

## CHAPTER 216I

### ENERGY INFRASTRUCTURE PERMITTING

**NOTE:** This chapter, as added by Laws 2024, chapter 126, articles 7 and 9, and Laws 2024, chapter 127, articles 43 and 45, is effective July 1, 2025. Laws 2024, chapter 126, article 7, section 16; and Laws 2024, chapter 127, article 43, section 16.

Before July 1, 2025, see also 2022 Minnesota Statutes and 2023 Minnesota Statutes Supplement, chapters 216E and 216F, as applicable.

216I.01	CITATION.	216I.17	PUBLIC MEETINGS; TRANSCRIPTS; WRITTEN RECORDS.
216I.02	DEFINITIONS.	216I.18	APPLICATION TO LOCAL REGULATION AND OTHER STATE PERMITS.
216I.03	SITING AUTHORITY.	216I.19	WIND TURBINE LIGHTING SYSTEMS.
216I.04	APPLICABILITY DETERMINATION.	216I.20	IMPROVEMENT OF SITES AND ROUTES.
216I.05	DESIGNATING SITES AND ROUTES.	216I.21	EMINENT DOMAIN POWERS; POWER OF CONDEMNATION.
216I.06	APPLICATIONS; MAJOR REVIEW.	216I.22	SITES AND ROUTES; RECORDING SURVEY POINTS.
216I.07	APPLICATIONS; STANDARD REVIEW.	216I.23	FAILURE TO ACT.
216I.08	APPLICATIONS; LOCAL REVIEW.	216I.24	REVOCATION OR SUSPENSION.
216I.09	PERMIT AMENDMENTS.	216I.25	JUDICIAL REVIEW.
216I.10	EXEMPT PROJECTS.	216I.26	RULES.
216I.11	PERMITTING REQUIREMENTS; EXCEPTIONS FOR CERTAIN FACILITIES.	216I.27	ENFORCEMENT, PENALTIES.
216I.12	EMERGENCY PERMITS.	216I.28	ROUTE APPLICATION FEE; APPROPRIATION; FUNDING.
216I.13	PERMIT TRANSFER.		
216I.14	PERMIT REVOCATION OR SUSPENSION.		
216I.15	ANNUAL HEARING.		
216I.16	PUBLIC PARTICIPATION.		

#### 216I.01 CITATION.

This chapter may be cited as the "Minnesota Energy Infrastructure Permitting Act."

**History:** 2024 c 126 art 7 s 1; 2024 c 127 art 43 s 1

#### 216I.02 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of this chapter, the terms defined in this section have the meanings given, unless context clearly indicates or provides otherwise.

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.

Subd. 3. **Commission.** "Commission" means the Public Utilities Commission. Commission also means the executive secretary of the Public Utilities Commission for purposes of the following:

- (1) applicability determinations under section 216I.04;
- (2) completeness determinations under section 216I.05;
- (3) public meetings under section 216I.05, subdivision 9;

- (4) draft environmental impact statements under section 216I.06, subdivision 1, paragraph (c); and
- (5) public hearings under section 216I.06, subdivision 2, or 216I.07, subdivision 4.

Subd. 4. **Construction.** "Construction" means any clearing of land, excavation, or other action that adversely affects the site's or route's natural environment. Construction does not include changes needed to temporarily use sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 5. **Cultivated agricultural land.** "Cultivated agricultural land" has the meaning given in section 216G.01, subdivision 4.

Subd. 6. **Energy storage system.** "Energy storage system" means equipment and associated facilities designed with a nameplate capacity of 10,000 kilowatts or more that is capable of storing generated electricity for a period of time and delivering the electricity for use after storage.

Subd. 7. **Executive secretary.** "Executive secretary" means the executive secretary of the Public Utilities Commission under section 216A.04 or Public Utilities Commission staff designated by the executive secretary.

Subd. 8. **High-voltage transmission line.** "High-voltage transmission line" means a conductor of electric energy and associated facilities that is (1) designed for and capable of operation at a nominal voltage of 100 kilovolts or more, and (2) is greater than 1,500 feet in length.

Subd. 9. **Large electric power generating plant.** "Large electric power generating plant" means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subd. 10. **Large energy infrastructure facility.** "Large energy infrastructure facility" means a high-voltage transmission line, a large electric power generating plant, an energy storage system, a large wind energy conversion system, and any associated facility.

Subd. 11. **Large wind energy conversion system.** "Large wind energy conversion system" means any combination of wind energy conversion systems with a combined nameplate capacity of 5,000 kilowatts or more, and may include transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect a large wind energy conversion system with a high-voltage transmission line.

Subd. 12. **Permittee.** "Permittee" means a person to whom a site or route permit is issued.

Subd. 13. **Person.** "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subd. 14. **Power purchase agreement.** "Power purchase agreement" means a legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Subd. 15. **Route.** "Route" means the location of a high-voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles.

Subd. 16. **Site.** "Site" means the location of a large electric power generating plant, solar energy generating system, energy storage system, or large wind energy conversion system.

Subd. 17. **Small wind energy conversion system.** "Small wind energy conversion system" means any combination of wind energy conversion systems with a combined nameplate capacity of less than 5,000 kilowatts.

Subd. 18. **Solar energy generating system.** "Solar energy generating system" means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting solar-generated energy with a combined nameplate capacity of 50,000 kilowatts alternating current or more.

Subd. 19. **Utility.** "Utility" means any entity engaged or intending to engage in generating, transmitting, or distributing electric energy in Minnesota. Utility includes but is not limited to a private investor-owned utility, cooperatively owned utility, and public or municipally owned utility.

Subd. 20. **Wind energy conversion system.** "Wind energy conversion system" means a device, including but not limited to a wind charger, windmill, or wind turbine and associated facilities, that converts wind energy to electrical energy.

**History:** 2024 c 126 art 7 s 2; 2024 c 127 art 43 s 2

### 216I.03 SITING AUTHORITY.

Subdivision 1. **Policy.** The legislature hereby declares it is the policy of the state to locate large electric power facilities in an orderly manner that is compatible with environmental preservation and the efficient use of resources. In accordance with the policy, the commission must choose locations that minimize adverse human and environmental impact while ensuring (1) continuing electric power system reliability and integrity, and (2) that electric energy needs are met and fulfilled in an orderly and timely fashion.

Subd. 2. **Jurisdiction.** (a) The commission has the authority to provide for site and route selection for large energy infrastructure facilities. The commission must issue permits for large energy infrastructure facilities in a timely fashion and in a manner consistent with the overall determination of need for the project under section 216B.2425 or 216B.243, if applicable.

(b) The scope of an environmental review conducted under this chapter must not include: (1) questions of need, including size, type, and timing; (2) alternative system configurations; or (3) voltage.

Subd. 3. **Interstate routes.** If a route is proposed in two or more states, the commission must attempt to reach an agreement with affected states on the entry and exit points before designating a route. The commission, in discharge of the commission's duties under this chapter, may make joint investigations, hold joint hearings within or outside of the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The commission may, pursuant to any consent of Congress, negotiate and enter into any agreements or compacts with agencies of other states for cooperative efforts to certify the construction, operation, and maintenance of large electric power facilities in a manner consistent with this chapter's requirements and to enforce the respective state laws regarding large electric power facilities.

