

Environmental Review: Conformance with Energy Infrastructure Permitting Act and related changes

Rule summary and justification memo

Purpose of rulemaking

In 2024, the Minnesota legislature made changes to the environmental review of certain energy projects.¹ The Legislature also directed the Minnesota Environmental Quality Board (“EQB”) to use the expedited rule process to conform its environmental review rules with the changes made.² This rulemaking consists of amendments necessary to conform to the 2024 changes.

Minnesota Energy Infrastructure Permitting Act

The Legislature called the changes that it made to energy project environmental review and permitting the Minnesota Energy Infrastructure Permitting Act (“Act”). The Act represented a legislative effort to resolve issues arising from the patchwork of statutes and rules governing energy project permitting, by consolidating most of these authorities into a single statute, Minnesota Statutes Chapter 216I, and repealing redundant statutes and rules. The goal was to streamline and clarify the review and permitting requirements for certain kinds of energy infrastructure projects. Many of the Act’s provisions went into effect on July 1, 2025.

The Act establishes a process for site and route permitting and associated environmental review for “large energy infrastructure facilities”³ and requires that large energy projects will now undergo environmental review as directed by Minn. Stat. ch. 216I. Under Minn. Stat. ch. 216I, the Public Utilities Commission (PUC) will generally do environmental review for large energy infrastructure facilities, although review can be done by local governmental units for certain smaller projects that still qualify as large energy infrastructure facility projects.

In passing the statute and requiring EQB to conform its rule to the new provisions using the expedited process, the Legislature did not authorize EQB to add any additional environmental review categories for energy projects covered by the Act. The Act states that the environmental review documents required by Minn. Stat. ch. 216I are the only state environmental review documents that must be prepared for a proposed energy project within the scope of Minn. Stat. ch. 216I. *See* Minn. Stat. § 216I.06, subd. 1 (“[n]o other state environmental review documents are required”); Minn. Stat. § 216I.07, subd. 3 (“[t]he environmental assessment is the only state environmental review document that must be prepared for the proposed project”).

¹ These changes were passed as two identical bills, Minn. Laws 2024, Chapter 127, Art. 43, and Minn. Laws 2024, Chapter 126, Art. 7. This document will cite to Chapter 126.

² Minn. Laws 2024, Chapter 126, Art. 9, Sec. 19.

³ The Act defines large energy infrastructure facility to include certain high-voltage transmission lines, large electric power generating plants, energy storage systems, large wind energy systems, and any associated facilities. It also covers solar energy generating systems.

To conform EQB rules with the new and revised requirements for environmental review of energy projects set out in statute, the EQB proposes to amend Minn. R. ch. 4410 to remove redundant environmental review mandatory categories and to adopt a new provision within Minn. R. ch. 4410 that will direct the public to the alternative environmental review process under the new statute, i.e., a “clearinghouse” provision. The EQB concludes this amendment will best address the legislative goal of the Act, which was to eliminate confusing and redundant review provisions. The EQB proposes to retain certain energy project environmental review provisions currently in EQB’s rules that were not affected by the Act.

Other environmental review changes

The same session law (Laws 2024, Chapter 126, article 9, section 17)⁴ included one new environmental review requirement that is not addressed in Minn. Stat. ch. 216I or in the EQB’s environmental review rules. The legislature mandated, through changes to Minn. Stat. § 216G.025, that carbon dioxide pipeline projects be the subject of an EIS before they are permitted. The EQB also proposes addressing this new requirement.

In addition, the legislature amended Minn. Stat. § 116C.83, subd. 6 to change the RGU for a required EIS for any proposal to construct or expand an independent spent-fuel storage installation at a nuclear power plant from the Department of Commerce to the PUC (Laws 2024, Chapter 126, article 9, section 2).⁵ This is consistent with the parts of the law that transferred the responsibility for administering the environmental analysis of certain energy projects from the Department of Commerce to the PUC as of July 1, 2025. The EQB is therefore also proposing to update the RGU designation in Minn. R. 4410.4400.

History of energy permitting and environmental review

Environmental review of energy projects has a long and complicated history. In 1973, the Legislature enacted the Power Plant Siting Act (then codified in Minn. Stat. ch. 116C) and gave EQB the responsibility for siting power plants and transmission lines. Until 2005, the EQB’s rules governed siting power plants, wind energy conversion systems, and high voltage transmission lines. The EQB had the responsibility for conducting hearings, completing environmental review (using an environmental assessment document that was specific to large electric generating plants and high voltage transmission lines), and issuing permits. The EQB rules addressing these procedures were codified as Minn. R. ch. 4400 and the EQB occasionally amended the rules as the energy infrastructure permitting process changed.

In 2005, the legislature transferred responsibility for the siting of energy facilities to the PUC. This included transferring the Power Plant Siting Act from Minn. Stat. ch. 116C to Minn. Stat. ch. 216E, and transferring statutes on wind energy systems from Minn. Stat. ch. 116C to Minn. Stat. ch. 216F. The Legislature also transferred EQB’s rules into chapters subject to the authority of the PUC, i.e., Minn. R. chs. 7849 and 7850 for power plant siting and Minn. R. ch. 7854 for wind energy conversion systems. The Legislature designated Department of Commerce staff as responsible for environmental review, supporting the PUC as the RGU.

After these actions, EQB adapted its general environmental review rules, Minn. R. ch. 4410, to identify those energy projects that needed environmental review, but noted that the review would take place under the processes laid out in PUC rules (Minn. R. chs. 7849, 7850, and 7854) and in various statutes (Minn. Stat. chs. 216B, 216E, and 216F). These rules and statutes continued to use alternative environmental review processes, such as the use of an environmental assessment (“EA”) in lieu of an environmental assessment worksheet (“EAW”).

