

**CHAPTER 4400**  
**ENVIRONMENTAL QUALITY BOARD**  
**HIGH VOLTAGE LINES, POWER PLANTS**

|           |                                                                                       |           |                                                                                |
|-----------|---------------------------------------------------------------------------------------|-----------|--------------------------------------------------------------------------------|
| 4400.0200 | DEFINITIONS.                                                                          | 4400.2800 | SITE ADVISORY TASK FORCE.                                                      |
| 4400.0300 | PURPOSE AND AUTHORITY.                                                                | 4400.2900 | PUBLIC ADVISER.                                                                |
|           | <b>ROUTE DESIGNATION AND CONSTRUCTION PERMIT</b>                                      | 4400.3000 | INFORMATION MEETINGS.                                                          |
| 4400.0600 | APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.                            | 4400.3100 | SITE PROPOSALS.                                                                |
| 4400.0710 | ACCEPTANCE OF APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.              | 4400.3200 | PUBLIC HEARINGS.                                                               |
| 4400.0720 | BOARD ACTION UPON ACCEPTANCE.                                                         | 4400.3210 | ENVIRONMENTAL IMPACT ASSESSMENT FOR LEFGP.                                     |
| 4400.0800 | ROUTE ADVISORY TASK FORCE.                                                            | 4400.3310 | SITING CONSIDERATIONS.                                                         |
| 4400.0900 | PUBLIC ADVISER.                                                                       | 4400.3400 | SITE DESIGNATION AND ISSUANCE OF CERTIFICATE OF SITE COMPATIBILITY.            |
| 4400.1000 | INFORMATION MEETINGS.                                                                 | 4400.3500 | CERTIFICATE COMPLIANCE.                                                        |
| 4400.1100 | ROUTE PROPOSALS.                                                                      | 4400.3600 | PROGRAM ADVISORY TASK FORCE.                                                   |
| 4400.1200 | PUBLIC HEARINGS.                                                                      | 4400.3710 | NOTICES.                                                                       |
| 4400.1210 | ENVIRONMENTAL IMPACT ASSESSMENT FOR HVTL.                                             | 4400.3800 | EMERGENCY CERTIFICATIONS AND PERMITS.                                          |
| 4400.1310 | ROUTING CONSIDERATIONS.                                                               | 4400.3900 | EXEMPTION OF CERTAIN TRANSMISSION LINE ROUTES.                                 |
| 4400.1400 | ROUTE DESIGNATION AND ISSUANCE OF CONSTRUCTION PERMIT.                                | 4400.3910 | EXEMPTION OF CERTAIN LEFGP SITES.                                              |
| 4400.1500 | CONSTRUCTION PERMIT COMPLIANCE.                                                       | 4400.4000 | DELAY IN ROUTE OR SITE CONSTRUCTION.                                           |
|           | <b>SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY</b>                         | 4400.4100 | MINOR ALTERATIONS IN CONSTRUCTION PERMIT OR CERTIFICATE OF SITE COMPATIBILITY. |
| 4400.2600 | APPLICATIONS FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.              | 4400.4200 | REVOCATION OR SUSPENSION OF CERTIFICATE OR PERMIT.                             |
| 4400.2710 | ACCEPTANCE OF APPLICATION FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY. | 4400.4300 | ANNUAL PUBLIC HEARING.                                                         |
| 4400.2720 | BOARD ACTION UPON ACCEPTANCE.                                                         | 4400.4400 | ANNUAL ASSESSMENT ON UTILITY.                                                  |
|           |                                                                                       | 4400.4500 | IDENTIFICATION OF LARGE ELECTRIC POWER GENERATING PLANT STUDY AREAS.           |
|           |                                                                                       | 4400.4900 | APPLICATION FEES.                                                              |

**4400.0200 DEFINITIONS.**

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, sections 116C.51 to 116C.69.

Subp. 3. **Board.** "Board" means the Minnesota Environmental Quality Board.

Subp. 4. **Community benefits.** "Community benefits" means those benefits to the local community, other than economic development, that result from power plant design or location. Examples include use of community solid waste as a supplemental fuel, joint water supply, improving the economic viability of existing rail lines, and increased tax base.

Subp. 5. **Construction.** "Construction" means:

A. any clearing of land, excavation, or other improvement that would adversely affect the natural environment of a site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary boring, to ascertain foundation conditions; or

B. the modifications necessary to:

(1) increase the nominal voltage of an existing transmission line to over 200 kilovolts; or

(2) increase the nominal voltage of an existing HVTL.

Subp. 6. **Developed portion of plant site.** "Developed portion of plant site"

means the portion of the LEPGP site, exclusive of makeup water storage reservoirs or cooling ponds, where structures or other facilities or land uses necessary for plant operation preclude crop production.

Subp. 6a. **Environmental impact assessment; EIA.** "Environmental impact assessment" or "EIA" means a detailed written statement that describes proposed HVTLs and LEPGPs and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 7. **File.** "File" means to deliver 40 copies to the office of the chair of the board.

Subp. 8. **High voltage transmission line; HVTL.** "High voltage transmission line" or "HVTL" means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 200 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 9. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subp. 10. **Large electric power generating plant; LEPGP.** "Large electric power generating plant" and "LEPGP" mean electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subp. 11. **Large electric power generating plant study area.** "Large electric power generating plant study area" or "study area" means a geographic area that meets inventory criteria and standards for a LEPGP of a specified capacity, fuel type, and design.

Subp. 12. **Person.** "Person" means any 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.

Subp. 13. **Prime farmland.** "Prime farmland" means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5 (a).

Subp. 14. **Public adviser.** "Public adviser" means a staff person designated by the board for the sole purpose of assisting and advising affected or interested citizens on how to effectively participate in the site or route designation processes.

Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a route for the construction and operation of an HVTL.

Subp. 16. **Route.** "Route" means an area of land up to 1.25 miles wide within which a right-of-way for an HVTL can be located.

Subp. 17. **Route segment.** "Route segment" means a portion of a route.

Subp. 18. **Site.** "Site" means an area of land required for the construction and operation of an LEPGP.

