

## May 2024 Environmental Quality Board meeting

Wednesday, May 15 from 1 – 4:00 p.m.

### Join online via Teams

- For the meeting link and more information, visit the [board meeting webpage](#).
- 

## Participating in board meetings

### Attending virtually

Members of the public may join the meeting virtually using the Teams link at the board meeting webpage link above. Please review the [Guide to Teams Participation](#) for additional information.

### Joining the virtual meeting at the Minnesota Pollution Control Agency office

Participate in the meeting virtually with support from Environmental Quality Board (EQB) staff at the Minnesota Pollution Control Agency's St. Paul office (520 Lafayette Rd, St. Paul, MN 55155) Conference Room 102. All visitors must sign in at the front desk.

Transportation options:

- Bicycle: Visit the [Saint Paul Bike Map](#) webpage for route information. Outdoor bicycle parking is available to the left of the front doors near the loading dock.
- Transit: Use [Metro Transit's Trip Planner](#) to determine the best routes and times.
- Car: You may park in a Visitor Parking space in the parking lot just outside the front door, or park in one of the visitor lots. The visitor lots are the Blue Lot (Olive St. and University Ave.) and the Jupiter Lot (on Grove St. across from the Ramsey County Law Enforcement Center); please see the [parking map](#). Parking in these lots is free of charge. You must register your vehicle at the front desk upon arrival.

### Accessibility

Please contact Environmental Quality Board (EQB) staff at least one week prior to the event at [info.EQB@state.mn.us](mailto:info.EQB@state.mn.us) to arrange an accommodation. Meeting materials can be provided in different forms, such as large print, braille, or on a recording.

### Public engagement opportunities at EQB meetings

EQB encourages public input and appreciates the opportunity to build shared understanding with members of the public. The opportunities for public engagement for this meeting are below.

## Oral public comment

In this meeting, the board will accept oral public comment as the final agenda item.

Procedure and guidelines for giving oral public comment:

- If you wish to speak:
  - Virtual: when prompted, use the “raise hand” feature in Teams, located at the top of your screen.
  - In person: sign up at the welcome table before the meeting starts.
- Your remarks will be limited to two (2) minutes. When necessary, the chairperson may limit commenters’ time for remarks to ensure there is equal opportunity for the public to comment.
- When the chairperson 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 chairperson, to the agenda item at hand.
  - Please be respectful of board members, staff, and other meeting participants. Avoid questioning motives. The chair, vice-chair, or other presiding officer will not tolerate personal attacks.
  - Please note that the chair will use their discretion for directing public comment to ensure the board’s ability to effectively conduct business.

## Written public comment

You may submit written comment to EQB by emailing your letter to [info.EQB@state.mn.us](mailto:info.EQB@state.mn.us) or mailing to: Environmental Quality Board, 520 Lafayette Road, Saint Paul, MN 55155. Comments must be received by EQB staff **by noon the day before the meeting**.

Staff will compile letters, make them available to members and the public online, and attach them to the public record. Any written comments received after this deadline will be included in the next meeting packet.

All comments will be made available to the public. Please only submit information that you wish to make available publicly. EQB does not edit or delete submissions that include personal information. We reserve the right to not publish any comments we deem offensive, intimidating, belligerent, harassing, bullying, or that contain any other inappropriate or aggressive behavior.

## Agenda

*Note that all listed times are estimates and are advisory only.*

### 1. Welcome and roll call (1:00 pm)

Nancy Daubenberger – Chair, EQB; Commissioner, Department of Transportation

### 2. Approval of consent agenda (1:10 pm)

- Meeting minutes from the April 17, 2024, Environmental Quality Board meeting on packet page 5
- Preliminary agenda for the May 15, 2024, Environmental Quality Board meeting

### 3. Executive Director's report (1:15 pm)

Catherine Neuschler – Executive Director, EQB

### 4. Environmental Congress planning update (1:20 pm)

**Type of item:** Informational

**Summary:** The Board will receive an update on the progress being made in planning for the 2024 Environmental Congress. We'll share proposed dates, locations, and topics of discussion for each meeting and hear what else the Board would like us to consider moving forward.

**Outcome:** The Board gets caught up on the latest planning updates for the event and can provide input and ideas or ask questions.

