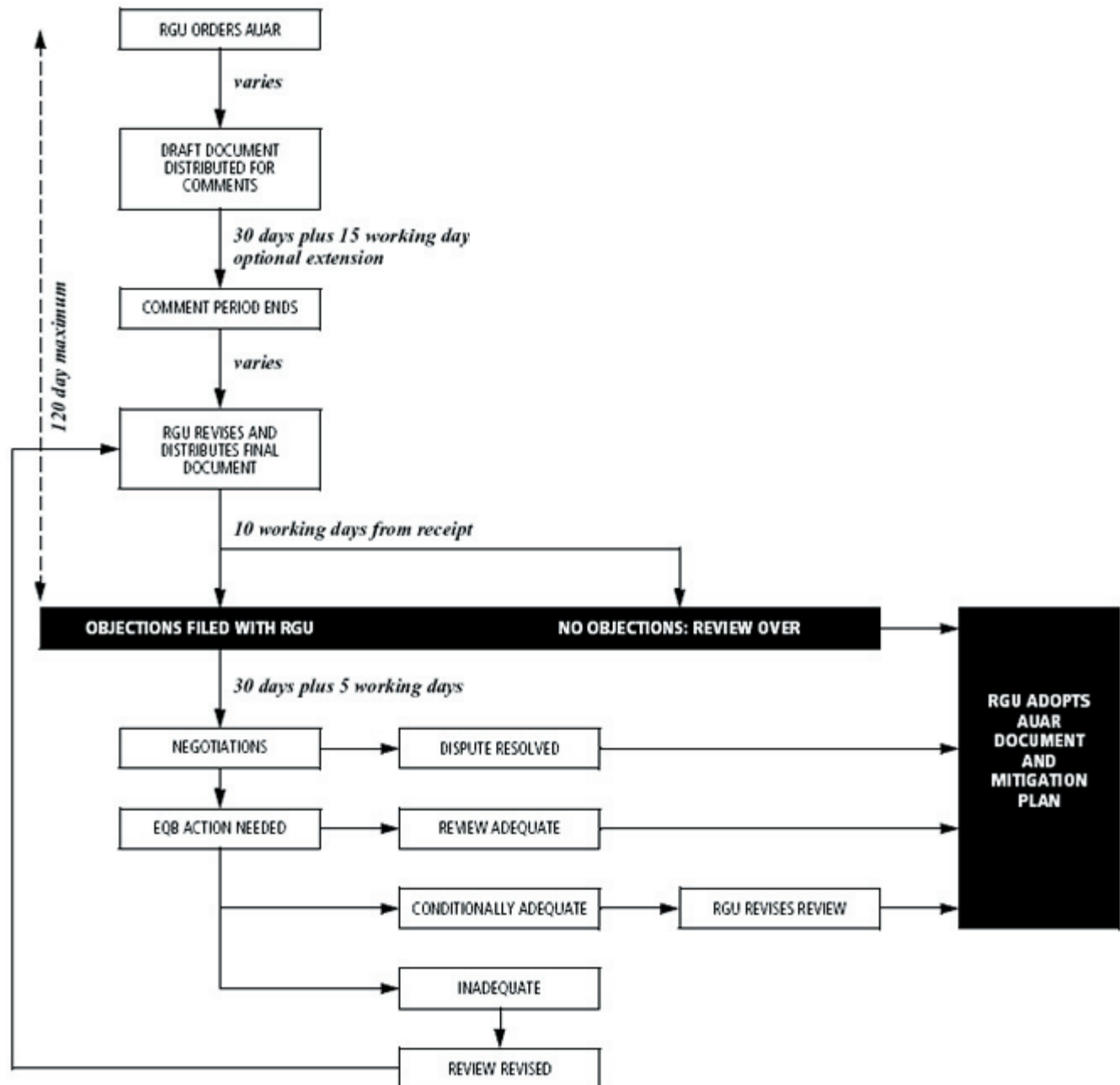
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ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS





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Why are local governments considered the RGUs for some projects?

When the environmental review process was originally designed, public representatives realized there were two ways in which authority could be distributed. One way was to make a primary agency or office responsible for the analysis of environmental review documents, while the other way was to distribute this authority to government entities that may be closer to a project's geographic location and with more authority over the project's site plans, permits and other approvals. The latter method was chosen, making it possible for local governments to be RGUs of certain types of development projects.