As noted above, by 2023, the statutes and rules governing thresholds and responsibility for environmental review and permitting for energy facilities existed in multiple complex and overlapping spaces.

⁴ Also Laws of Minnesota 2024, Chapter 127, Article 45, Section 17.

⁵ Also Laws of Minnesota 2024, Chapter 127, Article 45, Section 2.

In 2023, the PUC convened state, industry and environmental stakeholders to discuss and offer solutions to streamline the permitting process for energy infrastructure projects. The stakeholder meetings resulted in a report, titled [Permitting Reform Stakeholder Report to Minnesota Public Utilities Commission](#), prepared by Lipschultz Communications & Energy Consulting. This report identified issues within the permitting process and proposed operational reforms. The Act incorporated many of these proposed reforms.

The Act did not address pipelines generally, although carbon dioxide pipelines were addressed in a concurrent legislative enactment. As discussed below in more detail, the EQB is proposing that the present rulemaking address environmental review of carbon dioxide pipelines, but not other pipelines.

Permitting and environmental review under Minn. Stat. ch. 216I

The new Minn. Stat. ch. 216I statutory language divides large energy infrastructure facility project permitting into three tracks: “major review,” “standard review,” and “local review.” Project applications may go through a different type of review (Environmental Impact Statement or Environmental Assessment) depending on the specific project characteristics or based on the request of a project proposer. Depending on the project there can be different requirements for environmental review and permitting for similar project types. Many of these project types are not reflected in EQB’s current rules.

1. Major review: Minn. Stat. § 216I.06

- Major review applies to applicants seeking to permit a large energy infrastructure facility. Major review requires the PUC to prepare an Environmental Impact Statement (EIS) and hold a public hearing with an administrative law judge presiding and preparing a report.
- Major review is mandatory for energy generating facilities using nonrenewable fuels with a capacity of 80 MW or greater and high-voltage transmission lines (“HVTLS”) over 300 kilovolts (kV) with 30 miles or more of length in Minnesota, or if the proposed HVTL will be sited such that more than 20% will need a new HVTL right of way.

2. Standard review: Minn. Stat. § 216I.07

- Under the standard review process, an applicant for a large energy infrastructure facility site or route permit notifies the PUC that it has elected to follow the “standard process” and submits an Environmental Assessment (EA) to the PUC as part of its site or route permit application. The PUC can ask for additional information during the permitting process. The standard process requires a public hearing. The PUC may request an administrative law judge to preside over the hearing, but an administrative law judge hearing and report is not mandatory.
- The following facilities are eligible for standard review: All solar energy, large wind energy conversion, and energy storage systems; all generating plants fueled by natural gas or with a capacity of less than 80 MW; HVTLS between 100 kV and 300 kV; and HVTLS in excess of 300 kV that (1) have less than 30 miles of length in Minnesota or (2) locate 80% of the proposed line along existing HVTL right of way.

3. Local review: Minn. Stat. § 216I.08

- In lieu of applying to the PUC for a site or route permit, an applicant may seek approval under this section from a local unit of government and use the EA process (either prepared by the local unit or the applicant) for environmental review for qualifying projects. The statute provides that the local unit may ask the PUC to take over within 60 days of receipt of the application. When the EA is complete, the public may comment on the document, and a copy is provided to the PUC.

- The following facilities are eligible for local review: large electric power generating plants and solar energy generating systems with a capacity of less than 80 megawatts (MW); large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant; high-voltage transmission lines with a capacity between 100 and 200 kV; substations with a voltage designed for and capable of operation at a nominal voltage of 100 kV or more; a high-voltage transmission line service extension to a single customer between 200 and 300 kV and less than ten miles in length; a high-voltage transmission line rerouting to serve the demand of a single customer, if at least 80 percent of the rerouted line is located on property owned or controlled by the customer or the owner of the transmission line; energy storage systems; and large wind energy conversion systems with a capacity less than 25 MW.

Rulemaking

Legislative directive

The legislature, in Laws of Minnesota 2024, Chapter 126, Article 9, Sec. 19, mandated that the EQB undertake expedited rulemaking to conform the rule with the statute and other changes made in the session law, saying: *“The Environmental Quality Board must adopt rules, using the expedited process under Minnesota Statutes, section 14.389, that amend Minnesota Rules, chapter 4410, to conform with the changes made in this act.”* Based on this directive, EQB staff began working on the rule changes proposed here.⁶

EQB’s current rules do not conform to Minn. Stat. ch. 216I

The environmental review rules in Minn. R. ch. 4410 contain “mandatory categories” that specify the form of the required environmental review document (environmental assessment worksheet (“EAW”) or environmental impact statement (“EIS”)) and the responsible governmental unit (RGU) for projects that meet or exceed specified thresholds based on project size or other characteristics.

Although EQB’s rules cover environmental review for certain types of energy projects, the rules (1) do not address all the projects now covered by Minn. Stat. ch. 216I, (2) use different descriptions and thresholds for environmental review, (3) cite to repealed rules and statutes or to rules that will likely be amended in the future to conform to the new review and permitting process established in Minn. Stat. ch. 216I and (4) don’t allow use of the processes authorized by Minn. Stat. ch. 216I such as “standard review” and “local review.”