Subp. 19. **Technical assumptions.** "Technical assumptions" means the assumptions necessary to evaluate resource requirements of LEPGPs of a specified capacity, fuel type, and design and to evaluate the availability of resources to meet those requirements.

Subp. 20. **Utility.** "Utility" means any entity engaged in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, or a private corporation.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

#### 4400.0300 PURPOSE AND AUTHORITY.

Parts 4400.0200 to 4400.4900 are prescribed by the Minnesota Environmen-

# MINNESOTA RULES 1991

3385

## HIGH VOLTAGE LINES, POWER PLANTS 4400.0710

tal Quality Board pursuant to the authority granted to the board in the Power Plant Siting Act, Minnesota Statutes, sections 116C.51 to 116C.69, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the board shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The board shall provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the board shall maintain a public education program on, but not limited to, the considerations identified in Minnesota Statutes, section 116C.57, subdivision 4.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### ROUTE DESIGNATION AND CONSTRUCTION PERMIT

#### 4400.0600 APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.

**Subpart 1. Contents.** An application shall be filed that includes any information necessary to make the evaluation of considerations required in part 4400.1310 and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. the size and type of the proposed HVTL;

C. at least two proposed routes for the proposed HVTL;

D. the engineering and operational design concepts for the proposed HVTL, including a characterization of the electrical environment of the transmission line;

E. a cost analysis of each route;

F. a description of the construction, right-of-way impact mitigation measures, and maintenance procedures anticipated for the proposed HVTL;

G. a description of the potential human and natural environmental effects of each route and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.1310;

H. the procedures and practices proposed for the ultimate abandonment and restoration of the right-of-way;

I. a listing and brief description of federal and state permits that may be required for the proposed HVTL; and

J. the certificate of need if available, or an acknowledgment of the receipt of a substantially complete certificate of need application by the Public Utilities Commission, if a certificate of need is required by Minnesota Statutes, chapter 216B.

**Subp. 2. Distribution.** A copy of the application shall be provided by board staff to each member of the board.

**Statutory Authority:** *MS s 116C.66*

**History:** *L 1983 c 289, s 115 subd 1; L 1987 c 312 art 1; 15 SR 1598*

**4400.0700** [Repealed, 15 SR 1598]

#### 4400.0710 ACCEPTANCE OF APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.

**Subpart 1. Board action on application.** The board shall either accept or reject

**4400.0710 HIGH VOLTAGE LINES, POWER PLANTS**

3386

an application at its first regularly scheduled meeting after the application is filed with the board, provided the application is filed at least 21 days before that meeting.

**Subp. 2. Rejection of application.** If the board rejects the application, the board shall inform the applicant in writing which deficiencies, if corrected, will allow the application to be accepted. If the applicant has corrected the deficiencies or provided the board with the required information 14 days in advance of a regularly scheduled meeting, the board must reconsider acceptance of the application at that meeting. If the applicant fails to meet the conditions established by the board for reconsideration of the rejected application, the rejection shall stand. If the rejection stands, the applicant may reapply at any time. If the board fails to act within the times specified in this subpart, the application shall be considered accepted.

**Subp. 3. Additional information.** On acceptance of the application, the board shall proceed with the actions required in parts 4400.0800 to 4400.1500. The applicant shall provide additional relevant information that the board considers necessary to process the application.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.0720 BOARD ACTION UPON ACCEPTANCE.**

On acceptance of an application for route designation and a construction permit, the board shall designate a project leader who shall serve as an independent representative of the board during the formal routing proceedings. The project leader shall be responsible for coordinating assigned staff responsibilities during the routing process and in preparing the EIA. The project leader shall ensure that the record of the proceedings is fully developed and responsive to all issues raised in the process. The project leader may intervene as a party in the public hearing if appropriate. Positions taken or representations made by the project leader during the routing process are not binding on the board.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.0800 ROUTE ADVISORY TASK FORCE.**

On acceptance of an application for route designation and a construction permit, the board may appoint a route advisory task force and its chair consistent with the act and part 4405.0800. The board shall provide guidance to the task force in the form of a charge. Route advisory task forces are advisory and assist the board in evaluating the application and alternatives, and in determining the scope of the EIA prepared under part 4400.1210.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.0900 PUBLIC ADVISER.**

On acceptance of an application for route designation and a construction permit, the board shall designate a public adviser. The public adviser shall be available to any person to advise that person on how to effectively participate in the routing process. The public adviser shall not give legal advice or advice that may affect the legal rights of the person being advised or act as an advocate.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.1000 INFORMATION MEETINGS.**

The board shall hold at least two information meetings.

After acceptance of an application for route designation and a construction permit, the board shall hold at least one information meeting in the area affected by the applicant's proposal to explain the route designation process, receive comments on the scope of the EIA, and to respond to questions raised by the public.

Before the public hearings held to consider the routes approved for consideration by the board, the board shall hold an information meeting in each county through which a route is proposed to be located to explain the route designation process, receive comments on issues and alternatives described in the EIA, and respond to questions raised by the public.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

#### **4400.1100 ROUTE PROPOSALS.**

**Subpart 1. Acceptance for consideration.** The board shall accept for consideration the routes and route segments proposed by the applicant and may accept for consideration any other routes or route segments which are proposed in accord with this part. Only routes or route segments which have been accepted by the board prior to notice of the public hearing shall be considered at the public hearing. Routes and route segments accepted shall be identified by the board in accordance with part 4400.3710. Any proposer of a route or route segment which the board has accepted for consideration shall make a presentation of facts on the merits of the proposal at the public hearing.

**Subp. 2.** [Repealed, 15 SR 1598]

**Subp. 3. Agency and advisory task force route proposals.** The board member agencies, power plant siting staff, and the route advisory task force may propose routes or route segments to the board. Route proposals made by the route advisory task force must be made no later than 105 days after acceptance of the application by the board.

**Subp. 4. Other sources of route proposals.** Any other person may propose a route or a route segment as provided in this subpart.

A. The proposed route or route segment must be set out specifically on the appropriate general county highway map available from the Minnesota Department of Transportation, or on the appropriate United States Geological Survey topographical maps.

B. The proposal must contain the data and analysis required in parts 4400.0600 and 4400.1310, except part 4400.0600, items C and E; unless the information is the same as provided by the applicant.