Subd. 4. **Biennial report.** By December 15, 2025, and every odd-numbered year thereafter, the commission must submit a written report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over energy and utilities. The report must:

(1) provide an update on the progress made to permit, approve, and construct the electric utility infrastructure necessary to meet the requirements of section 216B.1691 within the milestones provided under section 216B.1691;

(2) describe efforts made by the commission to engage stakeholders in environmental justice areas, as defined in section 216B.1691, subdivision 1, paragraph (c), in permitting, approving, and constructing electric utility infrastructure under this section, section 216B.1691, or section 216B.243; and

(3) provide information regarding any cumulative impact analysis ordered by the commissioner of the Pollution Control Agency under section 116.065 pertaining to any electric utility infrastructure permitted, approved, or constructed under this section, section 216B.1691, or section 216B.243.

**History:** 2024 c 126 art 7 s 3; 2024 c 127 art 43 s 3

#### 216I.04 APPLICABILITY DETERMINATION.

Subdivision 1. **Generally.** This section may be used to determine: (1) whether a proposal meets the definition of large energy infrastructure facility and is subject to the commission's siting or routing jurisdiction under this chapter; or (2) which review process is applicable at the time of the initial application.

Subd. 2. **Solar, wind, or energy storage facilities.** For solar energy generating systems, large wind energy conversion systems, or energy storage systems, the alternating current nameplate capacity of one solar energy generating system, wind energy conversion system, or energy storage system must be combined with the alternating current nameplate capacity of any other solar energy generating system, wind energy conversion system, or energy storage system that:

(1) is constructed within the same 12-month period; and

(2) exhibits characteristics of being a single development, including but not limited to ownership structure, an umbrella sales arrangement, shared interconnection, revenue-sharing arrangements, and common debt or equity financing.

Subd. 3. **Transmission lines.** For transmission lines, the petitioner must describe the applicability question and provide sufficient facts to support the determination.

Subd. 4. **Forms; assistance; written determination.** (a) The commission must provide forms and assistance to help applicants make a request for an applicability determination.

(b) Upon written request from an applicant, the commission or the commission's designee must provide a written determination regarding applicability under this section. The commission or the commission's designee must provide the written determination within 30 days of the date the request was received or 30 days of the date information that the commission requested from the applicant is received, whichever is later. This written determination constitutes a final decision of the commission.

**History:** 2024 c 126 art 7 s 4; 2024 c 127 art 43 s 4

#### 216I.05 DESIGNATING SITES AND ROUTES.

Subdivision 1. **Site permit.** (a) A person is prohibited from constructing a large electric generating plant, a solar energy generating system, an energy storage system, or a large wind energy conversion system without a site permit issued by the commission. A person may construct a large electric generating plant, an energy storage system, a solar energy generating system, or a large wind energy conversion system only on a site approved by the commission. A person is prohibited from increasing the generating capacity or output of an electric power plant from under 50 megawatts to more than 50 megawatts without a site permit issued by the commission.

(b) The commission must incorporate into one proceeding the route selection for a high-voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant, energy storage system, solar energy generating system, or large wind energy conversion system to the transmission system if the applications are submitted jointly under this chapter.

(c) A site permit does not authorize construction of a large electric power generating plant until the permittee has obtained a power purchase agreement or some other enforceable mechanism to sell the power generated by the project. If the permittee does not have a power purchase agreement or other enforceable mechanism at the time the permit is issued, the commission must provide in the permit that the permittee must advise the commission when the permittee obtains a commitment to purchase the power. The commission may establish as a condition in the permit a date by which the permittee must obtain a power purchase agreement or other enforceable mechanism. If the permittee does not obtain a power purchase agreement or other enforceable mechanism by the date required by the permit condition, the site permit is null and void.

Subd. 2. **Route permit.** A person is prohibited from constructing a high-voltage transmission line without a route permit issued by the commission. A person may construct a high-voltage transmission line only along a route approved by the commission.

Subd. 3. **Application.** (a) A person that seeks to construct a large energy infrastructure facility must apply to the commission for a site or route permit, as applicable. The applicant must propose a single route for a high-voltage transmission line.

(b) The application must contain:

(1) a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;

(2) the name of any person or organization initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;

(3) a description of the proposed large energy infrastructure facility and all associated facilities, including size, type, and timing of the facility;

(4) the environmental information required under subdivision 4;

(5) the names of each owner described under subdivision 8;

(6) United States Geological Survey topographical maps, or other maps acceptable to the commission, that show the entire proposed large energy infrastructure facility;

(7) a document that identifies existing utility and public rights-of-way along or near the large energy infrastructure facility;

(8) the engineering and operational design at each of the proposed sites for the proposed large energy infrastructure facility, and identify transportation, pipeline, and electrical transmission systems that are required to construct, maintain, and operate the facility;

(9) a cost analysis of the proposed large energy infrastructure facility, including the costs to construct, operate, and maintain the facility;

(10) a description of possible design options to accommodate the large energy infrastructure facility's future expansion;

(11) the procedures and practices proposed to acquire, construct, maintain, and restore the large energy infrastructure facility's right-of-way or site;

(12) a list and brief description of federal, state, and local permits that may be required for the proposed large energy infrastructure facility;

(13) a discussion regarding whether a certificate of need application is required and, if a certificate of need application is required, whether the certificate of need application has been submitted;

(14) a discussion regarding any other sites or routes that were considered and rejected by the applicant;

(15) any information the commission requires pursuant to an administrative rule; and

(16) a discussion regarding coordination with Minnesota Tribal governments, as defined under section 10.65, subdivision 2, by the applicant, including but not limited to the notice required under subdivision 5 of this section.

**Subd. 4. Environmental information.** (a) An applicant for a site or route permit must include in the application environmental information for each proposed site or route. The environmental information submitted must include:

(1) a description of each site or route's environmental setting;

(2) a description of the effects the facility's construction and operation has on human settlement, including but not limited to public health and safety, displacement, noise, aesthetics, socioeconomic impacts, environmental justice impacts, cultural values, recreation, and public services;

(3) a description of the facility's effects on land-based economies, including but not limited to agriculture, forestry, tourism, and mining;

(4) a description of the facility's effects on archaeological and historic resources;

(5) a description of the facility's effects on the natural environment, including effects on air and water quality resources, flora, and fauna;

(6) a description of the greenhouse gas emissions associated with constructing and operating the facility;

(7) a description of the facility's climate change resilience;

(8) a description of the facility's effects on rare and unique natural resources;

(9) a list that identifies human and natural environmental effects that are unavoidable if the facility is approved at a specific site or route; and

(10) a description of (i) measures that might be implemented to mitigate the potential human and environmental impacts identified in clauses (1) to (7), and (ii) the estimated costs of the potential mitigative measures.

(b) An applicant that applies using the standard process under section 216I.06 may include the environmental information required under paragraph (a) in the applicant's environmental assessment.