**Presenter:** Priscilla Villa-Watt – Communications and Engagement Coordinator, EQB

### 5. State Energy Policy and Conservation Quadrennial Report (1:40)

**Type of item:** Informational

**Summary:** Every four years, the Department of Commerce prepares the State Energy Policy and Conservation Report. The goal of the report is to provide legislators and energy leaders with information on the status of energy use in Minnesota, including trends, projections, and recommendations. The report identifies major emerging trends and issues in energy supply, consumption, conservation, and costs. Department of Commerce will present to the Board information on the report requirements, information that will be discussed in the 2024 report, and information on an upcoming public meeting for the report. MN Statute 216C.18 requires the draft report be shared with the Environmental Quality Board. This will occur before the final report is distributed.

**Outcome:** The Board hears an update on the draft report

**Presenter:** Laura Lyons – Energy Information Planning Specialist, Minnesota Department of Commerce

## 6. **Implementation of the Pollinator Action Framework (2:00 pm)**

**Type of item:** Informational

**Summary:** The board will hear an overview of the interagency pollinator protection team’s work to prioritize the actions included in the Pollinator Action Framework and documenting the progress to implement actions. This process and information will be used to update the scorecards to keep track of progress toward our pollinator protection goals and will be included in this year’s pollinator report.

**Outcome:** The board is updated on the implementation of the Pollinator Action Framework and has an opportunity to provide feedback on this process.

**Presenter:** Rebeca Gutierrez-Moreno – State Pollinator Coordinator, EQB

## 7. **Mandatory Categories Report: feedback, plan, outline (2:30 pm)**

**Type of item:** Informational

**Summary:** The Mandatory Categories Report is due December 1, 2024. The board will hear an overview of the feedback EQB staff has heard thus far, which is also summarized in a memo which can be found on packet page 8. Staff will also share an updated timeline and next steps for the report.

**Outcome:** The board is briefed on the progress of the Mandatory Category Report and has the opportunity to provide feedback on this process.

**Presenter:** Kayla Walsh – Environmental Review Program Administrator, EQB

## 8. **Public comment (3:00 pm)**

The board welcomes oral public comment. Please see guidance and procedures on packet page 2.

## 9. **Closing and adjournment (4:00 pm)**

## April 2024 Environmental Quality Board meeting

Wednesday, April 17, 2024 | 1:00-4:00 p.m. | 520 Lafayette Road, St. Paul, MN 55155, lower-level conference rooms and via Teams.

---

### Minutes

#### 1. Welcome and roll call

Chair Nancy Daubenberger called to order the regular meeting of the Environmental Quality Board.

Members present: Grace Arnold, Peter Bakken, Joseph Bauerkemper, Nancy Daubenberger, Tamar Gronvall, Rylee Hince, Todd Holman, Daniel Katzenberger, Katrina Kessler, Nicholas Martin, Paul Nelson, Thom Petersen, Sarah Strommen

Members excused: Brooke Cunningham, Matt Varilek, Charles Zelle

Proxies present: Myra Kunas (for Cunningham), Sue Vento (for Zelle)

EQB staff present: Catherine Neuschler, Stephanie Aho, Rebeca Gutierrez-Moreno, Colleen Hetzel, Hazel Houle, Jesse Krzenski, Priscilla Villa-Watt, Kayla Walsh

Approval of consent agenda

- Meeting minutes from February 21, 2024, Environmental Quality Board meeting
- Proposed agenda for April 17, Environmental Quality Board meeting

**Motion:** Board Member Petersen moved the consent agenda; Board Member Katzenberger seconded. Motion carries with a unanimous vote.

#### 2. Executive Director's report

Catherine Neuschler – Executive Director, EQB

- Appointments – EQB is actively recruiting for a new public member in Congressional District 7.
- The Legislative Session is ongoing and there are bills moving that would require some changes to the environmental review rules.
- EQB staff are continuing to move forward on projects, including kicking off the team of technical advisors that are going to help with the climate calculator.

### 3. Tribal Coordination and Consultation Policy

**Presenter:** Kayla Walsh – Environmental Review Program Administrator, EQB

**Type of item:** Decision

**Summary:** EQB seeks to facilitate positive government-to-government relations with all federally recognized Tribal Nations that share geography with the state of Minnesota. While Minnesota Statutes do not require EQB to have a consultation policy, they encourage the voluntary adoption of such a policy.

In late 2023, EQB staff drafted a Tribal coordination and consultation policy, drawing from existing statutes and rules and policies developed by member agencies. The goal of the policy is to establish and document EQB's commitment to involving Tribal governments in our work. The draft policy describes how EQB will engage with Tribal governments on issues under EQB's specific authority, such as rulemaking for environmental review. The policy focuses on staff-level coordination as a tool to promote open dialogue, share information, and ensure that EQB recognizes and responds to Tribal concerns. It also includes consultation, a formal process that happens when a matter needs to be elevated for discussion between Tribal Leadership and EQB Leadership. This draft proposes that EQB coordination involves the board chair, executive director, and EQB's Tribal relations point of contact.