C. The proposal must be presented to the chair of the board within 70 days of acceptance of the application by the board.

**Subp. 5. Adequate preparation of proposal.** Within ten days of receipt of a route or route segment proposed under subpart 4, the chair of the board shall determine if the proposal is adequately prepared in accord with this part. If the chair of the board determines that it is adequately prepared, the chair shall forward the proposal to the board for its consideration. If the chair of the board determines that the proposal is not adequately prepared, the chair shall inform the proposer of any inadequacies in the proposal. The proposer shall have 15 days to provide additional information to the chair of the board. The chair of the board shall determine within ten days whether the amended proposal is adequately prepared. If the chair of the board then determines that the proposal is not adequately prepared, the proposer may appeal to the board at its next meeting to determine the adequacy of the proposal.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.1200 PUBLIC HEARINGS.**

Public hearings held by the board under parts 4400.0600 to 4400.1500 shall be held for the purposes of collecting and verifying data, and establishing a complete and accurate record upon which to base a decision. The hearings shall be conducted by an independent administrative law judge from the Office of Administrative Hearings. The conduct of these hearings shall be as prescribed by chapter 1405.

**Statutory Authority:** *MS s 116C.66*

**History:** *L 1984 c 640 s 32; 15 SR 1598*

**4400.1210 ENVIRONMENTAL IMPACT ASSESSMENT FOR HVTL.**

**Subpart 1. Record of hearings.** An environmental impact assessment (EIA) must be prepared for inclusion in the record of the public hearing under Minnesota Statutes, section 116C.58.

**Subp. 2. Contents.** The EIA must contain:

A. a summary of the project description provided in the project proposer's application;

B. a summary of the certificate of need decision, if one was required and is available; the EIA must not consider need for the project and other issues determined by the Public Utilities Commission;

C. a description of the applicant's proposed routes and any alternative routes or route segments approved by the board for consideration at public hearings;

D. a description of feasible alternative designs;

E. an analysis of the potential human and natural environmental effects of each alternative route, route segment, or design. The analysis must include those issues identified by the route advisory task force or by any interested person during the first public information meeting held under part 4400.1000;

F. a description of mitigative measures that could reasonably eliminate or minimize potential adverse effects;

G. a discussion of all known governmental permits and approvals required; and

H. an explanation of the board's routing process and how the public may participate, and specifically, how public comments on the EIA will be received for inclusion in the record of the public hearing.

**Subp. 3. Notice of availability.** The chair or the chair's designee shall provide notice of the availability of the EIA and how the public can participate in its review. The notice must be provided according to Minnesota Statutes, section 116C.58, and part 4400.3710, and may be provided in the notice of the hearing required. Notice must also be published in the EQB Monitor.

**Subp. 4. Distribution.** When notice of availability is provided under subpart 3, the EIA shall be distributed to each member of the board and by certified mail to the persons receiving notice. At least one copy must be available for public review at the last public information meeting held before the public hearing and during the public hearing conducted under Minnesota Statutes, section 116C.58.

**Subp. 5. Comments.** The comment period begins when notice of availability of the EIA is published in the EQB Monitor and closes at the end of the oral portion of the public hearing. At least 30 days must be provided for comments. All comments become part of the hearing record as provided in part 1405.1800, subpart 5. The hearing record remains open until responses have been provided to all relevant comments that address deficiencies in the EIA pursuant to subpart 2. The date shall be set by the administrative law judge under part 1405.1400.

**Subp. 6. Adequacy.** Prior to designating a route and issuing a construction permit for an HVTL, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

# MINNESOTA RULES 1991

3389

## HIGH VOLTAGE LINES, POWER PLANTS 4400.1310

A. have adequately addressed significant environmental issues identified by the route advisory task force and the public under parts 4400.0800 and 4400.1000;

B. have been prepared in compliance with the requirements of this part; and

C. have addressed the issues raised on the scope of the EIA so that all issues have been analyzed.

**Subp. 7. Cooperative processes.** The chair or the chair's designee shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code, title 42, sections 4321 to 4361.

**Subp. 8. Costs.** The board shall assess the project proposer for its reasonable costs of preparing and distributing the EIA pursuant to part 4410.6000.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.1300** [Repealed, 15 SR 1598]

### **4400.1310 ROUTING CONSIDERATIONS.**

**Subpart 1. Considerations.** To facilitate the evaluation and designation of HVTL routes and route segments, the board shall be guided by the act and the following considerations:

A. effects on human settlement, including but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including but not limited to, agriculture, forestry, tourism, and mining;

D. archaeological and historic resources;

E. effects on the natural environment;

F. rare and unique natural resources;

G. application of design options which maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission capacity;

H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

I. electrical system reliability;

J. costs of constructing, operating, and maintaining the HVTL which are dependent on design and route; and

K. adverse human and natural environmental effects which cannot be avoided.

**Subp. 2. Resources designated for preservation.** Certain resources within the state have been designated for preservation by action of the state or federal government for the benefit of the people and for future generations. No route shall be designated by the board through state or national wilderness areas. No route shall be designated by the board through state or national parks and state scientific and natural areas unless the route would not materially damage or impair the purpose for which the area was designated, and all feasible alternative routes would have a greater adverse human or environmental impact. Designation of a route in these areas shall be consistent with Minnesota Statutes, section 116C.53, subdivision 1, and shall include conditions to minimize impacts which adversely affect the unique character of these areas. Economic considerations alone shall not justify approval of these areas.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.1400 ROUTE DESIGNATION AND ISSUANCE OF CONSTRUCTION PERMIT.**

Within one year after the board's acceptance of an application for route designation and a construction permit, the board shall act on that application. When the board designates a route, it shall issue a permit for the construction of an HVTL specifying the design, route, and right-of-way width. The permit may specify conditions for construction, right-of-way restoration, abandonment, maintenance, and any other conditions relevant to minimizing human and environmental impact the board considers necessary. The board's decision shall be based on the record, part 4400.1310, and the act. The board shall give the reasons for its decision in written findings of fact.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.1500 CONSTRUCTION PERMIT COMPLIANCE.**

