

Memo

Date: January 9, 2026

To: EQB Members

From: Kayla Walsh, Environmental Review Program Administrator

RE: Adoption of expedited permanent rules relating to energy infrastructure

Overview

The *Minnesota Energy Infrastructure Permitting Act* (MEIPA), effective July 1, 2025, consolidated permitting and environmental review for large energy infrastructure facilities—high-voltage transmission lines, large electric power generating plants, energy storage systems, large wind energy conversion systems, solar energy generating systems and associated facilities—into one statutory chapter, Minn. Stat. ch. 216I, under the Public Utilities Commission (PUC). The legislature changed how these projects are permitted and undergo environmental review. In the same session law, the legislature also changed environmental review requirements for carbon dioxide pipelines.

The legislature directed the EQB to use expedited rulemaking to conform its environmental review rules (Minn. R. ch. 4410) with the new framework established by MEIPA. EQB staff discussed various aspects of this rulemaking with the Board throughout 2025. Staff drafted rule language amendments and presented these to the Board on September 17, 2025. At the same meeting, the Board approved a resolution to initiate expedited rulemaking and granted the Executive Director authority to proceed with rulemaking.

Public comment

EQB published a “Notice of Intent to Adopt Expedited Permanent Rules Without A Public Hearing” in the State Register and requested comments. The draft rule amendment was open for comment from October 6 to November 14, 2025 (39 days). EQB staff encouraged public comment by notifying “interested persons” using a GovDelivery listserv for rulemaking updates, the weekly *EQB Monitor*, and email. Staff also sought comments from Minnesota Tribal Environmental Committee members.

Two groups filed comments concerning the proposed amendments during the comment period: the Minnesota Center for Environmental Advocacy (MCEA) and the Minnesota Bio-Fuels Association (MBFA). EQB staff reviewed comments and propose no changes to the draft rule amendments for the reasons set forth below. Unabridged comments are available in Attachment A.

Minnesota Center for Environmental Advocacy comment

The Minnesota Center for Environmental Advocacy’s (MCEA’s) comment refers to proposed changes to the mandatory category rules in Minn. R. 4410.4300 and Minn. R. 4410.4400. The language proposed by EQB says, “For projects under part 4410.4100, environmental review is governed by Minnesota Statutes, chapter 216I.” (See lines 3.13 and 3.14 and lines 4.18 and 4.19 of the rule as proposed to be adopted.)

MCEA expresses concerns that this proposed rule language is confusing because it, “creates an inference that environmental reviews performed for projects in chapter 216I are a different type of environmental review that is solely governed by chapter 216I and not the Minnesota Environmental Policy Act or ‘MEPA’.”

MCEA asserts that environmental reviews performed for projects listed in 216I are “fundamentally governed by MEPA and are environmental reviews performed under MEPA.” MCEA suggests modification of the proposed rule line 3.13 to say that the review of such projects would be: “governed by Minnesota Statutes, chapter 216I in conjunction with chapter 116D.”

EQB staff’s response to comment

Chapter 216I reflects a longstanding legislative tradition of managing the siting, permitting, and environmental review of large energy infrastructure projects through energy-specific statutes and rules. A more detailed history of the two statutes, Minn. Stat. 116D and Minn Stat. 216I, can be found in the [“Rule summary and justification memo.”](#)

Chapter 216I defines “major” projects and requires the PUC to prepare an environmental impact statement (EIS) on each proposed large energy infrastructure facility that is a major project for which a complete application has been submitted (Minn. Stat. § 216I.06, subd. 1(a)). The legislature included a specific definition of “environmental impact statement” in this provision, stating that it means, “a detailed written statement that describes a large energy infrastructure facility and satisfies the requirements of section 116D.04.”