**Subd. 5. Preapplication coordination.** At least 30 days before filing an application with the commission, an applicant must provide notice to: (1) each local unit of government within which a site or route may be proposed; (2) Minnesota Tribal governments, as defined under section 10.65, subdivision 2; and (3) the state

technical resource agencies. The notice must describe the proposed project and provide the entities receiving the notice an opportunity for preapplication coordination or feedback.

**Subd. 6. Preapplication review.** (a) Before submitting an application under this chapter, an applicant must provide a draft application to commission staff for review. A draft application must not be filed electronically.

(b) Commission staff's draft application review must focus on the application's completeness and clarifications that may assist the commission's review of the application. Upon completion of the preapplication review under this subdivision, commission staff must provide the applicant a summary of the completeness review. The applicant may include the completeness review summary with the applicant's application under subdivision 3.

**Subd. 7. Complete applications.** (a) The commission or the commission's designee must determine whether an application is complete and advise the applicant of any deficiencies within ten working days of the date an application is received.

(b) An application is not incomplete if: (1) information that is not included in the application may be obtained from the applicant prior to the initial public meeting; and (2) the information that is not included in the application is not essential to provide adequate notice.

**Subd. 8. Application notice.** (a) Upon finding an application is complete, the commission must:

(1) publish notice of the application in a legal newspaper of general circulation in each county in which the site or route is proposed;

(2) provide notice of the application to any regional development commission, Minnesota Tribal government, as defined under section 10.65, subdivision 2, county, incorporated municipality, and town in which any part of the site or route is proposed;

(3) provide notice of the application and description of the proposed project to each owner whose property is within or adjacent to the proposed site or route for the large energy infrastructure facility; and

(4) provide notice to persons who have requested to be placed on a list maintained by the commission to receive notice of proposed large energy infrastructure facilities.

(b) The commission must identify a standard format and content for application notice. At a minimum, the notice must include: (1) a description of the proposed project, including a map displaying the general area of the proposed site or route; (2) a description detailing how a person may receive more information and future notices regarding the application; and (3) a location where a copy of the application may be reviewed.

(c) The notice must also provide information regarding the date and location of the public meeting where the public may learn more about the proposed project and the commission's review process.

(d) For the purposes of providing mailed notice under this subdivision, an owner is the person indicated in the records of the county auditor or, in a county where tax statements are mailed by the county treasurer, in the records of the county treasurer. If necessary, other appropriate records may be used for purposes of providing mailed notice. The failure to provide mailed notice to a property owner or defects in the notice do not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Subd. 9. **Public meeting.** (a) The commission must hold at least one public meeting in a location near the proposed large energy infrastructure facility project's location to explain the permitting process, present major issues, accept public comments on the scope of the environmental impact statement prepared under section 216I.06 or the addendum prepared under section 216I.07, and respond to questions raised by the public.

(b) At the public meeting and in written comments accepted for at least ten days following the date of the public meeting, the commission must accept comments on (1) potential impacts and alternative sites or routes to be considered in the environmental impact statement prepared under section 216I.06 or the addendum prepared under section 216I.07, and (2) permit conditions.

Subd. 10. **Draft permit; additional considerations.** Upon close of the public comment period following the public meeting in subdivision 9, the commission must:

(1) prepare a draft site or route permit for the large energy infrastructure facility. The draft permit must identify the person or persons who are the permittee, describe the proposed project, and include proposed permit conditions. A draft site permit does not authorize a person to construct a large energy infrastructure facility. The commission may change the draft site permit in any respect before final issuance or may deny the permit; and

(2) identify the scope of the environmental impact statement prepared under section 216I.06 or the addendum prepared under section 216I.07. A member of the commission is prohibited from giving direction to commission environmental review staff on the scope of an environmental assessment, environmental addendum, or environmental impact statement, except in a publicly noticed meeting or through a publicly available commission notice or order.

Subd. 11. **Designating sites and routes; considerations.** (a) The commission's site and route permit determinations must (1) be guided by the state's goals to conserve resources; (2) minimize environmental impacts, and minimize human settlement and other land use conflicts; (3) consider impacts to environmental justice areas, as defined in section 216B.1691, subdivision 1, paragraph (e), including cumulative impacts, as defined in section 116.065, to environmental justice areas; and (4) ensure the state's energy security through efficient, cost-effective energy supply and infrastructure.

(b) When determining whether to issue a site permit for a large energy infrastructure facility, the commission must include but is not limited to:

(1) evaluating research and investigations relating to: (i) large energy infrastructure facilities' effects on land, water, and air resources; and (ii) the effects water and air discharges and electric and magnetic fields resulting from large energy infrastructure facilities have on public health and welfare, vegetation, animals, materials, and aesthetic values, including baseline studies, predictive modeling, and evaluating new or improved methods to minimize adverse impacts of water and air discharges and other matters pertaining to large energy infrastructure facilities' effects on the water and air environment;

(2) conducting environmental evaluation of sites and routes that are proposed for future development and expansion, and the relationship of proposed sites and routes for future development and expansion to Minnesota's land, water, air, and human resources;

(3) evaluating the effects of measures designed to minimize adverse environmental effects;

(4) evaluating the potential for beneficial uses of waste energy from proposed large electric power generating plants;



(5) analyzing the direct and indirect economic impact of proposed sites and routes, including but not limited to productive agricultural land lost or impaired;

(6) evaluating adverse direct and indirect environmental effects that are unavoidable should the proposed site and route be accepted;

(7) evaluating alternatives to the applicant's proposed site or route, if applicable;

(8) when appropriate, evaluating potential routes that would use or parallel existing railroad and highway rights-of-way;

(9) evaluating governmental survey lines and other natural division lines of agricultural land to minimize interference with agricultural operations;

(10) evaluating the future needs for large energy infrastructure facilities in the same general area as any proposed site or route;

(11) evaluating irreversible and irretrievable commitments of resources if the proposed site or route is approved;

(12) when appropriate, considering the potential impacts raised by other state and federal agencies and local entities;

(13) evaluating the benefits of the proposed facility with respect to (i) the protection and enhancement of environmental quality, and (ii) the reliability of state and regional energy supplies;

(14) evaluating the proposed facility's impact on socioeconomic factors; and

(15) evaluating the proposed facility's employment and economic impacts in the facility site's vicinity and throughout Minnesota, including the quantity, quality, and compensation level of construction and permanent jobs. The commission must consider a facility's local employment and economic impacts, and may reject or place conditions on a site or route permit based on the local employment and economic impacts.

(c) If the commission's rules are substantially similar to existing federal agency regulations the utility is subject to, the commission must apply the federal regulations.

(d) The commission is prohibited from designating a site or route that violates state agency rules.

(e) When applicable, the commission must make a specific finding that the commission considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and using parallel existing highway right-of-way. To the extent an existing high-voltage transmission route or parallel existing right-of-way is not used for the route, the commission must state the reasons.

**Subd. 12. Final decision.** (a) The commission must issue a site or route permit that is demonstrated to be in the public interest pursuant to this chapter. The commission may require any reasonable conditions in the site or route permit that are necessary to protect the public interest. The commission maintains continuing jurisdiction over the route and site permits and any conditions contained in the route and site permits.