The RGU may in fact be the governmental unit sponsoring the project in the first place. This is sometimes disappointing to people because they think environmental review provides some sort of appeals process for challenging local government land-use decisions. It is important to realize, however, that environmental review is only an information gathering process; it is not meant to stop projects. The process is designed to inform decision makers about the likelihood of a project's environmental effects, but it does not necessarily force decision-makers to do anything to prevent them from happening.

How are RGUs chosen?

For most projects, the EQB has already established rules to determine a project's RGU. Local government RGUs are determined by the project's location and by determining which government organization (city, county or township) has the most jurisdiction over a project. You can review the diagram on the next page to see the most common RGUs for environmental review projects.

What are "mandatory EAWs" and "mandatory EISs"?

There are criteria established in the environmental review rules that make EAWs and EISs mandatory for many types of projects. These criteria are called "mandatory thresholds" and are listed in MN Rule 4410.4300 and 4410.4400. If a project's size is above the mandatory threshold for its category, then environmental review is mandatory (required). This is how most projects enter the environmental review process. [If you would like to read through the list of mandatory thresholds, please consult the document on the EQB's website, "A Guide to the Environmental Review Rules," or click here.](#)

When are projects exempt from environmental review?

The EQB has determined that some types of projects are automatically exempt from the program. These projects are generally very small with the potential for significant environmental effects unlikely. The exemptions that have been established for many types of project categories can be found in MN Rule 4410.4600. These thresholds work a little differently than the mandatory EAW and EIS thresholds – any project *smaller* than an exemption threshold is exempt from environmental review. Again, if a project is exempt from environmental review, no EAW can be ordered, even if a petition is filed. [If you would like to read through the list of exemption thresholds, please consult a document on the EQB's website called "A Guide to the Environmental Review Rules", or click here.](#)

Can projects that are already constructed be required to go through environmental review?

No. Environmental review is designed to inform decision makers about the environmental effects of a project before final approvals have been given and before construction has started. Projects already constructed, or those that have already received all required governmental approvals, are not subject to further review unless an expansion is proposed.

Can something other than a building project go through environmental review – like a community comprehensive plan or local ordinance?

No. The action or project must involve the physical manipulation of the environment that requires some type of government action. Government action in this case refers to activities/projects conducted, permitted, assisted, financed, regulated or approved by governmental units.

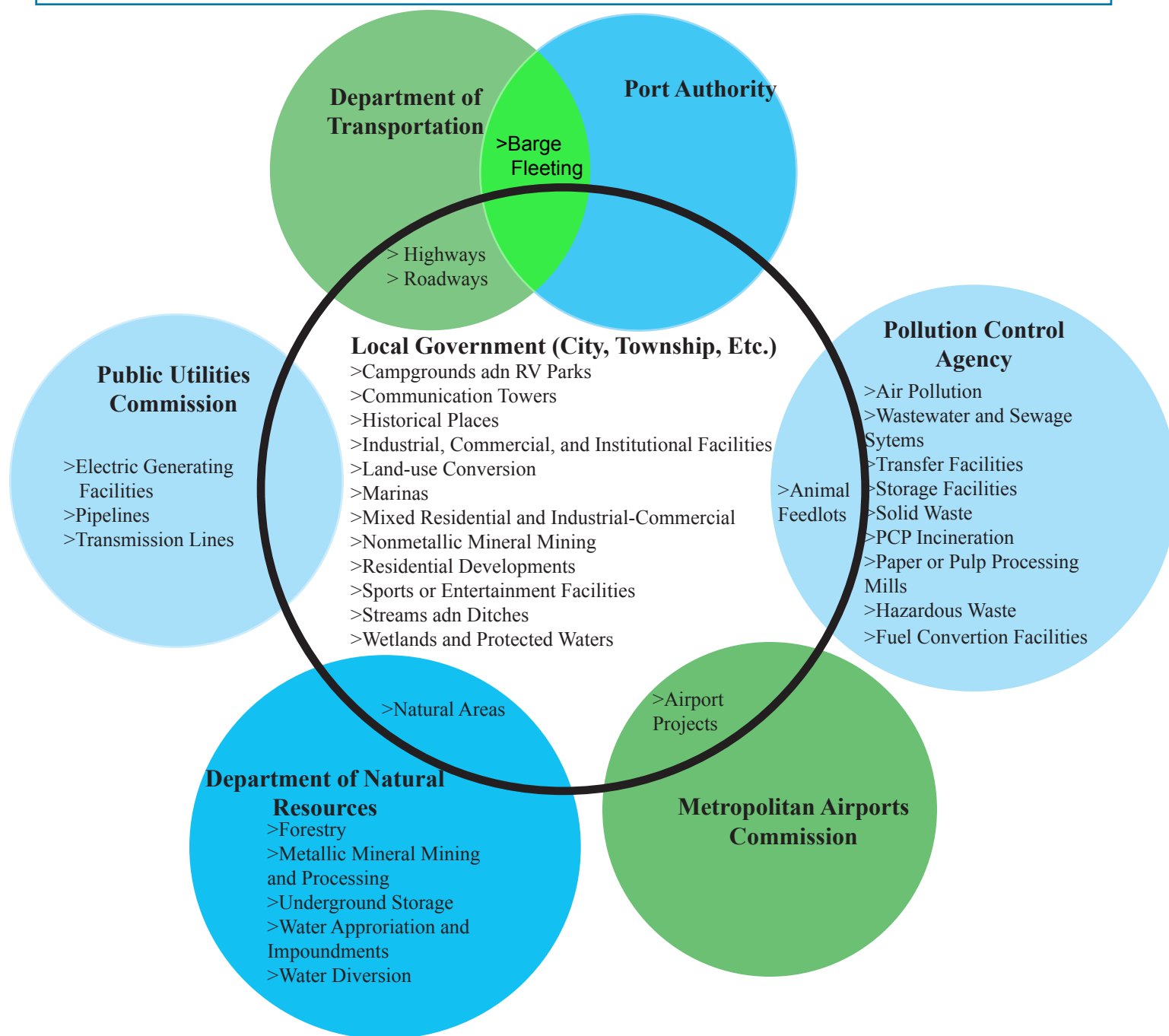
What if a project doesn't need any state or local permits or approvals?