Following route designation and issuance of a construction permit, the permittee shall provide the board with a preliminary construction plan at least 60 days before construction that shall show that the right-of-way of the HVTL as proposed is within the route designated by the board. The board may suspend the 60-day time limitation if it can be shown that earlier construction will not preclude proper review of the plans. If the permittee makes any changes in its preliminary construction plan, it shall notify the board in writing of the changes before construction.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY****4400.2600 APPLICATIONS FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.**

**Subpart 1. Contents.** An application shall be filed that includes any information necessary to make the evaluation required in part 4400.3310 and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. the size and type of the proposed LEPGP;

C. at least two proposed sites for the proposed LEPGP;

D. the engineering and operational design for the LEPGP at each of the proposed sites;

E. a cost analysis of the LEPGP at each proposed site;

F. an engineering analysis of each of the proposed sites;

G. a description of the environmental setting and the potential human and natural environmental impacts of each site and measures proposed by the applicant to mitigate adverse effects, presented in the order shown in part 4400.3310;

H. a listing and brief description of federal and state permits that may be required for each proposed site; and

I. the certificate of need if available, or an acknowledgment of the receipt of a substantially complete certificate of need application by the Public Utilities Commission, if a certificate of need is required by Minnesota Statutes, chapter 216B.

**Subp. 1a. Distribution.** A copy of the application shall be provided by board staff to each member of the board.

# MINNESOTA RULES 1991

3391

## HIGH VOLTAGE LINES, POWER PLANTS 4400.2800

Subp. 2. **Site proposal from inventory.** After board adoption and publication of its inventory of large electric power generating plant study areas, the utility shall in all new applications filed with the board either apply for sites located within the inventory of study areas, or shall specify the reasons for any proposal located outside of the study areas and make an evaluation of the proposed site based upon the planning policies, criteria, and standards specified in the inventory.

**Statutory Authority:** *MS s 116C.66*

**History:** *L 1983 c 289 s 115 subd 1; L 1987 c 312 art 1; 15 SR 1598*

**4400.2700** [Repealed, 15 SR 1598]

### **4400.2710 ACCEPTANCE OF APPLICATION FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.**

Subpart 1. **Board action required.** The board shall either accept or reject an application at its first regularly scheduled meeting after the application is filed with the board, provided the application is filed at least 21 days before that meeting.

Subp. 2. **Rejection of application.** If the board rejects the application, the board shall inform the applicant in writing which deficiencies, if corrected, will allow the application to be accepted. If the applicant has corrected the deficiencies or provided the board with the required information 14 days in advance of a regularly scheduled meeting, the board must reconsider acceptance of the application at that meeting. If the applicant fails to meet the conditions established by the board for reconsideration of the rejected application, the rejection shall stand. If the rejection stands, the applicant may reapply at any time. If the board fails to act within the times specified in this subpart, the application shall be considered accepted.

Subp. 3. **Additional information.** On acceptance of the application, the board shall proceed with the actions required in parts 4400.2800 to 4400.3500. The applicant shall provide additional relevant information that the board considers necessary to process the application.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### **4400.2720 BOARD ACTION UPON ACCEPTANCE.**

On acceptance of an application for site designation and a certificate of site compatibility, the board shall designate a project leader who shall serve as an independent representative of the board during the formal siting proceedings. The project leader shall be responsible for coordinating assigned staff responsibilities during the siting process and in preparing the EIA. The project leader shall ensure that the record of the proceedings is fully developed and responsive to all issues raised in the process. The project leader may intervene as a party in the public hearing if appropriate. Positions taken or representations made by the project leader during the siting process are not binding on the board.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### **4400.2800 SITE ADVISORY TASK FORCE.**

Upon acceptance of an application for site designation and a certificate of site compatibility, the board may appoint a site advisory task force and its chair consistent with the act and part 4405.0800. The board shall provide guidance to the task force in the form of a charge. Site advisory task forces are advisory and are to assist the board in evaluating the application and alternatives, and in determining the scope of the EIA prepared under part 4400.3210.

## 4400.2800 HIGH VOLTAGE LINES, POWER PLANTS

3392

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

## 4400.2900 PUBLIC ADVISER.

On acceptance of an application for site designation and a certificate of site compatibility, the board shall designate a public adviser. The public adviser shall be available to any person to advise that person on how to effectively participate in the siting process. The public adviser shall not give legal advice or advice which may affect the legal rights of the person being advised or act as an advocate.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

## 4400.3000 INFORMATION MEETINGS.

The board shall hold at least two information meetings. After acceptance of an application for site designation and a certificate of site compatibility, the board shall hold at least one information meeting in the area affected by the applicant's proposal to explain the site designation process, receive comments on the scope of the EIA, and to respond to questions raised by the public.

Before the public hearings held to consider the sites approved for consideration by the board, the board shall hold an information meeting in each county in which a site is proposed to be located to explain the site designation process, receive comments on issues and alternatives described in the EIA, and to respond to questions raised by the public.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

## 4400.3100 SITE PROPOSALS.

**Subpart 1. Acceptance for consideration.** The board shall accept for consideration the sites proposed by the applicant and may accept for consideration any other site which is proposed in accord with this part. Only sites which have been accepted by the board prior to notice of the public hearing shall be considered at the public hearing. Sites accepted shall be identified by the board in accordance with part 4400.3710. In order that a site be included in the public hearing record, any proposer of a site which has been accepted for consideration at the public hearing by the board shall make a presentation of facts on the merits of the proposal at the public hearing.

**Subp. 2. Agency and advisory task force site proposals.** The board member agencies, power plant siting staff, and the site advisory task force may propose sites directly to the board. Site proposals made by the site advisory task force must be made no later than 105 days after acceptance of the application by the board.

**Subp. 3. Other sources of site proposals.** Any other person may propose a site as provided in this subpart:

A. The proposed site must be set out specifically on the appropriate general county highway map available from the Minnesota Department of Transportation or on United States Geological Survey topographical maps.

B. The proposal must contain the data and analysis required in parts 4400.2600 and 4400.3310 with the exception of part 4400.2600, subpart 1, items C and E, unless the information is the same as provided by the applicant.

C. The proposal must be presented to the chair of the board within 70 days of acceptance of the application by the board.