**Discussion:** Members showed overall support for having such a policy.

**Motion:** Board Member Petersen moved to table the Tribal Coordination and Consultation Policy resolution. Board Member Kessler seconded.

**Outcome:** The Chair asked EQB staff to bring this draft to the Minnesota Indian Affairs Council (MIAC) for further input and will present again to the Board at a future Board meeting.

### 4. Draft strategic plan + engagement

**Presenter:** Catherine Neuschler – Executive Director, EQB

**Type of item:** Informational

**Summary:** The Board has had facilitated discussion and provided significant input for drafting and updated strategic plan. The draft strategic plan was presented for input and discussion, in order to determine if changes need to be made prior to seeking informal public input on the draft plan.

**Discussion:**

- The strategic plan needs to align aspirations with staff capacity and set clear expectations.
- There needs to be clear context for any public input.
- It would be beneficial to clarify for the public which agency to go to with their ideas, and how EQB is involved.
- EQB staff is tracking MPCA cumulative impacts rulemaking very closely in order to ascertain if adaptations need to be made to environmental review.

- In addition to the external goals, it's important to have internal goals as well for EQB staff development.

**Outcome:** The strategic plan will go out for public input.

## 5. State Water Plan: Tackling Nitrate

**Presenters:** Presenter: Catherine Neuschler – Executive Director, EQB; Tannie Eshenaur – Water Policy Manager, MDH; Margaret Wagner – Manager, Nonpoint Fertilizer Section, MDA; Glenn Skuta – Director, Watershed Division, MPCA

**Type of item:** Informational

**Summary:** Nitrate in groundwater and surface water is a long-standing complex water issue in Minnesota. Nitrogen is key for crop production, but it is prone to leaching into water resources, and high nitrate levels in surface and groundwater can impact human health and ecosystems. There has been a recent petition to EPA about nitrate in drinking water in SE Minnesota, resulting in EPA directives and state agency response plans. The current state water plan (prepared in 2020) includes goals, strategies, and actions related to protecting drinking water – including specific strategies about preventing nitrate contamination of drinking water. The Board received information on the alignment of the state water plan and specific response to nitrate in SE Minnesota.

**Outcome:** The presenters will return with a follow-up and further discussion at a future EQB meeting.

## 6. Public comment

Carly Griffith, Minnesota Center for Environmental Advocacy: Asked if a presenter could speak to the absence of karst bedrock as one of the geologic conditions of vulnerability in the CAFO permit revisions.

Glenn Skuta responded that the MPCA will be going to public comment on the rule in the summer.

## 7. Closing and adjournment

Board Member Petersen motioned to adjourn. Board Member Arnold seconded. All in favor; meeting adjourned.

## Memo

**Date:** May 3, 2024

**To:** Environmental Quality Board Members

**From:** Environmental Review Program Administrator, Kayla Walsh

### **RE: Analysis of feedback on mandatory categories**

This memo provides a summary of feedback received during the process of engagement on the mandatory categories for Environmental Assessment Worksheets (Minn. R. 4410.4300) and Environmental Impact Statements (Minn. R. 4410.4400). EQB staff extended our outreach efforts for the 2024 Mandatory Category Report. In addition to public feedback, EQB asked all technical representatives to provide feedback directly to EQB. Technical expertise and professional judgement will be used by EQB and co-authoring agencies to determine final recommendations in the report.

EQB intends for the 2024 mandatory categories report to be a thorough review of all mandatory categories, focused on the following key goals:

- Reviewing the intended purpose or history of each mandatory category
- Identifying new project types that may need to be the subject of a mandatory category
- Providing a discussion that lays the groundwork for potential future updates to the categories and their thresholds

The report will provide a “state of the state” on the mandatory categories and their use, followed by potential recommendations for changes, or identification of areas where further evaluation is needed. The recommendations will center on those changes that will continue to move towards an effective ER Program through better alignment with our effectiveness criteria.

EQB staff recognize and appreciate the thoughtful involvement of the public and environmental review practitioners in the process to date and we look forward to future discussion. EQB staff have read and summarized all comments. Feedback was extensive, and in some cases went beyond the anticipated scope of the final mandatory categories report. Ideas will be documented and further discussed under the appropriate mandatory category section of the report or, as appropriate, in other EQB work products.