If the project does not require any kind of government action, permits, or approvals, it does not qualify for environmental review – even if the project has the potential to cause significant environmental effects.



RGU Designations Based on Project Type (From the EQB Rules)

For projects listed in overlapping areas, the RGU could be either governmental unit. In these cases, the RGU is usually determined by selecting the government unit with the most authority to approve/deny a project or with the most expertise to perform environmental review.



* There are various RGUs possible for projects involving nuclear fuels and nuclear waste. (It depends upon the project type.)



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A project was divided into two smaller ones to avoid environmental review. Can they do that?

It is sometimes a complex issue deciding whether two or more projects are really parts of one larger project or are independent of one another – and so each situation should be carefully evaluated. There are many occasions in which project plans or financial circumstances change and a project can be made larger than what was originally proposed. Project proposers might also decide to limit the size of the project for the first year, but then plan on building a second phase of the project a year or two later. To deal with these situations, the EQB has established guidelines for helping RGUs determine the actual size of a proposed project when it will be completed over a period of time. These guidelines are included in the definitions of phased and connected actions.

Phased Actions

Phased actions are future actions by the *same proposer* that an RGU determines will have environmental effects on the *same geographic area* and are substantially certain to be undertaken *sequentially over a limited period of time*. In other words, if an RGU has a substantial reason to believe a project will expand in the near future, it should look at both the current project proposal and future expansions at the same time. This definition includes three components: same proposer, same area affected and timing.

Only one and not all of a group of owners need to be involved in both projects as long as that owner's stake is substantial. If several projects are considered phased actions, then the RGU should consider the size of all the phased projects when determining whether the project has crossed over a mandatory threshold.

While it is sometimes difficult determining whether a project will expand in the future, there is always the possibility that an EAW will be mandatory for the expansion if the two events occur within three years of each other. EQB staff refer to this as the “three year look-back rule.” If an application is received for an expansion or additional stage of a project within three years of the date construction started on the original (or previous stage), the RGU must determine that two projects are phased actions. While this does not eliminate the ambiguity of trying to forecast future development plans, it does ensure environmental review will take place – if not when the first phase of the project is built then in subsequent phases. Many RGUs understand it is better for the environment and decision makers when the EAW occurs sooner rather than later in the development process.

Connected Actions

Connected actions are two or more projects that are related, interdependent parts of a larger whole. Projects are considered connected if one project would directly lead to the other, if one project is a prerequisite for the other, or if neither project is considered justified by itself. Whenever two or more projects are related in any of these ways, they must be considered as one project regardless of ownership or timing. If several projects are considered connected actions, the RGU should consider the size of all connected projects when determining whether the project has crossed a mandatory threshold.