Projects not addressed by current EQB rules

Minn. Stat. ch. 216I defines and includes “energy storage system” projects as “large energy infrastructure facility” projects subject to permitting and review. EQB’s current rules do not address “energy storage system” projects. Similarly, Minn. Stat. ch. 216I specifically addresses solar energy generation projects and provides different pathways for review of these projects. EQB’s current rules do not address solar energy generation projects, except as an “electric-generating facility” required to be the subject of an EAW.

⁶ Because the Legislature adopted the rulemaking authority as a separate article, the EQB believes the word “act” as used in this provision refers broadly to legislative changes made in Minn. Laws 2024, Chapter 126, and not just those in Article 7, including the carbon dioxide pipeline provision and spent-fuel storage provision.

Different descriptions and thresholds and references to repealed rules and statutes

One of the areas where EQB's rules are now most problematic involves the mandatory review categories for electric-generating facilities and transmission lines. The way projects are described is not consistent with the new statutory chapter, the rules refer environmental review to PUC rules and statutes that are repealed or likely to be changed, and generally the rules do not conform to the environmental review process for major, standard, and local project specifics authorized by Minn. Stat. ch. 216I. The enactment of Minn. Stat. ch. 216I also exacerbated an existing problem with the EQB's rules: classifying certain energy projects under the mandatory EAW category (Minn. R. 4410.4300) but requiring, in the individual project descriptions, the use of a non-EAW document as directed by PUC rules.

Minn. R. 4410.4300 and 4410.4400, subp. 3, Electric-generating facilities review

The mandatory EAW category for electric-generating facilities includes:

- A. For construction of an electric power generating plant and associated facilities designed for or capable of operating at a capacity of 25 megawatts or more but less than 50 megawatts and for which an air permit from the PCA is required, the PCA is the RGU.
- B. For construction of an electric power generating plant and associated facilities designed for and capable of operating at a capacity of 25 megawatts or more but less than 50 megawatts and for which an air permit from the PCA is not required, the local governmental unit is the RGU.
- C. For construction of an electric power generating plant and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, the PUC is the RGU, and environmental review must be conducted according to parts [7849.1000](#) to [7849.2100](#) and chapter 7850.
- D. For construction of a wind energy conversion system, as defined in Minnesota Statutes, section [216F.01](#), designed for and capable of operating at a capacity of 25 megawatts or more, the PUC is the RGU, and environmental review must be conducted according to chapter 7854.

EQB's rules place certain projects now defined in Minn. Stat. ch. 216I as a "large electric power generating plant" projects into the "electric-generating facilities" mandatory EAW category (items C and D above) but the rules indicate that the process for environmental review is defined by Minn. R. ch. 7849 and 7850. Minn. R. ch. 7850 has now been repealed. Moreover, Minn. Stat. ch. 216I provides different documents and pathways for review, as described in more detail above. Some large electric power generating facility projects may be reviewed with an EIS, and some with an "environmental assessment."

EQB's rule treatment of "wind energy conversion system" projects is similarly problematic. EQB's rule (Item D) now references a repealed definition in Minn. Stat. ch. 216F and requires an EAW for a system 25 MW or more but using the process in Minn. R. ch. 7854. However, under the definition in Minn. R. ch. 7854 (which is also repealed), this process applies to wind energy conversion systems greater than 5 MW or more. The Minn. R. ch. 7854 review process involves an "analysis of the potential impacts of the projects, proposed mitigative measures, and any adverse environmental effects that cannot be avoided" with regard to certain categories of potential impacts, which is not a classic EAW. See Minn. R. 7854.0500, subp. 7. Under Minn. Stat. ch. 216I, a "large" wind energy project is 5 MW or more (not 25 MW or more), but large wind energy conversion system projects are eligible to be managed as "standard" projects using an "environmental assessment" as described above.

Finally, EQB rules require an EIS for a “large electric power generating plant.” Minn. R. 4410.4400, subp. 3. The definition of “large electric power generating plant” in Minn. R. 4410.0200, subp. 41 refers to the definition in Minn. R. 7849.1100, a rule that will likely be amended. But the mandatory category rule for a “large electric power generating plant” refers to a definition in Minnesota Statutes, section 216E.01, subdivision 5. Minn. Stat. ch. 216E is repealed. The Minn. R. 7849.1100 definition specifically includes transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system, while Minn. Stat. ch. 216I includes transmission lines in projects as “associated facilities,” but limits those lines as those “designed for and capable of operating at 100 kilovolts or less.” These different definitions create the potential for confusion regarding what is part of the review. Further, the EIS mandatory category rule refers to the process for environmental review described in PUC rules which have either been repealed (Minn. R. ch. 7850) or will likely be amended (Minn. R. ch. 7849). The EQB rules do not authorize the environmental review processes now allowed under Minn. Stat. ch. 216I (major, standard and local review).

Minn. R. 4410.4300 and 4410.4400, subp. 6, transmission line review

EQB rules define “high voltage transmission line” by referencing Minn. R. 7849.1100 (200 kV or more), which is not consistent with how high voltage transmission lines are now defined under Minn. Stat. ch. 216I (100 kV or more). The mandatory EAW category references a different definition—Minn. R. 7050.1000—which is now repealed. The mandatory EIS category also references the repealed definition and directs environmental review to PUC rules that are repealed or likely to be changed because they are not consistent with Minn. Stat. ch. 216I.

In short, while some projects requiring review under the EQB’s current rules appear consistent in size with projects requiring review under Minn. Stat. ch. 216I, neither the existing EQB rules nor the rules referenced in EQB’s rules reflect the new permitting and review process in Minn. Stat. ch. 216I and therefore conforming changes are needed.

