

**CHAPTER 7850**  
**PUBLIC UTILITIES COMMISSION**  
**CERTIFICATES OF NEED**

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**SPECIAL RULES FOR CERTAIN LARGE ENERGY FACILITIES AND HIGH VOLTAGE TRANSMISSION LINES**

**7850.0100 SPECIAL RULES FOR LEPGP.**

Environmental review for LEPGP as defined in Minnesota Statutes, section 116C.52, subdivision 4 shall be conducted according to the procedures set forth in parts 7850.0100 to 7850.0400, unless a utility has filed an application for emergency certification pursuant to Minnesota Statutes, section 116C.57, subdivision 3. Environmental review shall consist of an environmental report at the certificate of need stage and an EIS at the site certificate stage. Energy facilities subject to Minnesota Statutes, section 216B.243, but excluded under Minnesota Statutes, section 116C.52, subdivision 4, shall not be subject to this part. Except as expressly provided in parts 7850.0100 to 7850.0400, parts 4410.0500 to 4410.3800 shall not apply to LEPGP's subject to parts 7850.0100 to 7850.0400. No EAW shall be prepared for any LEPGP's subject to parts 7850.0100 to 7850.0400. If a utility has filed an application for emergency certification pursuant to Minnesota Statutes, section 116C.57, subdivision 3, the procedures and standards specified in part 4400.3800 shall constitute alternative environmental review and neither parts 4410.0500 to 4410.3800 nor 7850.0100 to 7850.0400 shall apply.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

**7850.0200 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.**

**Subpart 1. Preparer.** The Public Utilities Commission shall be responsible for preparation of an environmental report on a LEPGP subject to parts 7850.0100 to 7850.0400.

**Subp. 2. Inclusion in record.** The environmental report shall be prepared for inclusion in the record of certificate of need hearings conducted under Minnesota Statutes, section 216B.243. The report and comments thereon shall be included in the record of the hearings.

**Subp. 3. Contents.** The environmental report on the certificate of need application shall include:

- A. a brief description of the proposed facility;
- B. an identification of reasonable alternative facilities including, as appropriate, the alternatives of different sized facilities, facilities using different fuels, different facility types, and combinations of alternatives;
- C. a general evaluation, including the availability, estimated reliability, and economic, employment, and environmental impacts, of the proposal and reasonable alternative facilities identified in item B; and
- D. a general analysis of the alternatives of no facility, different levels of

capacity, and delayed construction of the facility, which analysis shall include consideration of conservation and load management measures that could be used to reduce the need for the proposed facility.

**Subp. 4. Level of detail.** The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those site-differentiating factors identifiable pursuant to the information requirements of part 4220.2500, item A, subitem (5).

**Subp. 5. Circulation.** Upon completion of the draft environmental report, the report shall be circulated as provided in part 4410.2600, subpart 3. In addition, one copy shall go to each regional development commission in the state. At least one copy shall be available for public review during the hearings conducted under Minnesota Statutes, section 216B.243.

**Subp. 6. Notice of availability.** The Public Utilities Commission shall provide notice of the date and locations at which the draft environmental report shall be available for public review. Notice shall be provided in the manner used to provide notice of public hearings conducted under Minnesota Statutes, section 216B.243 and may be provided in the notice of the hearings.

**Subp. 7. Comments.** Comments on the draft environmental report shall be received during and entered into the record of hearing conducted under Minnesota Statutes, section 216B.243. The Public Utilities Commission shall respond to the timely substantive comments on the draft environmental report.

**Subp. 8. Final report.** The draft environmental report, any comments received during the hearings, and responses to the timely substantive comments shall constitute the final environmental report.

**Subp. 9. Time limits.** Preparation and review of the report, including submission and distribution of comments, shall be completed in sufficient time to enable the commissioner of the Public Utilities Commission to take final action pursuant to Minnesota Statutes, section 216B.243 within the time limits set by that statute.

**Subp. 10. Notice in EQB Monitor.** Upon completion of a final environmental report, notice thereof shall be published in the EQB Monitor. Copies of the final environmental report shall be distributed as provided in subpart 5.

**Subp. 11. Determination of need.** The Public Utilities Commission shall not make a final determination of need for the project until the final environmental report has been completed.

**Subp. 12. Supplement to report.** A supplement to an environmental report shall be required if the tests described in part 4410.3000 are met and a Minnesota Statutes, section 216B.243 determination is pending before the Public Utilities Commission.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

### 7850.0300 EIS FOR LEPGP AT CERTIFICATE OF SITE COMPATIBILITY STAGE.

**Subpart 1. Preparer.** The EQB shall be responsible for preparation of the EIS on an LEPGP subject to parts 7850.0100 to 7850.0400.