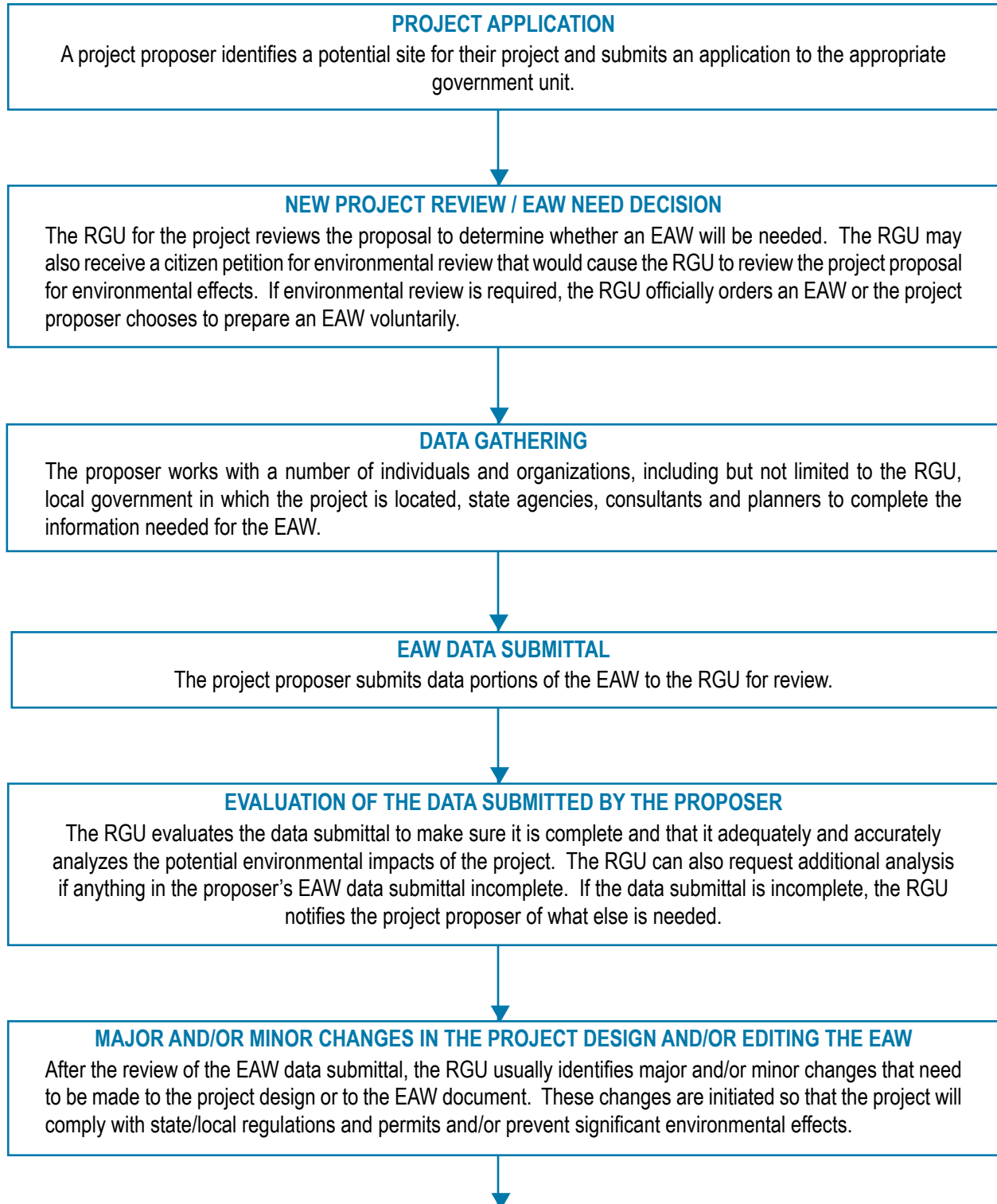
In practice, connected actions occur less frequently than phased actions. One of the more common connected actions occurs when independent landowners with adjoining properties collaborate to design a residential or commercial project without regard to the ownership boundaries. Another type of connected action arises when a major development project triggers construction of a public infrastructure, such as a road or sewer that would not otherwise be needed.

Review

- The environmental review process was established in 1973 by the Minnesota Environmental Policy Act and operates according to legally binding regulations called “rules.”
- The Environmental Quality Board is made up of a representative of the Governor who chairs the board, 9 state agency commissioners and five citizen members appointed by the governor.
- The abbreviation RGU stands for the term “Responsible Governmental Unit” and refers to the governmental organization overseeing the preparation and analysis of environmental review documents.
- There are three major types of environmental review documents – EAW, EIS and AUAR.
- Most RGUs assignments are determined by guidelines already established in the environmental review rules.
- The EQB has established mandatory thresholds that require EAWs and EISs for projects of certain types and sizes, as well as exemption thresholds that exempt certain other projects. If a project's size is above the mandatory threshold for its category, then environmental review becomes mandatory (required).
- To qualify for environmental review rules, projects must take place in the future, involve the physical manipulation of the environment and require some type of government action or approval.