Proposed environmental review rule changes

The goal of the Act, as stated above, was to streamline and clarify review and permitting requirements for certain kinds of energy infrastructure facilities. Many of the law’s provisions—including sections repealing certain statutes and rules—went into effect on July 1, 2025. Outside of specific energy infrastructure permitting, the legislature made two additional changes to environmental review requirements to which EQB’s rules should be conformed: requiring carbon dioxide pipelines permitting to include an EIS and changing the RGU for spent-fuel storage projects.

In total, EQB’s environmental review rules require changes to address:

- References to repealed authorities: Minn. R. ch. 4410 contains references to repealed rules and statutes.
- References to permitting processes now found in Minn. Stat. ch. 216I: Minn. Stat. ch. 216I defines the types and sizes of projects which require review using an EIS or a EA. Current EQB rules require environmental review of projects that are defined differently than under Minn. Stat. ch. 216I and do not specifically address the differences in processes.
- References to RGUs: Minn. Stat. ch. 216I has made the PUC the RGU for most projects but allows local review in some cases. Current EQB rules do not address this change in RGU designation. The 2024 legislation also changed the RGU for the spent-fuel storage category in Minn. R. 4410.4400.
- Reference to carbon dioxide pipeline environmental review: In Minn. Laws 2024, ch. 126, article 9, section 17, the Legislature added the requirement for an EIS to be conducted for carbon dioxide pipelines before the PUC issues a routing permit as an amendment to Minn. Stat. ch. 216G.

Coordination and information sharing

EQB staff began the rule development process by reviewing the new statute and session law in coordination with other affected agencies, primarily Commerce and PUC but also the Minnesota Pollution Control Agency. The EQB staff also discussed the need for rulemaking at the following meetings with environmental review program and state government partners:

- EQB Technical Representatives meeting June 2, 2025.⁷
- EQB Technical Representatives meeting June 30, 2025.
 - At this meeting, the EQB staff discussed the option for amending the EQB rules under consideration.
- EQB Technical Representatives meeting Aug. 4, 2025.

Under EQB's tribal coordination and consultation policy, EQB staff regularly share information with staff of Tribal governments and entities about the EQB's project, program, and policy development work, and identify those areas of work likely to be matters that have Tribal implications. EQB staff did not identify this rulemaking as a matter that has tribal implications, because the substantive changes were made by the legislature. However, EQB did share updates on the rulemaking process with Tribal representatives.

- Minnesota Tribal Environmental Council (MNTEC) regular meeting on December 13, 2024.
- Minnesota Tribal Environmental Council (MNTEC) regular meeting on February 13, 2025.
- A meeting with MNTEC and other Tribal representatives on June 26, 2025.
 - At this meeting staff explained the possible conforming changes to Minn. R. ch. 4410.
- On July 1, 2025, the Executive Director sent a letter to all Tribes in Minnesota providing updates and offering the opportunity for consultation on several EQB projects, including this rulemaking.

Throughout the process, EQB staff made efforts to provide information to the public, including placing the following language on its website (March 5, 2025):

Energy infrastructure permitting (expedited)

In 2024, the Minnesota Legislature passed the Minnesota Energy Infrastructure Permitting Act. This legislation aims to streamline and clarify the process for environmental review, siting, routing jurisdiction, and permitting for certain energy facilities and projects. (These facility types include: energy storage or battery systems, high voltage transmission lines, large electric power generating plants, wind energy systems, and solar energy generating systems.)

These energy projects have been governed by a patchwork of statutes and rules. The new act consolidates most of these into a single statute and repeals other statutes and rules. It also directs EQB to update our rules to conform with the changes, and requires the use of expedited rulemaking procedures.

EQB staff presented information and updates about the rulemaking to multiple regular meetings of the board and its subcommittees. Each meeting included an opportunity for the public to give input.

- EQB meeting February 19, 2025.
- Environmental Review Implementation Subcommittee (ERIS) meeting June 18, 2025.
 - At this meeting, the EQB staff discussed the options under consideration for amending the rules.
- EQB meeting, August 20, 2025.
- EQB meeting, September 17, 2025.
 - At this meeting, the Board was asked to formally approve these proposed rule revisions.

The proposed amendments and the rationale for the amendments appear below.

⁷ The "technical representatives" are staff of EQB member agencies; many have expertise in environmental review.

Proposed rule amendments

Overview

The EQB proposes amendments that would create a new provision within Minn. R. ch. 4410 specifically for large energy infrastructure facility projects addressed under Minn. Stat. ch. 216I. This new provision would direct all environmental review of these projects to the procedures laid out in Minn. Stat. ch. 216I. The reference in Minn. R. ch. 4410 would function as a “clearinghouse” provision and Minn. R. ch. 4410 would not attempt to include parallel provisions for all energy projects captured in Minn. Stat. ch. 216I. In addition, the amendments would include pointing language in introductory sections of the mandatory categories portion of the rule (Minn. R. 4410.4300 and Minn. R. 4410.4400) to ensure that readers do not miss the applicable substitute review provision for these energy projects. The mandatory category references to projects covered by Minn. Stat. ch. 216I will be repealed.

The EQB concludes this is the most efficient way of effectuating the legislature’s intent in adopting the Act. It effectively gives notice to those reviewing Minn. R. ch. 4410 that environmental review is required, while pointing them to the statutes that define the requirements and environmental review options created by the Act. This provision more effectively recognizes the distinct nature of the review process that is applicable to large energy infrastructure facility projects.