(b) The commission is prohibited from issuing a site permit in violation of the site selection standards and criteria established under this section and in rules the commission adopts. When the commission designates a site, the commission must issue a site permit to the applicant with any appropriate conditions. The commission must publish a notice of the commission's decision in the Environmental Quality Board Monitor within 30 days of the date the commission issues the site permit.

(c) The commission is prohibited from issuing a route permit in violation of the route selection standards and criteria established under this section and in rules the commission adopts. When the commission designates a route, the commission must issue a permit for the construction of a high-voltage transmission line that specifies the design, routing, right-of-way preparation, and facility construction the commission deems necessary, including any other appropriate conditions. The commission may order the construction of high-voltage transmission line facilities that are capable of expanding transmission capacity through multiple circuiting or design modifications. The commission must publish a notice of the commission's decision in the Environmental Quality Board Monitor within 30 days of the date the commission issues the route permit.

(d) The commission must require as a condition of permit issuance, including the issuance of a modified permit for a repowering project, as defined in section 216B.243, subdivision 8, paragraph (b), that the recipient of a site or route permit to construct an energy infrastructure facility, including all of the permit recipient's construction contractors and subcontractors on the project: (1) must pay no less than the prevailing wage rate, as defined in section 177.42; and (2) is subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

(e) Immediately following the commission's vote granting an applicant a site or route permit, and prior to issuance of a written commission order embodying the decision, the applicant may submit to commission staff for review preconstruction compliance filings specifying details of the applicant's proposed site or route operations.

**Subd. 13. Commission; technical expertise and other assistance.** (a) The commission must consult with other state agencies and obtain technical expertise and other assistance for activities and proceedings under this chapter.

(b) Notwithstanding the requirements of section 216B.33, employees of the commission may take any action related to the requirements of this chapter immediately following a hearing and vote by the commission, prior to issuing a written order, finding, authorization, or certification.

**History:** 2024 c 126 art 7 s 5; 2024 c 127 art 43 s 5

## **216I.06 APPLICATIONS; MAJOR REVIEW.**

Subdivision 1. **Environmental review.** (a) The commission must prepare an environmental impact statement on each proposed large energy infrastructure facility for which a complete application has been submitted. An environmental impact statement means a detailed written statement that describes a large energy infrastructure facility and satisfies the requirements of section 116D.04. For the purposes of environmental review, the commission is prohibited from considering whether or not the project is needed. No other state environmental review documents are required. The commission must study and evaluate any site or route identified by the commission under section 216I.05, subdivision 10, clause (2).

(b) For a cogeneration facility, as defined in section 216H.01, subdivision 1a, that is a large electric power generating plant and is not proposed by a utility, the commission must make a finding in the environmental impact statement whether the project is likely to result in a net reduction of carbon dioxide emissions, considering both the utility providing electric service to the proposed cogeneration facility and any reduction in carbon dioxide emissions resulting from increased efficiency from thermal energy production on the part of the customer that operates or owns the proposed cogeneration facility.

(c) The commission must publish a draft environmental impact statement and a scoping document for the environmental impact statement under section 216I.05, subdivision 10. The public may provide comments

on the draft environmental impact statement at the public hearing and comment period under subdivision 2.

(d) The commission must publish a final environmental impact statement responding to the timely substantive comments on the draft environmental impact statement consistent with the scope approved by the commission under section 216I.05, subdivision 10, clause (2). The final environmental impact statement must discuss at appropriate points in the final environmental impact statement any reasonable opposing views relating to scoping issues that were not adequately discussed in the draft environmental impact statement and must indicate a response to the reasonable opposing views. When making the commission's final decision, the commission must consider the final environmental impact statement and the entirety of the record related to human and environmental impacts.

(e) The commission must determine the adequacy of the final environmental impact statement. The commission must not decide the adequacy for at least ten days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if the final environmental impact statement:

- (1) addresses the issues and alternatives raised in scoping;
- (2) provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- (3) was prepared in compliance with the procedures in sections 216I.05 and 216I.06.

If the commission finds that the environmental impact statement is not adequate, the commission must direct staff to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.

**Subd. 2. Public hearing.** (a) No sooner than 15 days after the date the draft environmental impact statement is published, the commission must hold a public hearing on an application for a large energy infrastructure facility site or route permit. A hearing held to designate a site or route must be conducted by an administrative law judge from the Office of Administrative Hearings.

(b) The commission may designate a portion of the hearing to be conducted as a contested case proceeding under chapter 14.

(c) The commission must provide notice of the hearing at least ten days before but no earlier than 45 days before the date the hearing commences. The commission must provide notice by (1) publishing in a legal newspaper of general circulation in the county in which the public hearing is to be held, (2) mailing to chief executives of the regional development commissions, counties, organized towns, townships, and incorporated municipalities in which a site or route is proposed, and (3) Tribal governments, as defined by section 10.65, subdivision 2.

(d) Any person may appear at the hearings and offer testimony and exhibits without the necessity of intervening as a formal party to the proceedings. The administrative law judge may allow any person to ask questions of other witnesses.

(e) The administrative law judge must hold a portion of the hearing in the area where the large energy infrastructure facility's location is proposed.

(f) The commission and administrative law judge must accept written comments for at least 20 days after the public hearing's date.

Subd. 3. **Administrative law judge report.** The administrative law judge must issue a report and recommendations after completion of post-hearing briefing or the date the public comment period under subdivision 2 closes, whichever is later.

Subd. 4. **Timing.** The commission must make a final decision on an application within 60 days of the date the administrative law judge's report is received. A final decision on the site or route permit request must be made within one year of the date the commission determines an application is complete. The commission may extend the time limit under this subdivision for up to three months for just cause or upon agreement with the applicant.

**History:** 2024 c 126 art 7 s 6; 2024 c 127 art 43 s 6

## 216I.07 APPLICATIONS; STANDARD REVIEW.

Subdivision 1. **Standard review.** An applicant who seeks a site or route permit for which the applicant's proposal is one of the projects identified in this section may follow the procedures under this section in lieu of the procedures under section 216I.06. The applicant must notify the commission at the time the application is submitted which procedure the applicant has elected to follow.

Subd. 2. **Applicable projects.** The requirements and procedures under this section apply to projects for which the applicant's proposal is:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants that are fueled by natural gas;
- (3) high-voltage transmission lines with a capacity between 100 and 300 kilovolts;
- (4) high-voltage transmission lines with a capacity in excess of 300 kilovolts and less than 30 miles in length in Minnesota;
- (5) high-voltage transmission lines with a capacity in excess of 300 kilovolts, if at least 80 percent of the distance of the line in Minnesota, as proposed by the applicant, is located along existing high-voltage transmission line right-of-way;
- (6) solar energy systems;
- (7) energy storage systems; and
- (8) large wind energy conversion systems.

Subd. 3. **Environmental review.** (a) For the projects identified in subdivision 2 and following the procedures under this section, the applicant must prepare and submit an environmental assessment with the application. A draft of the environmental assessment must also be provided to commission staff as part of the preapplication review under section 216I.05, subdivision 6. The environmental assessment must (1) contain information regarding the proposed project's human and environmental impacts, and (2) address mitigating measures for identified impacts. The environmental assessment is the only state environmental review document that must be prepared for the proposed project.