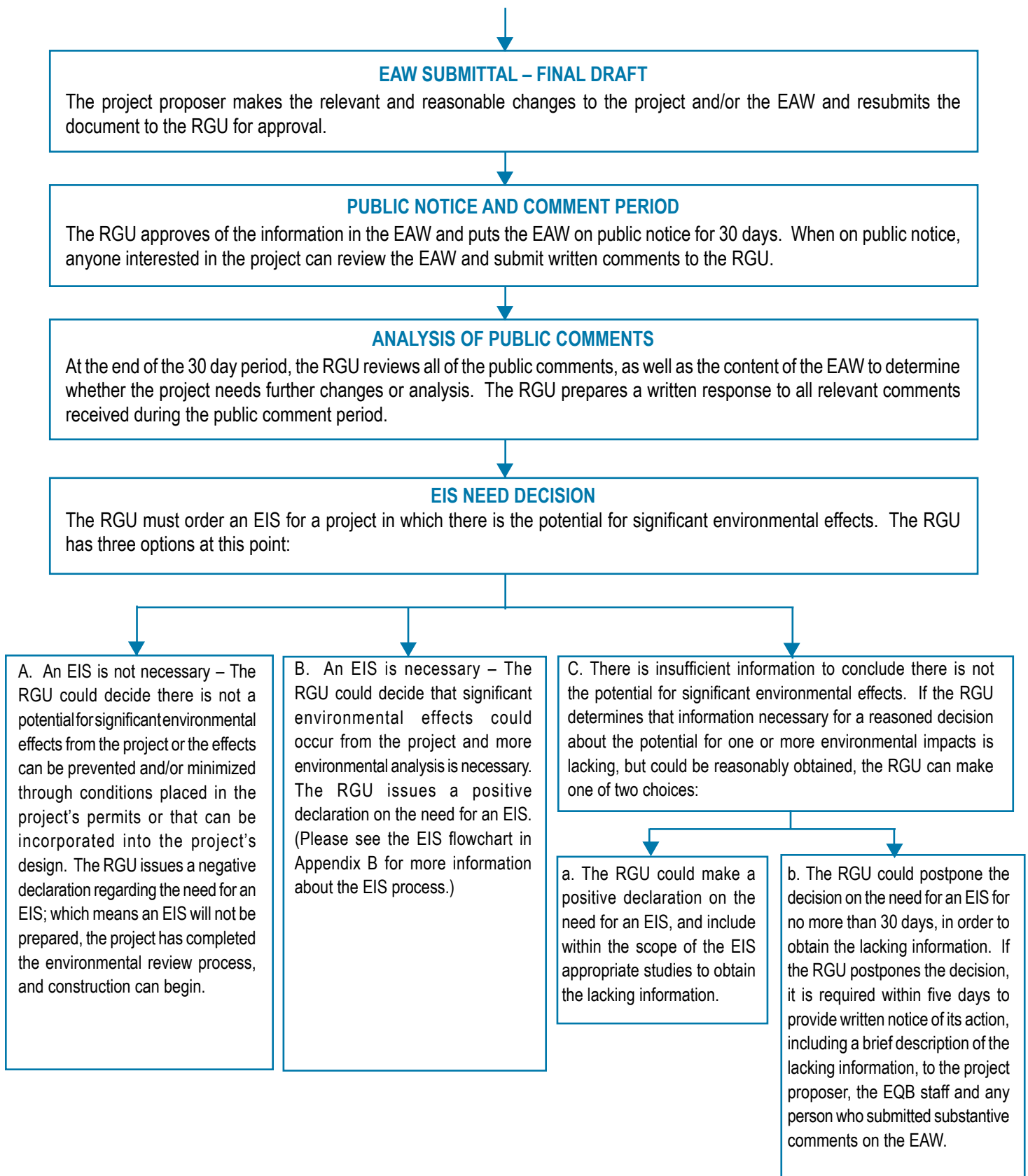
Appendix A

EXPANDED EAW PROCESS FLOWCHART



(flow chart continued on next page)