**Subp. 2. Record of hearings.** The draft of the EIS shall be prepared for inclusion in the record of the hearings to designate a site for an LEPGP under Minnesota Statutes, section 116C.58. The draft EIS and final EIS shall be included in the record of the hearing.

**Subp. 3. Contents.** The draft EIS shall conform to part 4410.2300. It shall contain a brief summary of the environmental report and the certificate of need decision relating to the project, if available. Alternatives shall include those sites designated for public hearings pursuant to Minnesota Statutes, section 116C.57,

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subdivision 1 and rules promulgated thereunder. Significant issues to be considered in the EIS shall be identified by the EQB in light of the citizen evaluation process established in Minnesota Statutes, section 116C.59 rather than through a formal scoping process.

The EIS shall not consider need for the facility and other issues determined by the State Planning Agency. Unless a specific site has already been designated, the EIS shall not contain detailed data which are pertinent to the specific conditions of subsequent construction and operating permits and which may be reasonably obtained only after a specific site is designated.

**Subp. 4. Distribution.** Upon completion, the draft EIS shall be distributed as provided in part 4410.2600, subpart 3. In addition, one copy shall go to each regional development commission representing a county in which a site under consideration is located. At least one copy shall be available for public review during the hearings conducted under Minnesota Statutes, section 116C.58.

**Subp. 5. Notice of availability.** The EQB shall provide notice of the date and location at which the draft EIS shall be available for public review. The notice shall be provided in the manner used to provide notice of the public hearings conducted under Minnesota Statutes, section 116C.58 and may be provided in the notice of the hearings.

**Subp. 6. Meeting.** The EQB or a designee shall conduct a meeting to receive comments on the draft EIS. The meeting may but need not be conducted in conjunction with hearings conducted under Minnesota Statutes, section 116C.58. Notice of the meeting shall be given at least ten days before the meeting in the manner provided in part 7850.0200, subpart 6 and may be given with the notice of hearing.

**Subp. 7. Final date for comments.** The EQB shall establish a final date for submission of written comments after the meeting. After that date comments need not be accepted.

**Subp. 8. Final EIS.** Within 60 days after the last day for comments, the EQB shall prepare responses to the comments and shall make necessary revisions in the draft. The draft EIS as revised shall constitute the final EIS. The final EIS shall conform to part 4410.2700.

**Subp. 9. Notice in EQB Monitor.** Upon completion of a final EIS, notice thereof shall be published in the EQB Monitor. Copies of the final EIS shall be distributed as provided in subpart 4.

**Subp. 10. Determination.** Prior to submission of the final EIS into the record of a hearing under Minnesota Statutes, section 116C.58, the EQB shall determine the EIS to be adequate pursuant to part 4410.2800.

**Subp. 11. Supplement.** If required pursuant to part 4410.3000, a supplement to an EIS shall be prepared.

**Subp. 12. Final decisions.** The EQB shall make no final decision designating a site until the final EIS has been found adequate. No governmental unit having authority to grant approvals subsequent to a site designation shall issue any final decision for the construction or operation of a facility subject to parts 7850.0100 to 7850.0400 until the final EIS has been found adequate.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

### 7850.0400 COOPERATIVE PROCESSES.

Parts 4410.1700, subparts 7 and 8, 4410.3800, and 4410.3900 shall apply to energy facilities subject to parts 7850.0100 to 7850.0400. Variance applications may be submitted without preparation of an EAW.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

**7850.0500 SPECIAL RULES FOR HVTL.**

Environmental review for HVTLs as defined in Minnesota Statutes, section 116C.52, subdivision 3, shall be conducted according to the procedures set forth in parts 7850.0500 to 7850.0900 unless a utility has filed an application for emergency certification pursuant to Minnesota Statutes, section 116C.57, subdivision 3, or for an exemption pursuant to Minnesota Statutes, section 116C.57, subdivision 5. Environmental review shall consist of an environmental report at the certificate of need stage and an EIS at the route designation and construction permit stage. Except as expressly provided in parts 7850.0500 to 7850.0900, parts 4410.0500 to 4410.3800 shall not apply to HVTLs subject to parts 7850.0500 to 7850.0900. No EAW shall be prepared for any HVTLs subject to parts 7850.0500 to 7850.0900. If a utility has filed an application for emergency certification pursuant to Minnesota Statutes, section 116C.57, subdivision 3, or for an exemption pursuant to Minnesota Statutes, section 116C.57, subdivision 5, the procedures and standards specified in parts 4400.3800 and 4400.3900, respectively, shall constitute alternative environmental review and neither parts 4410.0500 to 4410.3800 nor parts 7850.0500 to 7850.0900 shall apply.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

**7850.0600 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.**

**Subpart 1. Preparer.** The Public Utilities Commission shall be responsible for preparation of an environmental report on an HVTL subject to parts 7850.0500 to 7850.0900.