(b) If after the public meeting the commission identifies other sites or routes or potential impacts for review, the commission must prepare an addendum to the environmental assessment that evaluates (1) the human and environmental impacts of the alternative site or route, and (2) any additional mitigating measures related to the identified impacts consistent with the scoping decision made pursuant to section 216I.06,

subdivision 10, clause (2). The public may provide comments on the environmental assessment and any addendum to the environmental assessment at the public hearing and comment period under subdivision 4. When making the commission's final decision, the commission must consider the environmental assessment, the environmental assessment addendum, if any, and the entirety of the record related to human and environmental impacts.

**Subd. 4. Public hearing.** (a) After the commission issues any environmental assessment addendum and a draft permit under section 216I.05, subdivision 10, the commission must hold a public hearing in the area where the facility's location is proposed.

(b) The commission must provide notice of the public hearing in the same manner as required under section 216I.06, subdivision 2.

(c) The commission must conduct the public hearing under procedures established by the commission and may request that an administrative law judge from the Office of Administrative Hearings conduct the hearing and prepare a report.

(d) The applicant must be present at the hearing to present evidence and to answer questions. The commission must provide opportunity at the public hearing for any person to present comments and to ask questions of the applicant and commission staff. The commission must also provide interested persons an opportunity to submit written comments into the record after the public hearing.

**Subd. 5. Timing.** (a) The commission must make a final decision on an application within 60 days of the date the public comment period following completion of the public hearing closes, or the date the report is filed, whichever is later. A final decision on the request for a site or route permit under this section must be made within six months of the date the commission determines the application is complete. The commission may extend the time limit under this subdivision for up to three months for just cause or upon agreement with the applicant.

(b) Immediately following the commission's vote granting an applicant a site or route permit, and prior to issuance of a written commission order embodying the decision, the applicant may submit to commission staff for review preconstruction compliance filings specifying details of the applicant's proposed site or route operations.

**History:** 2024 c 126 art 7 s 7; 2024 c 127 art 43 s 7

## **216I.08 APPLICATIONS; LOCAL REVIEW.**

Subdivision 1. **Local review authorized.** (a) Notwithstanding sections 216I.06 and 216I.07, an applicant who seeks a site or route permit for one of the projects identified in subdivision 2 may apply to the local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the commission, the applicant waives the applicant's right to seek local approval for the project.

(b) A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request that the commission assume jurisdiction and make a decision on a site or route permit pursuant to the applicable provisions under this chapter. A local unit of government must file the request with the commission within 60 days of the date an applicant files an application for the project with any one local unit of government. If one of the local units of government with jurisdiction over the project requests that the commission assume jurisdiction, jurisdiction over the project transfers to the commission. If the local units of government maintain jurisdiction over the

project, the commission must select the appropriate local unit of government to be the responsible governmental unit to conduct the project's environmental review.

Subd. 2. **Applicable projects.** An applicant may seek approval under this section from a local unit of government to construct:

(1) large electric power generating plants and solar energy generating systems with a capacity of less than 80 megawatts;

(2) large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant;

(3) high-voltage transmission lines with a capacity between 100 and 200 kilovolts;

(4) substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;

(5) a high-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length;

(6) 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;

(7) energy storage systems; and

(8) large wind energy conversion systems with a capacity less than 25 megawatts.

Subd. 3. **Notice of application.** An applicant must notify the commission that the applicant has elected to seek local approval of the proposed project within ten days of the date the applicant submits an application to a local unit of government to approve an eligible project.

Subd. 4. **Environmental review.** (a) A local unit of government that maintains jurisdiction over a qualifying project must prepare or request that the applicant prepare an environmental assessment on the project. The local unit of government must afford the public an opportunity to participate in developing the scope of the environmental assessment before the environmental assessment is prepared.

(b) Upon completing the environmental assessment, the local unit of government must publish notice in the EQB Monitor that indicates (1) the environmental assessment is available for review, (2) how a copy of the document may be reviewed, (3) that the public may comment on the document, and (4) the procedure for submitting comments to the local unit of government. Upon completion of the environmental assessment, the local unit of government must provide a copy of the environmental assessment to the commission.

(c) The local unit of government is prohibited from making a final decision on the permit until at least ten days after the date the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project and the local units of government cannot agree which local unit of government prepares the environmental assessment, any local unit of government or the applicant may request that the commission select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

**History:** 2024 c 126 art 7 s 8; 2024 c 127 art 43 s 8

**216I.09 PERMIT AMENDMENTS.**

Subdivision 1. **Applicability.** This section applies to a request by the owner of the large energy infrastructure facility to modify any provision or condition of a site or route permit issued by the commission, including the following:

(1) upgrades or rebuilds an existing electric line and associated facilities to a voltage capable of operating between 100 kilovolts and 300 kilovolts that does not result in significant changes in the human and environmental impact of the facility; or

(2) repowers or refurbishes a large electric power generating plant, a large wind energy conversion system, a solar energy generating system, or an energy storage system that increases the efficiency of the system, provided the project does not increase the developed area within the permitted site or increase the nameplate capacity of the facility's most recent interconnection agreement. For a large electric power generating plant, an increase in efficiency is a reduction in the amount of British thermal units required to produce a kilowatt hour of electricity at the facility.

Subd. 2. **Application.** A person that seeks authorization to amend a large energy infrastructure facility must apply to the commission. The application must be in writing and must (1) describe the alteration to be made or the amendment sought, and (2) explain why the request meets the eligibility criteria under subdivision 1. The application must describe any changes to the environmental impacts evaluated by the commission as part of the initial permit approval. If there are significant changes to the environmental impacts evaluated by the commission as part of the initial permit approval, environmental review must be conducted pursuant to the applicable requirements of Minnesota Rules, chapter 4410, and parts 7849.1000 to 7849.2100.

Subd. 3. **Notice.** The commission must mail notice that the application was received to the persons on the general list and to the persons on the project contact list, if a project list exists.

Subd. 4. **Public comment.** The commission must provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration. The applicant may respond to submitted comments within seven days of the date the comment period closes.

Subd. 5. **Timing.** Within 30 days of the date the applicant responds to submitted comments under subdivision 4, the commission must decide whether to authorize the permit amendment, bring the matter to the commission for consideration, or determine that the application requires a permitting decision under another section in this chapter.

Subd. 6. **Decision.** The commission may authorize an amendment but impose reasonable conditions on the approval. The commission must notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

Subd. 7. **Local review.** For a large electric power generating plant or high-voltage transmission line that was not issued a permit by the commission, the owner or operator of the nonpermitted facility may seek approval of a project listed under subdivision 1 from the local unit of government if the facility qualifies for standard review under section 216I.07 or local review under section 216I.08.

**History:** 2024 c 126 art 7 s 9; 2024 c 127 art 43 s 9

**216I.10 EXEMPT PROJECTS.**

Subdivision 1. **Permit not required.** A permit issued by the commission is not required to construct:

- (1) a small wind energy conversion system;
- (2) a power plant or solar energy generating system with a capacity of less than 50 megawatts;
- (3) an energy storage system with a capacity of less than ten megawatts;
- (4) a transmission line that (i) has a capacity of 100 kilovolts or more, and (ii) is less than 1,500 feet in length; and
- (5) a transmission line that has a capacity of less than 100 kilovolts.