This proposal is different than how EQB has updated these rules in the past. Typically, EQB has added energy projects subject to environmental review into the Minn. R. ch. 4410 mandatory categories and, if necessary, referenced the separate rule or statutory authority controlling the review process.

However, because of the way Minn. Stat. ch. 216I was written, it is not easy to conform the rule and statute in this traditional manner. Mandatory categories within Minn. R. ch. 4410 identify the type of project, with a threshold, and then assign an RGU to conduct environmental review for projects larger than the specified threshold. Minn. Stat. ch. 216I uses its definitions to set out a project size and initially assigns large energy infrastructure facilities to prepare an EIS. Minn. Stat. ch. 216I then identifies (mostly smaller or non-fossil fuel related) specific large energy infrastructure facility projects that can be reviewed under standard or local environmental review procedures, which are environmental assessments. In some cases, project proposers can choose the level of review, which can affect the RGU (i.e., PUC or local unit) completing the review or the environmental review document required. Since the types of projects that are identified in Minn. Stat. ch. 216I may have different RGUs and environmental review based on the specifics of the facility or proposer choice, it is difficult to conform those provisions with the system for project classification and RGU selection found in Minn. R. ch. 4410.

The proposed amendments will not change certain existing EQB rules addressing energy projects that are not covered under Minn. Stat. ch. 216I. Minn. Stat. ch. 216I covers mostly larger projects that are required to get site or route permits from the PUC. Two types of smaller energy projects – smaller electric generating facilities and lower voltage transmission lines – currently require environmental review under the mandatory categories in Minn. R. ch. 4410. EQB is proposing that these electric generating facility projects continue to be reviewed under EQB rules, but that the mandatory categories for large electric power generating plants, lower-voltage transmission lines, and high-voltage transmission line projects be removed.

Retained project category: smaller electric-generating facilities

The existing mandatory categories in Minn. R. 4410.4300, subp. 3 (A) and (B) require an EAW for electric generating facilities with a capacity greater than 25 MW but less than 50 MW, with one mandatory category applicable to a project requiring an air permit from the MPCA (with MPCA as the RGU) and the other for projects that do not require an air permit (with the local unit as the RGU). Minn. Stat. ch. 216I does not cover projects of this size. The proposed amendments keep these EAW requirements in place.

The EAW mandatory category for electric generating facilities was added in 1982 and has been evaluated multiple times. When the category was updated in 2003, EQB determined that it remained necessary for smaller facilities to undergo an EAW. During the last update to the mandatory categories, completed in 2019, EQB again evaluated this category and decided to keep the EAW requirement for these projects. EQB records show that there were 13 projects that fell into this mandatory category from 2011 until the 2019 rulemaking documents were drafted. In the last four years, four projects have triggered this category (all projects that did not need an air permit). Although these projects are smaller, EQB concludes that there is still a need for this category. The public tends to be interested in obtaining information about these projects and commenting on them. For example, one of the projects evaluated in 2021 had 40 comments. EQB reasons that environmental review supports public awareness of these projects, the ability to comment, and ultimately informs the permitting process for these projects. EQB staff also had a conversation with MPCA staff about whether the Minn. R. 4410.4300, subp. 3 (A) mandatory category should be removed. MPCA staff were in favor of keeping the category and EQB staff agreed with this proposal.

Repealed project category: lower voltage transmission lines

Minn. R. 4410.4300, subp. 6 requires an EAW for certain transmission lines, including lower voltage lines between 70 and 100 kV, with the EQB as the RGU. The proposed amendments remove this category from Minn. R. ch. 4410.

Minn. Stat. ch. 216I revised the definition of high voltage transmission lines and added a definition for “associated facility” that covers smaller transmission lines. This definition states (emphasis added):

*Minn. Stat. § 216I.02 subd. 2. Associated facility. “Associated facility” means a building, equipment, communication instrumentation, or other physical structure that is necessary to operate a large energy infrastructure facility. **Associated facility includes transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect the large energy infrastructure facility with the existing high-voltage transmission system.***

As a result, lower voltage transmission lines will now be reviewed along with the core electric generating facility project, making a separate project category obsolete. In addition, there is strong evidence that transmission lines between 70 kV and 100 kV are not built in Minnesota and therefore this category can be removed. No projects have triggered this category in the last four years, and likely for several years before that. From EQB staff’s research, the existing 70 kV threshold is not a relevant size threshold in Minnesota. According to Minnesota Electric Transmission Planning, ([Electric Transmission Planning in the State of Minnesota](#)), transmission lines used in Minnesota are 500 kV, 400 kV, 345 kV, 230 kV, 161 kV and 115 kV, and then 69 kV through 23 kV. Minnesota does not use any transmission lines between 70 kV and 100 kV, and none are likely to be built because they would not fit into the existing system.

Standalone transmission lines with voltage greater than 100 kV are now addressed by the requirements under Minn. Stat. ch. 216I, and the new definition of “associated facility” ensures that there will be evaluation of transmission lines of 100 kV or less (mostly 70 kV or less), when associated with a large energy infrastructure facility.⁸ Therefore, this mandatory category is unneeded.

Other environmental review changes

In addition to establishing Minn. Stat. ch. 216I, the legislature made other changes that the EQB should reflect in its rules.

In the 2024 legislation, the Legislature created the requirement for an EIS for carbon dioxide pipelines before a routing permit is granted. As this requirement is presently in law, EQB rules must be amended to conform to it.⁹

Finally, Minn. R. 4410.4400 must be amended to change the RGU to PUC for an EIS for spent-fuel storage installation to conform to legislative changes to Minn. Stat. § 116C.83, subd. 6.