### **Methodology**

In addition to Board meetings, Tech Rep meetings and any meetings requested by Tribes or stakeholders, the following mediums were used to collect feedback:

- Engagement HQ
- Online survey
- Emails
- Roundtable (virtual listening session)



Participants were asked to submit one set of information; however, there is no way to cross-check submittals to ensure the same person did not submit ideas through more than one medium.

### Engagement HQ

Engagement HQ is a web-based platform that allows users to post their ideas in response to a question. The question EQB posed is: *“What kind of projects should go through environmental review and why? If suggesting a new category, include an explanation. Consider what types of projects have environmental impacts that would benefit from having environmental review. What specific health, equity, or environment concerns do you have related to these types of projects?”*

Engagement HQ was open from January 30, 2024, until the end of the day February 28, 2024. EQB staff promoted this link for the following groups to share with their networks: board members, technical representatives, cities, counties, members of the EQB monitor gov-delivery listserv, known advocacy organizations, tribal representatives, and more.

Engagement HQ tracked 1,800 total visits to the page. There were 35 engaged participants who contributed 39 ideas and 9 comments on others’ ideas. There was a total of 80 upvotes, or agreements with others’ ideas. This means there were 128 contributions, overall. Table 1 identifies common themes EQB heard from Engagement HQ.

**Table 1. Topics and themes identified in feedback on engagement HQ**

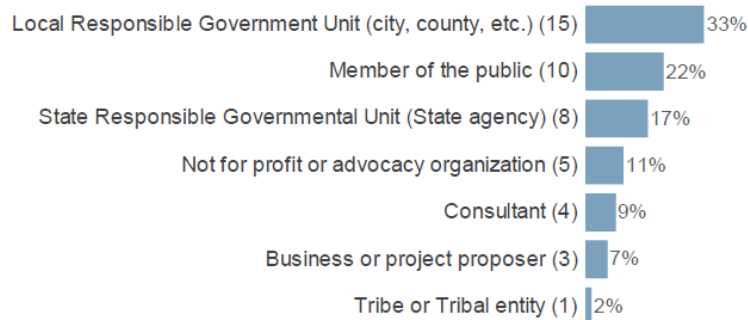
Topic	Number of posts	Number of total upvotes of all posts
Greenhouse gas emissions	22 posts, most mention measuring using life cycle impacts and choosing a threshold for an EIS	61
RV Campground	7 posts, specifically pertaining to RV campground theshholds near lakes and shorelands. This may be in relation to a recent petition on one specific proposed project.	6
Drainage	4 posts, especially mentioning agricultural drainage projects such as new ditches, drain tiling on croplands, and considering the cumulative impacts of such projects.	4
Alternative reviews	1 post gave detailed information recommending withdrawal of EQB approval for the Public Utilities Commission’s alternative review process for pipelines.	5

Other notable topics included suggesting an EAW be required for pre-mining activities such as mineral leasing and exploratory drilling; requiring an EIS for all mining expansions; suggesting the addition of an EIS threshold for water appropriations; including a Health Impacts Assessment as a part of all EISs; and establishing an expiration timeline for reviews.

## Online survey

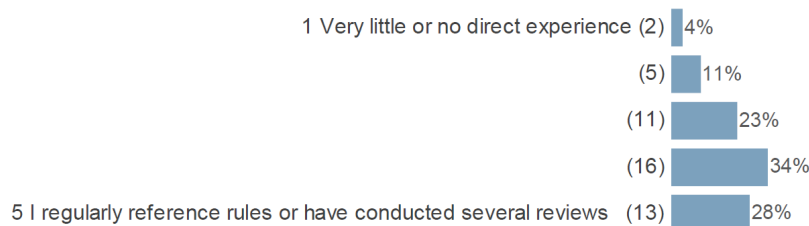
Overall, 51 respondents completed the online questionnaire. About 33% of respondents said they identified as a local government unit and 17% said they were a state responsible governmental unit.

Which group do you most identify with for the purpose of this survey?



Respondents were well-informed, with over 85% identifying a moderate to high level of experience in environmental review.

On a scale of 1 to 5 please rate your level of experience with Minnesota's Environmental Review Program (1 Very little or no direct experience /



Thirty-six respondents answered the question: "Are reviews generally being conducted by the right entity at the right level of government?" Responses show that 64% said "yes" and 36% said "no."