Subd. 2. **Other approval.** A person that proposes a facility listed in subdivision 1 must (1) obtain any approval required by local, state, or federal units of government with jurisdiction over the project, and (2) comply with the environmental review requirements under chapter 116D and Minnesota Rules, chapter 4410.

**History:** 2024 c 126 art 7 s 10; 2024 c 127 art 43 s 10

### 216I.11 PERMITTING REQUIREMENTS; EXCEPTIONS FOR CERTAIN FACILITIES.

Subdivision 1. **Permit not required.** The following projects do not constitute the construction of a large energy infrastructure facility and may be constructed without a permit issued by the commission:

- (1) maintaining or repairing an existing large energy infrastructure facility within an existing site or right-of-way;
- (2) adding equipment at an existing substation that does not (i) require more than a one-acre expansion of the land needed for the substation, and (ii) involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions, provided the structures are not moved more than 500 feet from the existing right-of-way;
- (3) reconductoring or reconstructing a high-voltage transmission line that does not result in a change to voltage or a change in right-of-way;
- (4) relocating a high-voltage transmission line that is required by a local or state agency as part of road, street, or highway construction;
- (5) converting the fuel source of a large electric power generating plant to natural gas, provided the plant is not expanded beyond the developed portion of the plant site; and
- (6) starting up an existing large electric power generating plant that has been closed for any period of time at no more than the large electric power generating plant's previous capacity rating and in a manner that does not involve changing the fuel or expanding the developed portion of the plant site.

Subd. 2. **Amendment.** If a modification or other change to an existing large energy infrastructure facility does not qualify for an exception under subdivision 1, the modification or change may qualify as an amendment under section 216I.09.

Subd. 3. **Notice.** A person that proposes to implement changes to a large energy infrastructure facility under subdivision 1, clauses (2) to (5), must notify the commission in writing at least 30 days before commencing construction of the modification or change.

**History:** 2024 c 126 art 7 s 11; 2024 c 127 art 43 s 11



### 216I.12 EMERGENCY PERMITS.

Subdivision 1. **Utility emergency action.** Any utility whose system requires the immediate construction of a large energy infrastructure facility due to a major unforeseen event may apply to the commission for an emergency permit. The application must provide notice in writing of the major unforeseen event and the need for immediate construction. The permit must be issued in a timely manner, no later than 195 days after the commission's acceptance of the application and upon a finding by the commission that (1) a demonstrable emergency exists, (2) the emergency requires immediate construction, and (3) adherence to the procedures and time schedules specified under this chapter jeopardizes the utility's electric power system or jeopardizes the utility's ability to meet the electric needs of the utility's customers in an orderly and timely manner.

Subd. 2. **Utility emergency procedures.** A public hearing to determine if an emergency exists must be held within 90 days of the application. The commission, after notice and hearing, must adopt rules specifying the criteria for emergency certification.

**History:** 2001 c 212 art 7 s 16; 2005 c 97 art 3 s 8; 2023 c 60 art 12 s 57; 2024 c 126 art 7 s 14; art 9 s 5; 2024 c 127 art 43 s 14; art 45 s 5

### 216I.13 PERMIT TRANSFER.

Subdivision 1. **Application.** A permittee holding a large energy infrastructure facility site or route permit may request that the commission transfer the permittee's permit. The permittee must provide the name of the existing permittee, the name and description of the entity to which the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred must provide the commission with information the commission requires to determine whether the new permittee is able to comply with the permit's conditions. The commission must mail notice of receipt of the application to the persons on the general list at least seven days in advance of the date the commission considers the matter. The commission must provide the same notice to persons on the project contact list if a project contact list exists.

Subd. 2. **Approval of transfer.** The commission must approve the transfer if the commission determines that the new permittee complies with the conditions of the permit. The commission, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the approval. The commission may decide to hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision.

**History:** 2024 c 126 art 7 s 12; 2024 c 127 art 43 s 12

### 216I.14 PERMIT REVOCATION OR SUSPENSION.

Subdivision 1. **Initiation of action to revoke or suspend.** The commission may initiate action to consider revoking or suspending a permit on the commission's own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of this chapter or the permit has occurred.

Subd. 2. **Hearing.** If the commission initiates action to consider revoking or suspending a permit, the commission must provide the permittee with an opportunity for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings.

Subd. 3. **Finding of violation.** If the commission finds that a violation of this chapter or the permit has occurred, the commission may revoke or suspend the permit, require the permittee to undertake corrective

or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. When determining the appropriate sanction, the commission must consider whether:

- (1) the violation results in any significant additional adverse environmental effects;
- (2) the results of the violation can be corrected or ameliorated; and
- (3) suspending or revoking a permit impairs the permittee's electrical power system reliability.

**History:** 2024 c 126 art 7 s 13; 2024 c 127 art 43 s 13

#### **216I.15 ANNUAL HEARING.**

The commission must hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting and routing of large energy infrastructure facilities. At the meeting, the commission must advise the public of the permits issued by the commission in the past year. The commission must provide at least ten days but no more than 45 days' notice of the annual meeting by mailing or serving electronically, as provided in section 216.17, a notice to those persons who have requested notice and by publication in the EQB Monitor and the commission's weekly calendar.

**History:** 1973 c 591 s 8; 1975 c 271 s 6; 1977 c 439 s 11; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 2001 c 212 art 7 s 17; 2005 c 97 art 3 s 9; 2007 c 10 s 12; 2023 c 60 art 12 s 58; 2024 c 126 art 7 s 14; art 9 s 6; 2024 c 127 art 43 s 14; art 45 s 6

#### **216I.16 PUBLIC PARTICIPATION.**

Subdivision 1. **Public participation; generally.** The commission must adopt broad spectrum citizen participation as a principal of operation. The form of public participation must not be limited to public meetings and hearings and must be consistent with the commission's rules and guidelines under section 216I.26.

Subd. 2. **Public advisor.** The commission shall designate one staff person for the sole purpose of assisting and advising those affected and interested citizens on how to effectively participate in site or route proceedings.

1973 c 591 s 9; 1975 c 271 s 6; 1977 c 439 s 13; 1988 c 629 s 20; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14

#### **216I.17 PUBLIC MEETINGS; TRANSCRIPTS; WRITTEN RECORDS.**

Meetings of the commission, including hearings, shall be open to the public. Minutes shall be kept of commission meetings and a complete record of public hearings shall be kept. All books, records, files, and correspondence of the commission shall be available for public inspection at any reasonable time. The commission shall also be subject to chapter 13D.