**Subp. 4. Adequate preparation of proposal.** Within ten days of receipt of a site proposal, the chair of the board shall determine if the proposal is adequately prepared in accord with this part. If the chair of the board determines that it is ade-

# MINNESOTA RULES 1991

3393

## HIGH VOLTAGE LINES, POWER PLANTS 4400.3210

quately prepared, the chair shall forward the proposal to the board for its consideration at its next meeting. If the chair of the board determines that the proposal is not adequately prepared, the chair shall inform the proposer of any inadequacies in the proposal. The proposer shall have 15 days to provide additional information to the chair of the board. The chair of the board shall determine within ten days whether the amended proposal is adequately prepared. If the chair of the board then determines that the proposal is not adequately prepared, the proposer may appeal to the board at its next meeting to determine the adequacy of the proposal.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### 4400.3200 PUBLIC HEARINGS.

Public hearings held by the board under parts 4400.2600 to 4400.3500 shall be held for the purposes of collecting and verifying data and establishing a complete and accurate record upon which to base a decision. The hearing shall be conducted by an independent administrative law judge from the Office of Administrative Hearings. The conduct of these hearings shall be as prescribed by chapter 1405.

**Statutory Authority:** *MS s 116C.66*

**History:** *L 1984 c 640 s 32; 15 SR 1598*

### 4400.3210 ENVIRONMENTAL IMPACT ASSESSMENT FOR LEPGP.

**Subpart 1. Record of hearings.** An environmental impact assessment (EIA) must be prepared for inclusion in the record of the public hearing under Minnesota Statutes, section 116C.58.

**Subp. 2. Contents.** The EIA must contain:

A. a summary of the project description provided in the project proposer's application;

B. a summary of the certificate of need decision, if one was required and is available; the EIA shall not consider need for the project and other issues determined by the Public Utilities Commission;

C. a description of the applicant's proposed sites and any alternative sites approved by the board for consideration at public hearing;

D. a description of feasible alternative designs;

E. an analysis of the potential human and natural environmental effects of each alternative site or design. The analysis must include those issues identified by the site advisory task force or by any interested person during the first public information meeting held under part 4400.3000;

F. a description of mitigative measures that could reasonably eliminate or minimize potential adverse effects;

G. a discussion of all known governmental permits and approvals required; and

H. an explanation of the board's siting process and how the public can participate, and specifically, how public comments on the EIA will be received for inclusion in the record of the public hearing.

**Subp. 3. Notice of availability.** The chair or the chair's designee shall provide notice of the availability of the EIA and how the public can participate in its review. The notice must be provided according to Minnesota Statutes, section 116C.58, and part 4400.3710, and may be provided in the notice of the hearing required. Notice must also be published in the EQB Monitor.

**Subp. 4. Distribution.** When notice of availability is provided under subpart 3, the EIA must be distributed to each member of the board and by certified mail to the persons receiving notice. At least one copy must be available for public

review at the last public information meeting held before the public hearing and during the public hearing conducted under Minnesota Statutes, section 116C.58.

**Subp. 5. Comments.** The comment period begins when notice of availability of the EIA is published in the EQB Monitor and closes at the end of the oral portion of the public hearing. At least 30 days must be provided for comments. All comments become part of the hearing record as provided in part 1405.1800, subpart 5. The hearing record remains open until responses have been provided to all relevant comments which address deficiencies in the EIA pursuant to subpart 2. The date shall be set by the administrative law judge under part 1405.1400.

**Subp. 6. Adequacy.** Prior to designating a site and issuing a certificate of site compatibility for an LEPPG, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

A. have adequately addressed significant environmental issues identified by the site advisory task force and the public under parts 4400.2800 and 4400.3000;

B. have been prepared in compliance with the requirements of this part; and

C. have addressed the issues raised on the scope of the EIA so that all issues have been analyzed.

**Subp. 7. Cooperative processes.** The chair or the chair's designee shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code, title 42, sections 4321 to 4361.

**Subp. 8. Costs.** The board shall assess the project proposer for its reasonable costs of preparing and distributing the EIA pursuant to part 4410.6000.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.3300 [Repealed, 15 SR 1598]**

#### **4400.3310 SITING CONSIDERATIONS.**

**Subpart 1. Considerations.** To facilitate the evaluation and designation of LEPPG sites, the board shall be guided by the act and the following considerations:

A. effects on human settlement, including but not limited to, displacement, noise, aesthetics, community benefits, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including but not limited to, agriculture, forestry, tourism, and mining;

D. archaeological and historic resources;

E. effects on the natural environment;

F. rare and unique natural resources;

G. cumulative present and future demands on air and water resources;

H. application of design options which maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of generating capacity;

I. use of existing LEPPG sites;

J. use of existing transportation, pipeline, and electrical transmission systems;

K. costs of constructing and operating the facility which are dependent on design and site; and

L. adverse human and natural environmental effects which cannot be avoided.

# MINNESOTA RULES 1991

3395

## HIGH VOLTAGE LINES, POWER PLANTS 4400.3310

**Subp. 2. Site exclusions.** The following resources within the state have been designated for preservation by action of the state or federal government for the benefit of the people and for future generations:

- A. national parks;
- B. national historic sites and landmarks;
- C. national historic districts;
- D. national wildlife refuges;
- E. national monuments;
- F. national wild, scenic, and recreational riverways;
- G. state wild, scenic, and recreational rivers and their land use districts;
- H. state parks;
- I. nature conservancy preserves;
- J. state scientific and natural areas; and
- K. state and national wilderness areas.