Chapter 216I defines projects that are “standard” or “local” projects and requires an environmental assessment document or “EA” for such projects. The EA is not described in section 116D.04. Chapter 216I describes the content and procedures related to an EA and says, “[t]he environmental assessment is the only state environmental review document that must be prepared for the proposed project.” (Minn. Stat. § 216I.07, subd. 3). EQB staff find that large energy infrastructure projects are reviewed (and have traditionally been reviewed) using an EA document that is not described in Minn. Stat. section 116D.04 or EQB’s rules.

One goal of MEIPA was to eliminate confusion caused by the potential for multiple environmental review processes by ensuring it is managed by one entity (the PUC) and one statute (Chapter 216I). Given that Minn. Stat. 216I already refers to Minn. Stat. 116D when appropriate, and that the EA is a separate document and process, EQB staff do not recommend accepting MCEA’s suggested change.

Minnesota Bio-fuels Association comment

The Minnesota Bio-fuels Association (MBFA) expresses concerns regarding EQB’s decision to amend its rules to include carbon dioxide pipeline projects in the mandatory Environmental Impact Statement (EIS) category rules. MBFA understands that the 2024 legislation defined “carbon dioxide pipeline” and added a requirement in Minn. Stat. 216G.025 that carbon dioxide pipeline projects undergo a mandatory EIS before they are permitted. MBFA agrees that the environmental and public health impacts of proposed multi-state carbon dioxide pipeline projects should be fully understood before they are given route permits and allowed to operate.

MBFA argues that the intent of the legislation was to require an EIS for large projects and raises concerns that EQB’s proposed rule “goes above and beyond the original intent of the law.” MBFA notes that some “carbon capture utilization” projects may not require extensive pipeline infrastructure and objects to EQB’s use of the carbon dioxide pipeline definition because, “if an ethanol plant is participating in a [carbon capture utilization] project that incorporates a pipeline - regardless of its size, scale, scope, location, or length – it would require a mandatory EIS and route permit.” MBFA also asks EQB to delay rule amendments until a carbon dioxide pipeline study is released, which the 2024 legislature asked PUC to complete.

EQB staff's response to MBFA comment

EQB proposed the amended rule language to address carbon capture pipelines to ensure the environmental review rules list all law-based and rule-based environmental review requirements in one place. The definition, route permit requirement, and environmental review requirement for carbon dioxide pipelines are not “proposed to be codified,” as MBFA’s letter states, but are instead enacted law that EQB rules should accurately reflect. EQB does not have the authority to carve out a separate requirement for small carbon dioxide pipelines given the statutory language.

Additionally, the PUC was unable to contract with a third party to complete the carbon dioxide pipeline study mentioned by MBFA. Nonetheless, the EQB’s proposed rule language recognizes that the legislature may change carbon dioxide pipeline requirements in the future. In the supporting memorandum for the proposed rule, the EQB stated: “The EQB proposes that the definition reference the statutory definition, rather than repeating the statutory language defining “carbon dioxide pipeline” so that if the legislature makes changes to that definition, the EQB rule does not require amendment.” EQB staff therefore recommend no changes based on MBFA’s comment.

Next steps in expedited rulemaking

Following Board approval of the resolution adopting the rules (Revisor File AR4944), the EQB Executive Director will prepare the required rulemaking documents and send them to the CAH for review. The Administrative Law Judge (ALJ) has 14 days to approve or disapprove the rule. If the ALJ requires or recommends changes in order to approve the rule, the judge must state the reasons for disapproval. The Director would then make the changes needed for approval and re-submit the rule. Once no changes are required, the Executive Director will sign and file the Order Adopting Rules with the CAH. Various administrative processes will follow, ending with publication of the Notice of Adoption in the State Register. The rule amendments go into effect five days after that publication.

Staff recommendation

EQB staff recommend the Board vote to pass the resolution to adopt the rules and allow the Executive Director to complete the rulemaking process. Attached to the resolution are the materials that would be submitted to the CAH if the Board approves the resolution. Those include:

- Draft Order Adopting Rules (unsigned)
- Expedited Permanent Rules Relating to Energy Infrastructure, AR4944, October 6, 2025
- Rule summary and justification memo (including an addendum with EQB staff’s response to comments)