Proposed rule language changes

Proposed clearinghouse provision language

New rule part

To effectuate the plan to sweep environmental review projects that are covered by Minn. Stat. ch. 216I into the RGU selection and environmental review requirements in Minn. Stat. ch. 216I rather than address them under the EQB environmental review rule, a new rule provision is necessary.

The EQB will add a new part, Minn. R. 4410.4100, into the section of EQB’s rules that addresses alternative review processes. The new part reads:

4410.4100 REVIEW OF ENERGY PROJECTS UNDER MINNESOTA STATUTES CHAPTER 216I

Any large energy infrastructure facility project or solar energy generating system project must follow the RGU selection and review requirements in Minnesota Statutes, chapter 216I and rules adopted thereunder. As described in Minnesota Statutes, chapter 216I, a large energy infrastructure facility project includes a high-voltage transmission line, a large electric power generating plant, an energy storage system, a large wind energy conversion system, and any associated facilities.

Adopting this “clearinghouse” provision requires amending Minn. R. 4410.0200 by adding a definition of “large energy infrastructure facility” that references the definition in Minn. Stat. ch. 216I, and by adding a definition of solar energy generating system also as defined in Minn. Stat. ch. 216I. The separate reference to “solar energy generating system” is necessary because, although these projects are not included in the definition of “large energy infrastructure project,” they are included as projects under Minn. Stat. ch. 216I. These proposed new definitions are described below.

⁸ This is the most common use of lower voltage transmission lines – to connect a project to a larger line. Those projects are usually 69kV or less, and so already fall outside of the environmental review requirements.

⁹ Although the Legislature made changes to Minn. Stat. ch. 216B governing pipelines that could be interpreted to include certain pipelines under Minn. Stat. ch. 216I (see Minn. Stat. §§ 216B.243, subd. 4 and 216B.2421, subd. 2(5)), the EQB will not change the current EQB rules governing environmental review of pipelines, primarily because Minn. Stat. ch. 216I itself does not address pipelines and they were not addressed during the 2023 stakeholder process that resulted in the Act.

To further ensure that the public is aware that projects covered under Minn. Stat. ch. 216I will be addressed under that chapter, the “mandatory category” parts of EQB rule will be amended to contain introductory language referencing the EQB’s decision to redirect review. The proposed amendment to Minn. R. 4410.4300, subp. 1 adds an item that reads:

C. For projects under part 4410.4100, environmental review is governed by Minnesota Statutes, chapter 216I.

Similar language will be inserted in Minn. R. 4410.4400, subp. 1. The new item reads:

B. For projects under part 4410.4100, environmental review is governed by Minnesota Statutes, chapter 216I.

Changes proposed to definitions and mandatory categories

Energy storage system definition

The EQB will add a definition of “energy storage system” so that the public knows which projects are subject to the clearinghouse provision. The definition reads:

Subp. 22b. Energy storage system. “Energy storage system” has the meaning in Minnesota statutes, section 216I.02, subd. 6.

The reference to Minn. Stat. ch. 216I will be a hyperlink to Minn. Stat. ch. 216I in the online published rule, making it easy for users to find the definitions without creating a need to update EQB’s rule if changes are made in the future. EQB staff has worked with the Revisor to determine the best way to highlight which types of projects are covered under Minn. Stat. ch. 216I environmental review without creating ambiguity within the rules or requiring the rules to be updated for small rule changes that do not impact Minn. R. ch. 4410 except to list additional project types within Minn. Stat. ch. 216I.

Large energy infrastructure facility definition

The EQB will add a definition of “large energy infrastructure facility” so that the public knows which projects are subject to the clearinghouse provision. The definition reads:

Subp. 41a. Large energy infrastructure facility. “Large energy infrastructure facility” has the meaning in Minnesota statutes, section 216I.02, subd. 10.

The reference to Minn. Stat. ch. 216I will be a hyperlink to Minn. Stat. ch. 216I in the online published rule, but including the projects within the new provision will make it easy for the reader to understand the types of projects included. EQB staff has worked with the Revisor to determine the best way to highlight which types of projects are covered under Minn. Stat. ch. 216I environmental review without creating ambiguity within the rules or requiring the rules to be updated for small rule changes that do not impact Minn. R. ch. 4410.

Large wind energy conversion system definition

The EQB will add a definition of “Large wind energy conversion system” so that the public knows which projects are subject to the clearinghouse provision. The definition reads:

Subp. 41b. Large wind energy conversion system. “Large wind energy conversion system” has the meaning in Minnesota statutes, section 216I.02, subd. 11.

The reference to Minn. Stat. ch. 216I will be a hyperlink to Minn. Stat. ch. 216I in the online published rule making it easy for users to find the definitions without creating a need to update EQB’s rule if changes are made in the future. EQB staff has worked with the Revisor to determine the best way to highlight which types of projects are covered under Minn. Stat. ch. 216I environmental review without creating ambiguity within the rules or requiring the rules to be updated for small rule changes that do not impact Minn. R. ch. 4410 except to list additional project types within Minn. Stat. ch. 216I.

Solar energy generating system definition

The EQB will add a definition of “Solar energy generating system” so that the public knows which projects are subject to the clearinghouse provision. The definition reads:

Subp. 83a. Solar energy generating system. “Solar energy generating system” has the meaning in Minnesota statutes, section 216I.02, subd. 18.