**History:** 1973 c 591 s 10; 1975 c 271 s 6; 2001 c 212 art 7 s 20; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14

#### **216I.18 APPLICATION TO LOCAL REGULATION AND OTHER STATE PERMITS.**

Subdivision 1. **Site or route permit prevails over local provisions.** To assure the paramount and controlling effect of the provisions herein over other state agencies, regional, county, and local governments, and special purpose government districts, the issuance of a site permit or route permit and subsequent purchase and use of the site or route locations for large energy infrastructure facility purposes is the sole

site or route approval required to be obtained by the permittee. The permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

Subd. 2. **Other state permits.** Notwithstanding anything herein to the contrary, a permittee must obtain state permits that may be required to construct and operate large energy infrastructure facilities. A state agency in processing a permittee's facility permit application is bound to the decisions of the commission with respect to (1) the site or route designation, and (2) other matters for which authority has been granted to the commission by this chapter.

Subd. 3. **State agency participation.** (a) A state agency authorized to issue permits required to construct or operate a large energy infrastructure facility must participate during routing and siting at public hearings and all other activities of the commission on specific site or route designations and design considerations of the commission, and must clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval complies with state agency standards, rules, or policies.

(b) An applicant for a permit under this section or under chapter 216G must notify the commissioner of agriculture if the proposed project impacts cultivated agricultural land. The commissioner may participate and advise the commission as to whether to grant a permit for the project and the best options for mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture is the lead agency on the development of any agricultural mitigation plan required for the project.

(c) The Minnesota State Historic Preservation Office must participate in the commission's siting and routing activities described in this section. The commission's consideration and resolution of Minnesota State Historic Preservation Office's comments satisfies the requirements of section 138.665, when applicable.

**History:** 1973 c 591 s 11; 1975 c 271 s 6; 1977 c 439 s 14,15; 1985 c 248 s 70; 2001 c 212 art 7 s 21,22; 2005 c 97 art 3 s 10,19; 2023 c 60 art 12 s 59; 2024 c 126 art 7 s 14; art 9 s 8-10; 2024 c 127 art 43 s 14; art 45 s 8-10

## 216I.19 WIND TURBINE LIGHTING SYSTEMS.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Duration" means the length of time during which the lights of a wind turbine lighting system are lit.

(c) "Intensity" means the brightness of a wind turbine lighting system's lights.

(d) "Light-mitigating technology" means a sensor-based system that reduces the duration or intensity of wind turbine lighting systems by:

(1) using radio frequency or other sensors to detect aircraft approaching one or more wind turbines, or detecting visibility conditions at turbine sites; and

(2) automatically activating appropriate lights until the lights are no longer needed by the aircraft and are turned off or dimmed.

A light-mitigating technology may include an audio feature that transmits an audible warning message to provide a pilot additional information regarding a wind turbine the aircraft is approaching.

(e) "Repowering project" has the meaning given in section 216B.243, subdivision 8, paragraph (b).

(f) "Wind turbine lighting system" means a system of lights installed on an LWECS that meets the applicable Federal Aviation Administration requirements.

Subd. 2. **Application.** This section applies to an LWECS issued a site permit or site permit amendment, including a site permit amendment for an LWECS repowering project, by the commission under section 216F.04 or by a county under section 216F.08, provided that the application for a site permit or permit amendment is filed after July 1, 2021.

Subd. 3. **Required lighting system.** (a) An LWECS subject to this section must be equipped with a light-mitigating technology that meets the requirements established in Chapter 14 of the Federal Aviation Administration's Advisory Circular 70/760-1, Obstruction Marking and Lighting, as updated, unless the Federal Aviation Administration, after reviewing the LWECS site plan, rejects the use of the light-mitigating technology for the LWECS. A light-mitigating technology installed on a wind turbine in Minnesota must be purchased from a vendor approved by the Federal Aviation Administration.

(b) If the Federal Aviation Administration, after reviewing the LWECS site plan, rejects the use of a light-mitigating technology for the LWECS under paragraph (a), the LWECS must be equipped with a wind turbine lighting system that minimizes the duration or intensity of the lighting system while maintaining full compliance with the lighting standards established in Chapter 13 of the Federal Aviation Administration's Advisory Circular 70/760-1, Obstruction Marking and Lighting, as updated.

Subd. 4. **Exemptions.** (a) The Public Utilities Commission or a county that has assumed permitting authority under section 216F.08 must grant an owner of an LWECS an exemption from subdivision 3, paragraph (a), if the Federal Aviation Administration denies the owner's application to equip an LWECS with a light-mitigating technology.

(b) The Public Utilities Commission or a county that has assumed permitting authority under section 216F.08 must grant an owner of an LWECS an exemption from or an extension of time to comply with subdivision 3, paragraph (a), if after notice and public hearing the owner of the LWECS demonstrates to the satisfaction of the commission or county that:

(1) equipping an LWECS with a light-mitigating technology is technically infeasible;

(2) equipping an LWECS with a light-mitigating technology imposes a significant financial burden on the permittee; or

(3) a vendor approved by the Federal Aviation Administration cannot deliver a light-mitigating technology to the LWECS owner in a reasonable amount of time.

**History:** *1Sp2021 c 4 art 8 s 26; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14*

## **216I.20 IMPROVEMENT OF SITES AND ROUTES.**

A permittee that acquires a site or route in accordance with this chapter may proceed to construct or improve the site or route for the intended purposes at any time, subject to section 216I.18, subdivision 2, provided that if the construction and improvement has not commenced within four years after a permit for the site or route has been issued, the permittee must certify to the commission that the site or route continues to meet the conditions upon which the site or route permit was issued.

**History:** *1973 c 591 s 12; 1975 c 271 s 6; 1977 c 439 s 16; 2001 c 212 art 7 s 23; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 11; 2024 c 127 art 43 s 14; art 45 s 11*

**216I.21 EMINENT DOMAIN POWERS; POWER OF CONDEMNATION.**

Subdivision 1. **Generally.** Nothing in this section shall invalidate the power of eminent domain vested in utilities by statute or common law existing as of May 24, 1973, except to the extent modified herein. The power of eminent domain shall continue to exist for utilities and may be used according to law to accomplish any of the purposes and objectives of this chapter, including acquisition of the right to utilize existing high-voltage transmission facilities which are capable of expansion or modification to accommodate both existing and proposed conductors. Notwithstanding any law to the contrary, all easement interests shall revert to the then fee owner if a route is not used for high-voltage transmission line purposes for a period of five years.

Subd. 2. **Conduct of proceedings.** In eminent domain proceedings by a utility for the acquisition of real property proposed for construction of a route or a site, the proceedings shall be conducted in the manner prescribed in chapter 117, except as otherwise specifically provided in this section.

Subd. 3. **Payment.** When such property is acquired by eminent domain proceedings or voluntary purchase and the amount the owner shall receive for the property is finally determined, the owner who is entitled to payment may elect to have the amount paid in not more than ten annual installments, with interest on the deferred installments, at the rate of eight percent per annum on the unpaid balance, by submitting a written request to the utility before any payment has been made. After the first installment is paid the petitioner may make its final certificate, as provided by law, in the same manner as though the entire amount had been paid.