ADDITIONAL EAW PROCESS FLOWCHART *(continued from previous page)*



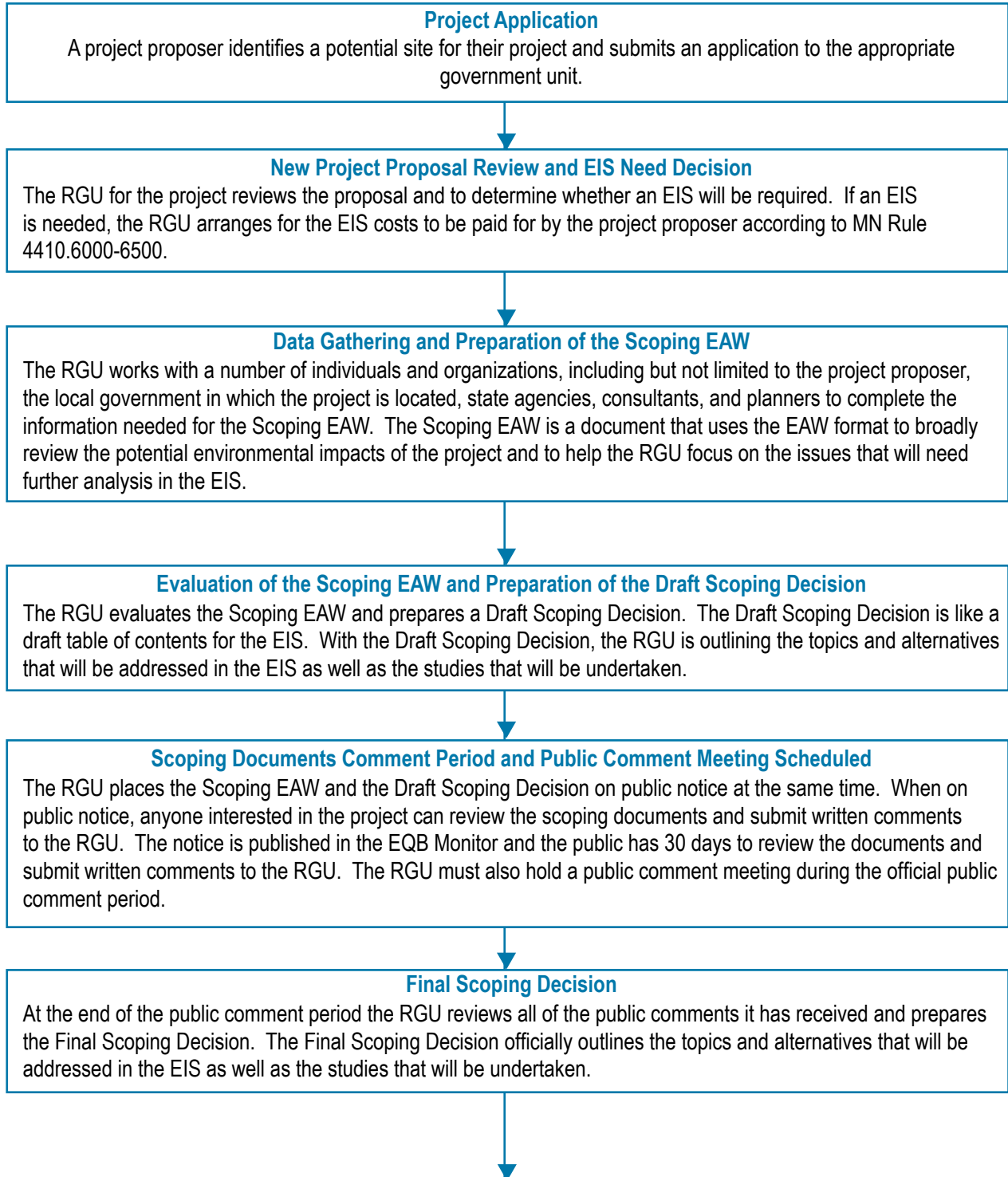
Appendix B

Appendix B

EXPANDED EIS PROCESS FLOWCHART

Special Note

Most EISs are completed because the project triggers one of the EIS mandatory thresholds. In these cases, the EIS process follows the steps below. However, an RGU can also conclude an EIS is needed as a result of the EAW process. When this happens, the flow chart below is not an accurate depiction of the EIS process and interested individuals should consult MN Rule 4410.2100 subp. 4 for a description of the modified procedures.



(flow chart continued on next page)

ADDITIONAL EIS PROCESS FLOWCHART *(continued from previous page)*