The reference to Minn. Stat. ch. 216I will be a hyperlink to Minn. Stat. ch. 216I in the online published rule making it easy for users to find the definitions without creating a need to update EQB’s rule if changes are made in the future. EQB staff has worked with the Revisor to determine the best way to highlight which types of projects are covered under Minn. Stat. ch. 216I environmental review without creating ambiguity within the rules or requiring the rules to be updated for small rule changes that do not impact Minn. R. ch. 4410 except to list additional project types within Minn. Stat. ch. 216I.

Carbon dioxide pipeline definition

The EQB rules will add a definition and mandatory category for carbon dioxide pipelines, which is a classification of project added by the legislature. The definition reads:

Subp. 6b. Carbon dioxide pipeline. “Carbon dioxide pipeline” has the meaning given in Minnesota Statutes section 216G.025 subd.1.

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. The statutory definition will be a hyperlink in the rule, so this proposal should not be burdensome to the public.

Carbon dioxide pipeline project mandatory EIS category amendment:

The EQB will add “carbon dioxide pipeline” to the mandatory EIS projects listed in Minn. R. 4410.4400, because the legislature has required an EIS for carbon dioxide pipelines that meet the definition. The EQB will add a new subpart in Minn. R. 4410.4400, that reads:

Subp. 24a. Carbon dioxide pipelines. For permitting the route of a carbon dioxide pipeline, the PUC is the RGU.

The statute creating this category specifies that an EIS is required prior to the issuance of a route permit under Minn. Stat. ch. 216G, and that the PUC is the RGU. Although arguably it would not be necessary to include this as a mandatory category in rule given the legislation, the EQB typically attempts to ensure that all projects requiring environmental review are included in the Minn. Stat. ch. 4410 rules, unless that would cause undue complexity, as is the case with the large energy infrastructure projects. EQB has concluded that this environmental review requirement should be included in Minn. R. 4410 so that it remains complete.

Electric power generating facilities definition

Minn. Stat. ch. 216I addresses only “large” electric power generating plants. Current EQB rules contain a redundant mandatory EIS category and a redundant EAW category that can be eliminated if the clearinghouse proposal is adopted.

The existing EQB rules require review of certain smaller electric power generating facilities (called “plants”) that are not included in Minn. Stat. ch. 216I’s “large” classification. However, while EQB’s current rules define “large electric power generating plant”, the rules do not contain a general definition for an electric power generating plant or facility.

Because the EQB is proposing that these projects continue to be included in Minn. R. ch. 4410, it is necessary to define “electric power generating facility.” Because the power-generation levels necessary for review are specified in the mandatory category, it is appropriate that the definition define the activity, not the power generation levels involved. To ensure that associated transmission lines are subject to review, these are described (as they are in Minn. Stat. ch. 216I and Minn. R. 7849.1100) in the definition to ensure review is included. The proposed definition also signals to the public that large power generation facilities are covered elsewhere, i.e., Minn. Stat. ch. 216I.

EQB will add a new definition for “electric power generating facility” that reads:

Subp. 20a. Electric power generating facility. “Electric power generating facility” means any electric power generating equipment, plant or combination of plants at a single site designed to generate electricity, and any associated transmission lines. Electric power generating facility does not include a large electric generating plant.

The EQB finds this definition to be a needed and useful clarification. It does not change the way the existing and remaining mandatory categories are applied.

Electric power generating facility project mandatory EAW category amendments:

Under EQB’s current rules, there are four EAW mandatory categories for “Electric-generating facilities” projects – Minn. R. 4410.4300, subp. 3. EQB is proposing to remove two of these project types from the EAW mandatory category of Minn. R. 4410.4300 because the projects described in these categories would now undergo environmental review using Minn. Stat. ch 216I.

~~C. For construction of an electric power generating plant and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, the PUC is the RGU, and environmental review must be conducted according to parts 7849.1000 to 7849.2100 and chapter 7850.~~

~~D. For construction of a wind energy conversion system, as defined in Minnesota Statutes, section 216F.01, designed for and capable of operating at a capacity of 25 megawatts or more, the PUC is the RGU, and environmental review must be conducted according to chapter 7854.~~

Minn. Stat. § 216I.02 Subd. 9 defines a “large electric power generating plant” as “electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.” Large electric power generating plants are subject to environmental review in Minn. Stat. ch. 216I and therefore would not use Minn. R. ch. 4410. A wind energy conversion system capable of operating at a capacity of 25 MW or more would also be required to follow Minn. Stat. ch. 216I for environmental review. Both of the mandatory category project areas as written in Minn. R. 4410 also have references to repealed rules or statutes. Minn. R. 4410.4300, subp.3(C) references chapter 7850 which was repealed. Minn. R. 4410.4300, subp.3(D) references a repealed statute, Minnesota Statutes, section 216F.01 and a repealed rule, chapter 7854. For these reasons EQB proposes to remove both Minn. R. 4410.4300, subp. 3(C) and (D) from the electric-generating facilities EAW mandatory category.

Large electric power generating plant definition

The EQB will revise the definition of “Large electric power generating plant” so that the public knows which projects are subject to the clearinghouse provision. The revised definition reads:

Subp. 41. Large electric power generating plant; LEPGP.¹⁰ “Large electric power generating plant” or “LEPGP” has the meaning given in ~~part 7849.1100~~ Minnesota Statutes, section 216I.02, subd. 9.

