

# GUIDE TO ENVIRONMENTAL REVIEW



## What is environmental review?

The Minnesota Environmental Policy Act (“MEPA”) requires state and local governments to study the environmental impacts of projects that have an impact on the environment before approving them. Some projects require a shorter study called an Environmental Assessment Worksheet (“EAW”), and some require a bigger study called an Environmental Impact Statement (“EIS”). Which project requires what kind of review is determined by how great of an impact the proposed project may have. The law *requires* an EAW or EIS for certain projects, as set out in Minnesota Rules [4410.4300](#) and [4410.4400](#). But even if a project doesn’t fall into one of these “mandatory categories,” citizens can petition for environmental review under Rule [4410.4500](#).

## Why should I ask for environmental review?

By asking for environmental review, you can force the government to take your concerns about a project into account before approving it. Your request will stop a project from moving forward until its environmental impacts are understood. Asking for and participating in environmental review frequently results in project improvements. It is a great way to make sure your voice is heard.

## Where do I start?

First, get as much information as you can about the project. You can use the Minnesota Data Practices Act to get information from the government(s) about the project. Don’t be afraid to just make a call! Many state and local staff will provide information over the phone or by email. Second, after you understand the project, take a look at the categories of projects that require a mandatory EAW or mandatory EIS. If you believe the project is in one of the mandatory categories, you can write a letter to the government body in charge of approving the project (the Responsible Government Unit or “RGU”) and the project proposer identifying this mandatory category and why you think the project fits into it, attaching all supporting information. If the project does not fall in that category, you can still ask for environmental review by submitting a “Citizen Petition” to the Environmental Quality Board (“EQB”) **so long as you can get the petition approved by the EQB before the project is approved.** (See the next page for detailed information on Citizen Petitions.) Third, attend the government meetings where the project is being discussed. Make sure that the staff and officials have considered the information you provided and that they know you are paying attention to what is approved.

# How do I write an effective Citizen Petition?

These are the basic requirements for submitting a Citizen Petition, which are outlined in more detail in the EQB's guide:

1. Gather information about the project.
2. Write a description of the project.
3. Write about the project's environmental impacts.
4. Attach supporting evidence.
5. Gather 100 signatures from people who live in Minnesota.
6. Submit the petition to the EQB.

The ultimate goal of the petition is to show that, *because of the nature or location of the proposed project*, there may be potential for significant environmental effects. Public concern is not enough! You must provide enough information about the proposed project's impacts on the environment to persuade the EQB that your petition meets the standard. We know—this sounds like you have to write an EAW to get an EAW! But it isn't that hard. We have provided some helpful hints below.



## Don't forget!

- Your petition must be submitted to the EQB and approved and sent to the deciding government entity **before** it makes a final decision on the project!
- Include the **full addresses** for each signature on your petition.
- **Attach** material evidence of the potential for significant environmental impacts. Just citing to references won't cut it!

## But how do I find information about the project?

To describe the project, use information submitted by the project proposer to the RGU. You can also obtain a map of the project area using Google Maps or other online resources. Mark up the map as necessary to show the project or the resource it has the potential to impact.

To describe the potential environmental effects of the project, look for:

- **Reports written by state agencies.** For example, if you are concerned about the project's impacts on a particular stream, the MPCA may have information on the current water quality in that watershed and potential threats to water quality. A Soil and Water Conservation District may have helpful information. The DNR might have helpful information.
- **Scientific reports.** Many scientific articles are published online. These articles can bolster your claim that a particular resource is vulnerable.
- **Expert reports.** If you look around, you might be able to find someone in your community with expert credentials. Have them write a simple report documenting, from an expert's perspective, the potential environmental impacts of the project.
- **Historic resources.** Is there something historic or otherwise unique about the area the project threatens? Is this the "last" of something? This can bolster your case.
- **Cumulative impacts.** Are there "cumulative impacts" from this type of project? Look for evidence that there are a lot of similar projects in the area.

Remember: Ultimately, your goal is to show that because of the nature or location of the proposed project, the project may have the potential for significant environmental effects.