In a follow up question, EQB asked "If not, list which project types should be reviewed by a different entity and why." In response to this, we heard that "many times, Tribes are not consulted." We also heard that many projects at the local level require expertise beyond the responsible governmental units' capabilities. This results in higher costs, necessitating the hiring of consultants. Put succinctly by one commenter, "Local RGUs, like cities and counties, often do not have the expertise needed to conduct environmental reviews, and they often favor the local development proposed." Another commenter shared concerns over potential conflicts of interest, saying "The RGU should not be the same as the permit approver." This was also discussed during a subsequent listening session where similar sentiments arose, but EQB also heard that some local units of government appreciate having RGU discretion and that all local governments operate differently.

When asked if any existing mandatory categories need changes, 87% (thirty-four) of survey respondents said "yes." Through the survey, EQB received an additional 91 substantive comments on mandatory categories. A summary of popular topics is listed in Table 2, below.

**Table 2. Topics and themes identified in feedback via the survey**

Topic	Number of comments
Campgrounds	4 ideas ranging from making mandatory EAWs or EISs for all projects on lakeshores to raising the thresholds to result in fewer EAWs
Drainage	3 ideas pertaining to requiring EAWs for agricultural drainage such as drain tiling, and properly assessing cumulative impacts to water from drainage projects
Feedlots	3 ideas asking for review of manure application in sensitive areas
Forestry	4 ideas ranging from saying this category is not useful to saying it should have no exemptions, and it should involve an EIS to address cumulative effects from all actions that require deforestation
Industrial	4 ideas ranging from needing clarity of terms to increasing the threshold because many impacts are already addressed in comprehensive planning
Land Use	4 ideas ranging from exempting land use to lowering its threshold for conversion of forest or native vegetation to better know the anticipated habitat and biodiversity loss
Mining	3 ideas including requiring an EIS for any mine expansion
Public Waters	8 ideas such as making dam removals easier and reducing certain thresholds
Residential	17 ideas saying the threshold should be raised or the category exempt, or that the rules are overly complex and difficult to comprehend
Streams	18 ideas mostly asking for clarification, an accelerated review process, or exemption for trout stream restoration
Trails	5 ideas asking for clarification of terms, cumulative impacts of trail systems, or requiring an EAW for trail additions over one mile
Water Appropriations	3 ideas mostly asking for lower thresholds

Comments range widely from urging deletion of entire categories to lowering thresholds of those same categories (resulting in more reviews). For example, some respondents suggest eliminating Minn. R. 4410.4300 Subp. 27 (Public Waters), while other suggest lowering the threshold. Some respondents asked for expedited reviews for stream restorations. Some also said the residential subpart is overly complex. As with other modes of feedback, all comments will be considered in the recommendations brought forward in the report.

### Emails during the survey period

Some participants opted to directly email EQB staff their comments, instead of taking the survey. Staff received 122 separate emails amassing a total of 470 comments. Comments were on behalf of individual members of the public and some environmental organizations. One form letter resulted in high numbers of comments related to the topics of mining, water appropriations, and health impacts statements. Table three shows some common themes EQB read in the emails.

**Table 3. Topics and themes identified in feedback via emails**

Topic	Number of comments
Enforcement	4
Expirations	73
Feedlots	4
Greenhouse Gas Emissions	3
Health Impacts Assessments	84
Mining	144
Water Appropriations	76

The following are examples of quotes from the feedback, to serve only as examples. Feedback is considered in the recommendations made in the report.

Enforcement: *“Enforcement should have the most stringent criteria and the most significant funding. Rules mean nothing if they are not enforced.”*

Expirations: *“All EISs should have an expiration date specified in EQB rules so that analysis of expansions, phases, or changes in a project 15 years or even 50 years later aren’t allowed to rely on outdated facts and outdated scientific knowledge.”*

Feedlots: *“The mandatory category requiring EAWs for animal feedlots should be revised in two ways. First, Subp. 29(B) should be revised to add vulnerable groundwater areas, as identified for the Minnesota Department of Agriculture’s Groundwater Protection Rule, to the list of “sensitive locations” where animal feedlots with more than 500 animal units must undergo an EAW. These areas, which have coarse textured soils, shallow bedrock, or karst geology, have already been identified as areas where nitrate can move easily through soil and into groundwater, contaminating drinking water sources... Second, the rule should be revised to remove the following sentence, “The provisions of part 4410.1000, subpart 4, regarding connected actions do not apply to animal feedlots.” No other EAW section includes this exception, and there is no reason animal feedlots—which are a significant source of water pollution in Minnesota—should be allowed not to consider connected actions when determining whether an EAW is required.*