The reference to Minn. Stat. ch. 216I will be a hyperlink to Minn. Stat. ch. 216I in the online published rule making it easy for users to find the definitions without creating a need to update EQB’s rule if changes are made in the future. EQB staff has worked with the Revisor to determine the best way to highlight which types of projects are covered under Minn. Stat. ch. 216I environmental review without creating ambiguity within the rules or requiring the rules to be updated for small rule changes that do not impact Minn. R. ch. 4410 except to list additional project types within Minn. Stat. ch. 216I. This was an existing definition within Minn. R. ch. 4410 and EQB proposes it be updated to reflect Minn. Stat. ch. 216I.

Large electric power generating facility project mandatory EIS amendments:

Under EQB’s current rules, there is a mandatory EIS category for “Electric-generating facilities” – Minn. R. 4410.4400, subp. 3. EQB is proposing to remove this EIS mandatory category because the project described in this category would now undergo environmental review using Minn. Stat. ch 216I.

~~Subp. 3. Electric-generating facilities. For construction of a large electric power generating plant, as defined in Minnesota Statutes, section 216E.01, subdivision 5, the PUC is the RGU. Environmental review must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.~~

Minn. Stat. § 216I.02 Subd. 9 defines a “large electric power generating plant” as “electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.” Large electric power generating plants are subject to environmental review in Minn. Stat. ch. 216I. Minn. R. 4410.4400, subp. 3 also references Minn. Stat. 216E.01, Subd 5 and Minn. R. 7850.1000 to 7850.5600 both of which are repealed. Minn. Stat. ch. 216I is the new authority that governs the environmental review process for large electric power generating plants. For these additional reasons, the EQB proposes to remove 4410.4400, subp. 3 from the EIS mandatory category.

High-voltage transmission lines definition

The EQB will amend the definition of high-voltage transmission line to reference the definition in Minn. Stat. ch. 216I. The definition reads

Subp. 38. High-voltage transmission line or HVTL.¹¹ “High-voltage transmission line” or “HVTL” has the meaning given in ~~part 7849.1100~~ Minnesota Statutes section 216I.02, subd 8.

A definition of HVTLs needs to be maintained because the term is used in Minn. R. 4410 in reference to early notice publication requirements.

Referencing the statute instead of the rule will ensure consistency as it is less likely to be changed and reflects legislative preference to require review of projects greater than 100 kV that are greater than 1,500 feet in length.

¹⁰ The current EQB rules contain an unnecessary separate definition of this acronym in subp. 42. The EQB proposes deleting this separate definition.

¹¹ The current EQB rules contain an unnecessary separate definition of this acronym in subp. 40. The EQB proposes deleting this separate definition.

High-voltage transmission line mandatory project category amendment

Under EQB’s current rules, there is a mandatory EAW category for “transmission line” projects—Minn. R. 4410.4300, subp. 6. It addresses both “transmission lines” and “high-voltage transmission lines and associated facilities, as defined in part 7850.1000.” Transmission lines include a line at “new location,” with “20 or more miles of length in Minnesota,” and carrying “between 70 kilovolts and 100 kilovolts.” The EQB proposes to delete this category in its entirety. The “clearinghouse” provision will address *high-voltage transmission line projects* subject to Minn. Stat. ch. 216I, which will override any inconsistent or repealed rules. For “transmission lines,” the EQB expects that these projects will now be addressed with larger energy projects under Minn. Stat. ch. 216I as “associated facilities.” As defined in Minn. Stat. § 216I.02, subd. 2, an “associated facility” includes “transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect the large energy infrastructure facility with the existing high-voltage transmission system.”

Based on EQB’s experience and according to PUC staff experts, “stand alone” transmission lines of between 70 and 100 kV or less are not constructed except in conjunction with larger projects.¹²

There is also an EIS mandatory category—Minn. R. 4410.4400, subp. 6—for transmission lines. This mandatory category also addresses “high-voltage transmission lines and associated facilities, as defined in part 7850.1000.” which is a repealed reference, and these projects will be covered in Minn. Stat. ch. 216I. For this reason, EQB proposes deleting the mandatory category for transmission lines from Minn. R. 4410.4400, subp. 6.

Spent-fuel storage

In the 2024 legislation, the legislature determined that the RGU for spent-fuel storage projects should be the PUC, not the Department of Commerce. As a result, Minn. R. 4410.4400, subp. 2, item C requires amendment to the designated RGU. The new language reads:

C. For construction or expansion of an independent spent-fuel storage installation, the ~~Department of Commerce~~ PUC is the RGU.

Changes to other provisions.

Early notice rules

The EQB rules address when project proposers must publish an EQB Monitor notice for certain significant projects that are entering the environmental review process. See Minn. R. 4410.5200. Because the early notice rule contains references to statutory chapters (i.e., Minn. Stat. ch. 216E) repealed and replaced by Minn. Stat. ch. 216I, the amendment is necessary to amend Minn. R. 4410.5200, Subp. 3, Item F, which addresses a large electric power generating plant or a route permit for a high-voltage transmission line, to reference Minn. Stat. ch. 216I. The new language reads:

F. notice of application for a site permit for a large electric power generating plant or a route permit for a high voltage transmission line pursuant to Minnesota Statutes, chapter ~~216E-216I~~;

¹² In 2019, EQB proposed to delete this mandatory EAW category on the ground that these projects are not constructed, but this proposal met public resistance and was not moved forward. With the adoption of Minn. Stat. ch. 216I, it is clearer that these lines will be subject to mandatory review along with the larger energy project that they are associated with. As a result, the EQB believes that the current provision is redundant and will not be used as a basis for environmental review of transmission lines in the future.