## What's next?

If the EQB approves your petition, you are over the **first hurdle**. You still need to get the RGU to order the preparation of the EAW! The RGU can deny the petition "if the evidence fails to demonstrate the project may have the potential for significant environment effects." **Don't drop the ball!** Show up at the meeting where the petition will be discussed, and make sure you are heard.

If the EAW petition is granted, the RGU will have to complete an EAW before a decision can be made on the project. When a draft EAW is complete, the RGU must publish it for public comment. If you think the EAW is deficient or inaccurate, say so! Unless the information provided in the EAW has addressed your concerns, you may wish to ask the RGU to prepare an EIS on the project as part of your comment. Explain why the project still has the potential for environmental impacts, even though the permits or approvals may have set conditions. Here are the factors the RGU will consider when deciding whether an EIS is needed:

### STATE AGENCIES

#### Environmental Quality Board

If you want to discuss your Citizen Petition or have questions, contact the EQB at [Env.Review@state.mn.us](mailto:Env.Review@state.mn.us) or 651-757-2873.

#### Minnesota Department of Natural Resources

The DNR is the regulatory body in charge of certain [land and water permits](#). If the project that you are concerned about involves one of these types of permits and you want more information, contact DNR at [info.dnr@state.mn.us](mailto:info.dnr@state.mn.us) or 651-296-6157.

#### Minnesota Pollution Control Agency

The MPCA aims to prevent and reduce the pollution of air, land, and water in our State. The agency is in charge of [wastewater, stormwater, solid waste, and certain air and water permits](#). Contact the MPCA at 651-296-6300.

- The type, extent, and reversibility of environmental effects
- The cumulative impacts of the project
- Whether there is mitigation available for the environmental effects
- Whether other environmental studies can help anticipate and control the environmental effects

If your petition is denied, but you believe you did meet the standard for getting an EAW, you can legally challenge that decision. It's not easy to convince the court that an RGU should have ordered an EAW. However, it does happen. Here are a few examples of cases where the facts were strong enough to overcome the RGU's decision:

- Private parties proposed to construct a bible camp on Deer Lake. Citizens submitted a citizen petition for environmental review. Itasca County, the RGU, denied the petition and approved the planned development. The court found that the County violated the law because the petitioners met their burden to show the potential for environmental effects. Petitioners met this burden by showing that the plans would likely result in significant storm water management issues, that Itasca lakes are particularly sensitive to degradation, and that the project would likely disturb muskellunge-spawning habitats. *In re Conditional Use Permit & Preliminary Planned Unit Dev. Applications of Living Word Bible Camp*, No. A06-1374, 2008 WL 2245708, at \*3 (Minn. Ct. App. June 3, 2008)
- DNR developed off-highway vehicle system plans with eight specific trails identified in the plans. DNR claimed that no EAW was needed because the plans were not "projects" under MEPA. The court held that MEPA required an EAW for the eight trails identified in the plans because they were definite, site-specific actions and petitioners had identified on-the-ground environmental effects of the trails. *Minnesotans for Responsible Recreation v. Dep't of Nat. Res.*, 651 N.W.2d 533 (Minn. Ct. App. 2002).

## OTHER RESOURCES

### Statutes and Rules

You may want to dig into the laws and rules governing environmental review:

- [Statutes establishing environmental review](#)
- Rules listing [mandatory EAW](#) and mandatory [EIS categories](#)
- Rules for [citizen petitions](#)

### EQB Guidance

Before submitting a Citizen Petition to the EQB, check out EQB's [Guide to the Petition Process](#). Before submitting a comment on a project proposer's environmental review, check out EQB's [Guide to Commenting on Environmental Review](#).

### Submitting a Data Practices Act Request

If you are seeking public information from a government body, the law protects your right to receive that information under the Data Practices Act. Here's an [example](#) of how to submit a DPA request.



Distributed and produced by the Minnesota Center for Environmental Advocacy

Contact: Aaron Klemz, Director of Public Engagement

aklemz@mncenter.org, (763) 788-0282