Greenhouse Gas Emissions: *“A new mandatory EIS category should be added to require an EIS for any project that emits a significant amount of GHG emissions, based on a lifecycle analysis. As part of the Climate Action Framework, Minnesota has set goals to reduce its GHG emissions by 50% by 2030 and to achieve net-zero emissions by 2050....In a rulemaking, EQB could determine whether an EIS should be triggered based on an absolute threshold, if different types of projects should have different triggering thresholds, or whether a project could avoid an EIS if it demonstrates it will reduce its emissions over time.”*

Health Impact Assessments: *“Any action that requires an EIS under EQB rules should also require a Health Impact Assessment done by a qualified independent contractor selected by the Minnesota Department of Health and paid for by the project proposer. Health Impact Assessment is a community-based process to analyze cumulative health effects, including direct and indirect effects on physical, nutritional, cultural, and social factors that contribute to harmful and unjust environmental health impacts.”*

Mining: *“EQB rules should require an EAW for mineral leasing, so that the state of Minnesota doesn’t relinquish rights to control drilling and use of surface lands for 50 years without some level of environmental review and public notice.”*

*“EQB rules should make it less likely that mining facilities will spread and create additional environmental harm without new environmental review. Rules should require an EIS for expansions of mining, mine waste disposal, and processing based on the percent increase over the original permit as well as changes in acres or tons.”*

Water Appropriations: *“EQB rules should protect the quality and quantity of Minnesota surface water and groundwater, by requiring an EIS when large amounts of water are appropriated for industry or agriculture or when waters are diverted from the Lake Superior Basin at levels exceeding the limits in the Great Lakes Compact.”*

### **Listening session**

EQB hosted two virtual roundtables in the month of April. Each meeting lasted one hour. Participants totaled 56 attendees, although some attendees were members of EQB or did not participate. The purpose of these two sessions was to provide an additional medium for feedback; commenters could verbalize new ideas or expound on ideas they’ve already submitted. Using a mentimeter survey in real-time, about half of participants identified as “new” commenters across both sessions.

Themes identified in the roundtables aligned with what EQB heard through written feedback. Several commenters explained their concerns over conflicts of interest in having RGUs do environmental review on a project they may have a vested interest in. Commenters also discussed the benefits and drawbacks of having local government units conducting reviews.

Of note, one commentor did submit a letter with 106 signatories making specific recommendations for anaerobic digesters, saying that “Anaerobic manure digesters present significant environmental risks to our rural communities’ air, soil, water, and public health.... Given these concerns, it is essential to lower the environmental review threshold of anaerobic manure digesters from 25,000 dry tons of input/year to 10,000 dry tons of input or more per year within the MN EQB's 2024 Mandatory Categories for thorough environmental review.”

The topic of cumulative impacts was also important to commenters. They expressed concerns over connected and phased actions not properly being addressed and asked for a stronger assessment of cumulative impacts. It was again noted that there should be an EIS for water appropriations, pipelines that carry helium or carbon dioxide, and feedlots. Mining, greenhouse gas emissions, and instituting health impacts assessments were all themes of conversation that aligned with previous feedback. EQB also heard from commenters who were concerned over fragmented review of off-road vehicle trails. Meetings were not recorded, but EQB staff took notes. Comments from the roundtable listening session will be addressed in the report.

## Summary

EQB has performed more outreach for the 2024 Mandatory Category Report than for prior reports. Overall, EQB is very pleased to see interest in environmental review programming from both the public and practitioners. Commenters made it clear that Minnesota is a beautiful place to live, work and play and that we can all rally around protecting and improving our land, air, and water. EQB staff have much gratitude for the engagement received on this report thus far.

From all written sources (EHQ, the survey, emails) EQB received 680 substantive written comments. Additionally, about 25 separate comments on mandatory categories were documented by notetakers during listening sessions. Popular topics include, but are not limited to: cumulative impacts, expirations for EAWs and EISs, greenhouse gas emissions, water appropriations, health impacts assessments, mining, and feedlots.

For each mandatory category in the report, EQB plans to include a discussion section that summarizes what we've heard and what potential changes warrant further evaluation. It is important to the success and long-term usefulness of this report that concerns about each category are properly summarized and addressed. That way, in future years, we can fully track the progress made toward finding appropriate solutions and greater effectiveness of the environmental review program.