Subd. 4. **Contiguous land.** (a) When private real property that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route for a high-voltage transmission line with a capacity of 200 kilovolts or more by eminent domain proceedings, the owner shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner wholly owns in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. Within 60 days after receipt by the utility of an owner's election to exercise this option, the utility shall provide written notice to the owner of any objection the utility has to the owner's election, and if no objection is made within that time, any objection shall be deemed waived. Within 120 days of the service of an objection by the utility, the district court having jurisdiction over the eminent domain proceeding shall hold a hearing to determine whether the utility's objection is upheld or rejected. The utility has the burden of proof to prove by a preponderance of the evidence that the property elected by the owner is not commercially viable. The owner shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a right-of-way for a high-voltage transmission line with a capacity of 200 kilovolts or more shall automatically be converted into a fee taking.

(b) All rights and protections provided to an owner under chapter 117 apply to acquisition of land or an interest in land under this section.

(c) Within 120 days of an owner's election under this subdivision to require the utility to acquire land, or 120 days after a district court decision overruling a utility objection to an election made pursuant to paragraph (a), the utility must make a written offer to acquire that land and amend its condemnation petition to include the additional land.

(d) For purposes of this subdivision, "owner" means the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner.

**Subd. 5. Notification.** A utility shall notify by certified mail each person who has transferred any interest in real property to the utility after July 1, 1974, but prior to the effective date of Laws 1977, chapter 439, for the purpose of a site or route that the person may elect in writing within 90 days after receipt of notice to require the utility to acquire any remaining contiguous parcel of land pursuant to this section or to return any payment to the utility and require it to make installment payments pursuant to this section.

**History:** 1973 c 591 s 13; 1977 c 439 s 17; 1978 c 674 s 15; 1980 c 614 s 87; 1Sp1985 c 14 art 4 s 15; 1986 c 444; 1Sp1986 c 1 art 4 s 7; 1987 c 268 art 6 s 1; 2002 c 398 s 1; 2006 c 214 s 20; 2013 c 132 s 4; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14

## **216I.22 SITES AND ROUTES; RECORDING SURVEY POINTS.**

The permanent location of monuments or markers found or placed by a utility in a survey of right-of-way for a route shall be placed on record in the office of the county recorder or registrar of titles. No fee shall be charged to the utility for recording this information.

*1977 c 439, s 10; 2024 c 126 art 4 s 14; 2024 c 127 art 43 s 14*

## **216I.23 FAILURE TO ACT.**

If the commission fails to act within the times specified under this chapter, the applicant or any affected person may seek an order of the district court requiring the commission to designate or refuse to designate a site or route.

**History:** 1973 c 591 s 14; 1975 c 271 s 6; 1977 c 439 s 19; 2001 c 212 art 7 s 24; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 12; 2024 c 127 art 43 s 14; art 45 s 12

## **216I.24 REVOCATION OR SUSPENSION.**

A site or route permit may be revoked or suspended by the commission after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected permittee has an opportunity to confront any witness and respond to any evidence against the permittee and to present rebuttal or mitigating evidence upon a finding by the commission of:

(1) any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the commission's findings;

(2) failure to comply with material conditions of the site certificate or construction permit, or failure to maintain health and safety standards; or

(3) any material violation of the provisions of this chapter, any rule promulgated pursuant thereto, or any order of the commission.

**History:** 1977 c 439 s 20; 1978 c 658 s 1; 2001 c 212 art 7 s 25; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 13; 2024 c 127 art 43 s 14; art 45 s 13

### **216I.25 JUDICIAL REVIEW.**

Any applicant, party, or person aggrieved by the issuance of a site or route permit, minor alteration, amendment, or emergency permit from the commission, by a certification of continuing suitability filed by a permittee with the commission, or by a final order in accordance with any rules promulgated by the commission may appeal to the court of appeals in accordance with chapter 14. The appeal must be filed within 30 days after the date the notice of the commission's permit issuance is published in the EQB Monitor, certification is filed with the commission, or any final order is filed by the commission.

**History:** 1973 c 591 s 15; 1975 c 271 s 6; 1977 c 439 s 21; 1980 c 509 s 28; 1982 c 424 s 130; 1983 c 247 s 54; 2001 c 212 art 7 s 26; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 14; 2024 c 127 art 43 s 14; art 45 s 14

### **216I.26 RULES.**

Subdivision 1. **Commission rules.** The commission, in order to give effect to the purposes of this chapter, may adopt rules consistent with this chapter, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan, or program established by the commission, procedures for the revocation or suspension of a site or route permit, and the procedure and timeliness for proposing alternative routes and sites. A rule adopted by the commission must not grant priority to state-owned wildlife management areas over agricultural lands in the designation of route avoidance areas. Chapter 14 applies to the appeal of rules adopted by the commission to the same extent as it applies to review of rules adopted by any other agency of state government.

Subd. 2. **Office of Administrative Hearings rules.** The chief administrative law judge must adopt procedural rules for public hearings relating to the site and route permit process. The rules must attempt to maximize citizen participation in these processes consistent with the time limits for commission decision established under this chapter.

**History:** 1973 c 591 s 16; 1975 c 271 s 6; 1977 c 439 s 22; 1978 c 658 s 2; 1982 c 424 s 130; 1984 c 640 s 32; 2001 c 212 art 7 s 27; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 15; 2024 c 127 art 43 s 14; art 45 s 15

### **216I.27 ENFORCEMENT, PENALTIES.**

Subdivision 1. **Criminal penalty.** Any person who violates this chapter or any rule promulgated hereunder, or knowingly submits false information in any report required by this chapter is guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and each subsequent offense. Each day of violation shall constitute a separate offense.

Subd. 2. **Enforcement.** The provisions of this chapter or any rules promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the commission.

Subd. 3. **Civil penalty.** When the court finds that any person has violated this chapter, any rule hereunder, knowingly submitted false information in any report required by this chapter, or has violated any court order issued under this chapter, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

**History:** 1973 c 591 s 18; 1975 c 271 s 6; 1977 c 439 s 24; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14

## **216I.28 ROUTE APPLICATION FEE; APPROPRIATION; FUNDING.**

Subdivision 1. **Application fee; appropriation.** An applicant for a site or route permit must pay to the commission a fee to cover the necessary and reasonable costs incurred by the commission to act on the permit application and carry out the requirements of this chapter. The commission may adopt rules providing for fee payment. Section 16A.1283 does not apply to establishment of the fee under this subdivision. All money received under this subdivision must be deposited in a special account. Money in the account is appropriated to the commission to pay expenses incurred to process applications for site and route permits in accordance with this chapter and, in the event expenses are less than the fee paid, to refund the excess fee paid to the applicant.

Subd. 2. **Funding; assessment.** The commission shall finance its baseline studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site and route permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the commission against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the commission. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the commission for carrying out the purposes of this subdivision. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

**History:** 1973 c 591 s 19; 1975 c 271 s 6; 1977 c 439 s 25; 1981 c 356 s 314,315; 1982 c 482 s 5; 1Sp1985 c 13 s 240; 1987 c 186 s 15; 1987 c 304 s 1; 1988 c 690 art 1 s 4; 1989 c 335 art 1 s 269; 1990 c 597 s 56; 1995 c 220 s 110; 2001 c 212 art 7 s 28; 2005 c 97 art 3 s 12,19; 2011 c 97 s 29; 2024 c 126 art 7 s 14; 2024 c 127 art 43 s 14