These areas shall not be designated as a site for an LEPGP except for use for water intake or discharge facilities. If the board includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the certificate of site compatibility which protect these areas for the purpose for which they were designated. The board shall also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

**Subp. 3. Site exclusions when alternative sites exist.** Certain resources within the state shall not be designated for LEPGP sites unless all feasible and prudent alternatives would have greater adverse human and environmental impact. Designation of a site in these areas shall be consistent with Minnesota Statutes, section 116C.53, subdivision 1, and shall include conditions to minimize impacts which adversely affect the unique character of these areas. Economic considerations alone shall not justify approval of these areas. These areas are:

- A. state registered historic sites;
- B. state historic districts;
- C. state wildlife management areas (except in cases where the plant cooling water is to be used for wildlife management purposes);
- D. county parks;
- E. metropolitan parks;
- F. designated state and federal recreational trails;
- G. designated trout streams; and
- H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

**Subp. 4. Prime farmland exclusion.** When there exists a feasible and prudent alternative with less adverse environmental and noncompensable human effects, no LEPGP site shall be designated where the developed portion of the plant site includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, and no makeup water storage reservoir or cooling pond site shall include more than 0.5 acres of prime farmland per megawatt of net generating capacity. These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

**Subp. 5. Sufficient water supply required.** No site shall be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater shall be permitted where removal of groundwater results in material adverse effects on groundwater in and adjacent to the area, as determined in each case.

**4400.3310 HIGH VOLTAGE LINES, POWER PLANTS**

3396

The use of groundwater for high consumption purposes, such as cooling, shall be avoided if feasible and prudent surface water alternatives less harmful to the environment exist. Groundwater use to supplement available surface water shall be permitted if the cumulative impact minimizes environmental harm.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.3400 SITE DESIGNATION AND ISSUANCE OF CERTIFICATE OF SITE COMPATIBILITY.**

Within one year after the board's acceptance of an application for a certificate of site compatibility, the board shall act on that application. When the board designates a site it shall issue a certificate of site compatibility with any appropriate conditions. The board's decision shall be based on the record, part 4400.3310, and the act. The board shall give the reasons for its decision in written findings of fact. If the board refuses to designate a site, it shall indicate the reasons for the refusal and indicate the necessary changes in size or type of facility to allow site designation.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.3500 CERTIFICATE COMPLIANCE.**

Following site designation and issuance of a certificate of site compatibility, the board may require the permittee to supply plans and information as it deems necessary to determine whether or not the LEPGP is in compliance with the conditions of the certificate of site compatibility.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.3600 PROGRAM ADVISORY TASK FORCE.**

Subpart 1. [Repealed, 15 SR 1598]

Subp. 2. **Program advisory task force.** The board may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule, inventory, or program initiated under the act or parts 4400.0200 to 4400.4900. The board shall provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force shall be composed of as many members as may be designated by the board, and its membership shall be solicited on a statewide basis. The program advisory task force and its chair shall be appointed for a one-year term.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.3700 [Repealed, 15 SR 1598]****4400.3710 NOTICES.**

Subpart 1. **When to notice.** The chair or the chair's designee shall provide notice consistent with the act at the following points in the routing and siting processes:

- A. within 20 days of acceptance of any application filed with the board under the act, except an exemption application;
- B. public information meetings;
- C. availability of EIA;
- D. public hearing; and
- E. board designation of a site or route.

# MINNESOTA RULES 1991

3397

## HIGH VOLTAGE LINES, POWER PLANTS 4400.3800

**Subp. 2. Content of notices.** All notices shall be provided consistent with the act, except for subpart 1, item E, and shall include, but not be limited to, the following information:

- A. identification of the applicant;
- B. date, time, and location of any action, meeting, or public hearing being noticed;
- C. a brief description of the proposed large electric power facility;
- D. a map showing the location of the proposed facility;
- E. procedures for participating in the routing or siting process and for interested persons to be placed on a mailing list for future notices;
- F. locations where documents are available for public review; and
- G. the name and function of the public advisor and the address and telephone number where that person can be reached.

**Subp. 3. Proposals required to be noticed.** For purposes of providing notice, a route, route segment, or site proposal shall be any route, route segment, or site proposed by the applicant or accepted by the board under part 4400.1100 or 4400.3100.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### 4400.3800 EMERGENCY CERTIFICATIONS AND PERMITS.

**Subpart 1. Application for emergency certificate.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or a high voltage transmission line may apply to the board for an emergency certificate of site compatibility or an emergency construction permit. The application for an emergency construction permit shall contain the supporting information required in parts 4400.0600 and 4400.3800, subpart 2. The application for an emergency certificate of site compatibility shall contain the supporting information required in parts 4400.2600 and 4400.3800.

**Subp. 2. Determination of an emergency.** The board shall hold a public hearing as prescribed by chapter 1405 within 90 days of acceptance of an application for emergency certification to consider the following to determine whether an emergency exists:

- A. whether adherence to the procedures and time schedules specified in parts 4400.1400 and 4400.3400 would jeopardize the utility's electric power system or would the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- B. whether there remains any feasible or prudent alternative to the utility which can serve its immediate need; and
- C. whether the utility is prepared to, and will upon authorization, carry out the acquisition and construction program at the maximum rate of progress.

The board shall also establish whether the situation could have been reasonably anticipated by the utility in time to use the normal application procedures. If the board finds that the utility could have reasonably anticipated the situation, the utility may be subject to Minnesota Statutes, section 116C.68.

**Subp. 3. Emergency procedures.** If the board determines that an emergency exists, then the route or site designation procedures prescribed in parts 4400.0600 to 4400.1500 and 4400.2600 to 4400.3500, with the exception of parts 4400.1100, subparts 2 to 5, and 4400.3100, subparts 2 to 4, shall be followed, except that the board shall designate a route and issue an emergency construction permit or designate a site and issue an emergency certificate of site compatibility within 195 days of the application.

**Statutory Authority:** *MS s 116C.66*

**History:** *L 1983 c 289 s 115 subd 1; L 1987 c 312 art 1; 15 SR 1598*

**4400.3900 EXEMPTION OF CERTAIN TRANSMISSION LINE ROUTES.**

Subpart 1. **Application for exemption.** A utility or person may file an application with the board to exempt from the act the construction of an HVTL within a proposed route. No exemptions may be granted unless the procedures in this part are followed.

Subp. 1a. **Application contents.** The application for exemption shall contain information necessary to make an evaluation of considerations listed in part 4400.1310, and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. a general description of the proposed project;

C. a description of the route for the proposed HVTL and a map;

D. the engineering design and estimated costs for the proposed HVTL;

E. a description of the construction, right-of-way restoration, and maintenance procedures anticipated for the proposed HVTL;

F. a description of the potential human and natural environmental effects and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.1310; and

G. a listing and brief description of governmental permits that may be required.

Subp. 1b. **Distribution.** A copy of the application shall be provided by board staff to each member of the board.