**Subp. 2. Record of hearings.** The environmental report shall be prepared for inclusion in the record of the certificate of need hearings conducted under Minnesota Statutes, section 216B.243. The report and comments thereon shall be included in the record of the hearings.

**Subp. 3. Contents.** The environmental report on the certificate of need application shall include:

A. a brief description of the proposed facility;

B. an identification of reasonable alternatives of a different sized facility, a transmission line with different endpoints, upgrading existing transmission lines, and additional generating facilities;

C. a general evaluation, including the availability, estimated reliability, and economic, employment, and environmental impacts, of the proposal and alternatives;

D. a general analysis of the alternatives of no facility and delayed construction of the facility, which analysis shall include consideration of conservation and load management measures that could be used to reduce the need for the proposed facility.

The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those route differentiating factors identifiable pursuant to the information requirements of part 4220.2600; and the report shall be reviewed in the manner provided in part 7850.0200, subparts 5 to 12.

**Subp. 4. Alternative review.** The PUC may request EQB approval of an alternative form of environmental review on a HVTL subject to parts 7850.0500 to 7850.0900. The EQB shall approve the governmental process as an alternative form of environmental review if the PUC demonstrates the process meets the following conditions:

A. the process must satisfy the content requirements of part 7850.0600, subpart 3, but in a more timely or more efficient manner;

B. the process must provide that the information required to satisfy the content requirements of part 7850.0600, subpart 3, is prepared for and included

in the record of the Certificate of Need hearing conducted on the HVTL under Minnesota Statutes, section 216B.243; and

C. the process must provide that the information required to satisfy the content requirements of part 7850.0600, subpart 3, is reviewed in the manner provided in part 7850.0200, subparts 5 to 12.

**Subp. 5. Exemption.** If the EQB accepts the PUC's process as an adequate alternative environmental review procedure, the PUC is exempt from the requirements under part 7850.0600, subparts 1 to 3, for preparing an environmental report on an HVTL. On approval of the alternative review procedure, the EQB shall provide for periodic review of the procedure to ensure continuing compliance with the requirements and intent of the environmental report requirement. The EQB shall withdraw its approval if review indicates that the procedure no longer fulfills the intent and requirements of the Minnesota Environmental Policy Act and parts 7850.0500 to 7850.0900. A project in the process of undergoing review under an approved alternative review process shall not be affected by the EQB's withdrawal of approval.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46; 11 SR 714*

#### **7850.0700 EIS AT ROUTE DESIGNATION AND CONSTRUCTION PERMIT STAGE.**

**Subpart 1. Preparer.** The EQB shall be responsible for preparation of an EIS on an HVTL subject to parts 7850.0500 to 7850.0900.

**Subp. 2. Record of hearing.** The draft of the EIS shall be prepared for inclusion in the record of the hearings to designate a route for an HVTL under Minnesota Statutes, section 116C.58. The draft EIS and final EIS shall be included in the record of the hearing.

**Subp. 3. Contents.** The draft shall conform to part 4410.2400. It shall contain a brief summary of the environmental report and the certificate of need decision relating to the project, if applicable. Alternatives shall include those routes designated for public hearing pursuant to Minnesota Statutes, section 116C.57, subdivision 2 and rules promulgated thereunder. Significant issues to be considered in the EIS shall be identified by the EQB in light of the citizen evaluation process established pursuant to Minnesota Statutes, section 116C.59 rather than through a formal scoping process. Need for the facility and other issues determined by the State Planning Agency shall not be considered in the EIS.

**Subp. 4. Review.** The draft EIS shall be reviewed in the manner provided in part 7850.0300, subparts 4 to 11.

**Subp. 5. Final decision.** The EQB shall make no final decision designating a route until the final EIS has been found adequate. No governmental unit having authority to grant approvals subsequent to a route designation shall issue any final decision for the construction or operation of a facility subject to this part until the final EIS has been found adequate.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

#### **7850.0800 REVIEW OF HVTL REQUIRING NO CERTIFICATE OF NEED.**

An EIS for HVTL's subject to Minnesota Statutes, sections 116C.51 to 116C.69 but not subject to Minnesota Statutes, section 216B.243 shall consist of an EIS to be prepared as provided in part 7850.0700.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*

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### **7850.0900 COOPERATIVE PROCESSES.**

Parts 4410.1700, subparts 7 and 8; 4410.3100, subparts 5 to 9; 4410.3800; and 4410.3900 shall apply to facilities subject to parts 7850.0500 to 7850.0900. Variance applications may be submitted without preparation of an EAW.

**Statutory Authority:** *MS s 116D.04 subd 5a*

**History:** *L 1983 c 289 s 46*