Subp. 2. **Notice of exemption application.** Within 15 days of filing of an exemption application, the applicant shall:

A. publish notice consistent with the act;

B. send a copy of the exemption application by certified mail to the chair or chief executive of any regional development commission, county, home rule charter or statutory city, and organized town in which the route is proposed to be located; and

C. mail to each owner whose property is included within the route, a notice and description of the exemption application, together with an understandable description of the procedures the owner must follow should the owner desire to object. Determination of ownership shall be consistent with Minnesota Statutes, section 116C.57, subdivision 5.

Subp. 3. **Objection to exemption.** If a person who owns real property crossed by the proposed route, or any person owning property contiguous to the property crossed by the proposed route, or any affected political subdivision submits a written objection to the board within 60 days after notice has been provided, the board must either deny the exemption application or conduct a hearing as prescribed by chapter 1405 to determine if the proposed HVTL within the proposed route will cause any significant human or environmental impact. The written objection shall:

A. state reasons why the board should deny the exemption application or hold a public hearing;

B. to the extent possible, describe significant impacts on the human or natural environment which will be caused by the proposed facility, or show that insufficient information is provided on possible impacts in the application; and

C. provide evidence of real property ownership required in this subpart. Property tax records shall suffice as evidence.

Subp. 4. [Repealed, 15 SR 1598]

Subp. 5. **Public hearing.** Pursuant to Minnesota Statutes, section 116C.06, the board may order a public hearing as prescribed by chapter 1405 to determine

# MINNESOTA RULES 1991

3399

## HIGH VOLTAGE LINES, POWER PLANTS 4400.3910

if the proposed facility will cause any significant human or environmental impact.

**Subp. 6. Public comments.** Any person may submit comments to the board within 60 days after notice has been provided as required by subpart 2.

**Subp. 7. Determination.** In deciding whether to grant or deny an exemption, the board shall consider any objections and comments that are submitted, the record of any public hearing which is held, and the information contained in the application. If the board determines that the proposed HVTL will not have a significant human or environmental impact, the board may exempt from the act with any appropriate conditions the construction of the proposed facility within the proposed route. If the board denies an HVTL exemption, it shall indicate the reasons and indicate the project changes necessary for approval. The applicant may reapply for an exemption or apply for a construction permit.

When an exemption is granted, the utility or person must comply with any applicable state rules, local zoning, building, and land use rules, regulations, and ordinances of any regional, county, local, and special purpose governments in which the facility is to be located.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### 4400.3910 EXEMPTION OF CERTAIN LEPPG SITES.

**Subpart 1. Application for exemption.** A utility or person may file an application with the board to exempt from the act the construction of an LEPPG with an electric power production capacity between 50 and 80 megawatts at a proposed site. No exemptions may be granted unless the procedures in this part are followed.

**Subp. 2. Contents of application.** The application for exemption shall contain information necessary to make an evaluation of considerations listed in part 4400.3310 and inventory criteria in part 4400.4500, and the following:

- A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;
- B. the size and type of the proposed plant;
- C. the proposed site location and a map;
- D. an engineering design, cost, and operation analysis for the proposed plant;
- E. a description of all waste streams and disposal methods;
- F. the anticipated life of the facility;
- G. a description of the potential human and natural environmental effects and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.3310; and
- H. a listing and brief description of governmental permits that may be required.

**Subp. 2b. Distribution.** A copy of the application shall be provided by board staff to each member of the board.

**Subp. 3. Notice of exemption application.** Within 15 days of the filing of an exemption application, the applicant shall:

- A. publish notice consistent with the act in each county in which any portion of the proposed site is located;
- B. send a copy of the exemption application by certified mail to the chair or chief executive of any regional development commission, county, home rule charter or statutory city, and organized town within ten miles of the proposed site; and

**4400.3910 HIGH VOLTAGE LINES, POWER PLANTS**

3400

C. mail to the owner of each property that is part of or is contiguous to the proposed site a notice and description of the exemption application and an understandable description of the procedures the owner must follow should the owner desire to object. Determination of ownership shall be consistent with Minnesota Statutes, section 116C.57, subdivision 5a, paragraph (b).

**Subp. 4. Objection to exemption.** If a person who owns real property that is part of or contiguous to the proposed site or an affected political subdivision submits a written objection to the board within 60 days after the board receives an exemption application, the board must either deny the exemption application or conduct a public hearing as prescribed by chapter 1405 to determine if the proposed electric power plant at the proposed site will cause any significant human or environmental impact. The written objection shall:

A. state reasons why the board should deny the exemption application or hold a public hearing;

B. to the extent possible, describe significant impacts on the human or natural environment which will be caused by the proposed facility, or show that insufficient information is provided on possible impacts in the exemption application; and

C. provide evidence of real property ownership required in this subpart. Property tax records shall suffice as evidence.

**Subp. 5. Public hearing.** Pursuant to Minnesota Statutes, section 116C.06, the board may order a public hearing as prescribed in chapter 1405 to determine if the proposed facility will cause significant human or environmental impact.

**Subp. 6. Public comments.** Any person may submit comments to the board within 60 days after notice has been provided as required in subpart 3.

**Subp. 7. Determination.** In deciding whether to grant or deny an exemption, the board shall consider any objections and comments that are submitted, the record of any public hearing which is held, and the information contained in the application. If the board determines that a facility has an electric power production capacity less than 80 megawatts and construction at the proposed site will not have a significant human or environmental impact, the board may exempt with any appropriate conditions the construction of the proposed facility at the proposed site from the requirements of the act. If the board denies an LEPPG exemption, it shall indicate the reasons and indicate the project changes necessary for approval. The applicant may reapply for an exemption or apply for a certificate of site compatibility.

When an exemption is granted, the utility or person must comply with applicable state rules, local zoning, building, and land use rules, regulations, and ordinances of any regional, county, local, and special purpose governments in which the facility is to be located.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.4000 DELAY IN ROUTE OR SITE CONSTRUCTION.**

If construction and improvement of a route or site have not commenced four years after the construction permit or site certificate has been issued by the board, the board shall suspend the certificate or permit. If at that time, or at a time subsequent, the utility decides to construct the proposed large electric power facility, it shall certify to the board that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit or certificate was issued. If the board determines that there are no significant changes, it shall reinstate the permit or certificate. If the board determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require a new application.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

# MINNESOTA RULES 1991

3401

## HIGH VOLTAGE LINES, POWER PLANTS 4400.4300

### **4400.4100 MINOR ALTERATIONS IN CONSTRUCTION PERMIT OR CERTIFICATE OF SITE COMPATIBILITY.**

Following issuance of a construction permit for an HVTL or a certificate of site compatibility for an LEPGP, a utility may apply to the board for minor alterations on conditions specified in the permit or certificate. The utility shall submit an application for a minor alteration which contains sufficient information for the board to determine within 45 days the following: whether the requested changes are significant enough to warrant board study and approval; whether to order public hearings near the affected area; or whether additional fees shall be assessed.

If the board decides to study the application, the board shall determine within 70 days whether granting the application would be consistent with part 4400.1310 or 4400.3310 and shall grant or deny the utility's application accordingly.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### **4400.4200 REVOCATION OR SUSPENSION OF CERTIFICATE OR PERMIT.**

**Subpart 1. Initiation of action to revoke or suspend.** The board may initiate action to consider revocation or suspension of a construction permit or certificate of site compatibility on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the act has occurred under Minnesota Statutes, section 116C.645 or this chapter.

**Subp. 2. Hearing.** If the board initiates action to consider revocation or suspension of a construction permit or certificate of site compatibility, it will consider in a hearing under Minnesota Statutes, section 116C.645 the following matters:

A. whether a violation of any of the conditions in Minnesota Statutes, section 116C.645 has occurred;

B. whether the violation will result in any significant additional adverse environmental effects;

C. whether the results of the violation can be corrected or ameliorated; and

D. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

**Subp. 3. Finding of violation.** If the board finds that a violation of Minnesota Statutes, section 116C.645 or this chapter has occurred, it may revoke or suspend the permit or certificate, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit or certificate.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### **4400.4300 ANNUAL PUBLIC HEARING.**

The board shall hold an annual public hearing on a Saturday in November in Saint Paul in order to afford interested persons an opportunity to be heard regarding its inventory of study areas, route and site designation processes, other aspects of the board's activities and duties performed pursuant to the act, or policies set forth in these rules.

**Statutory Authority:** *MS s 116C.66*

**4400.4400 HIGH VOLTAGE LINES, POWER PLANTS**

3402

**4400.4400 ANNUAL ASSESSMENT ON UTILITY.**

For purposes of determining the annual assessment on a utility pursuant to the act, each utility shall, on or before July 1 of each year, submit to the board a report of its retail kilowatt-hour sales in the state and its gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility reporting year. Upon receipt of these reports, the board shall bill each utility as specified in the act.

**Statutory Authority:** *MS s 116C.66*

**4400.4500 IDENTIFICATION OF LARGE ELECTRIC POWER GENERATING PLANT STUDY AREAS.**

**Subpart 1. Inventory criteria and standards.** The following criteria and standards shall be used by the board to prepare an inventory of large electric power generating plant study areas and by the utility and the board to evaluate any proposed site not located within the appropriate study area.

**Subp. 2. Exclusion areas.** Criterion: study areas shall be compatible with board rules on exclusion criteria for LEPGP site selection.

Standard: geographic areas identified in part 4400.3310, subpart 2 shall not be part of any study area.

**Subp. 3. Air quality.** Criterion: study areas for LEPGPs shall be compatible with existing federal and state air quality rules.

Standard: study areas shall not include those areas in which operation of an LEPGP would likely result in violation of primary or secondary standards or exceedence of prevention of significant deterioration increments for sulfur dioxide or particulate matter as established under United States Code 1980, title 42, sections 7401 to 7642, Minnesota Statutes, section 116.07, and parts 7005.0010 to 7005.0080.

**Subp. 4. Transportation.** Criterion: study areas for coal-fired LEPGP's shall have reasonable access to existing transportation systems which are or can be made capable of transporting the required quantities of coal.

Standard: in identifying study areas for coal-fired LEPGP's, "reasonable access" shall mean no more than 12 miles distant from the existing transportation system.

**Subp. 5. Water.** Criterion: study areas for LEPGP's using evaporative cooling systems shall have reasonable access to an adequate water source.

Standards: in identifying study areas for LEPGP's using evaporative cooling, rivers and lakes shall be considered potential water sources.

In identifying study areas for LEPGP's using evaporative cooling, "reasonable access" shall mean no more than 25 miles distant from the water source.

In identifying study areas for LEPGP's using evaporative cooling, a water source shall be considered adequate if it appears likely to allow LEPGP operation through periods of historic low flows or historic low elevations, either by direct withdrawal or by using supplemental stored water. This evaluation shall be based on historic stream flows, cooling water system technology, and the environmental, economic, and engineering constraints of reservoir design related to size.

**Subp. 6. Application of inventory criteria and standards.** The board shall adopt an inventory of study areas for the LEPGP capacities, fuel types, and designs reasonably anticipated to be subject to application for a certificate of site compatibility in the near future. The inventory shall consist of the maps of the study areas; discussion of specific inventory criteria and standards and technical assumptions used to develop the maps; and discussion of the LEPGP capacities, fuel types, and designs for which the maps are developed. The board shall consult with board member agencies, utilities, and other agencies or persons with applicable information as it develops the technical assumptions necessary for application of inventory criteria and standards.

# MINNESOTA RULES 1991

3403

## HIGH VOLTAGE LINES, POWER PLANTS 4400.4900

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

### **4400.4900 APPLICATION FEES.**

Every applicant for a route or site pursuant to Minnesota Statutes, section 116C.57 shall pay to the board a fee as prescribed by the act.

For applications filed pursuant to Minnesota Statutes, section 116C.57, subdivisions 1 and 2, 25 percent of the total estimated fee shall accompany the application and the balance is payable in three equal installments at the end of 90, 180, and 270 days from the date of the board's acceptance of the application.

For applications filed pursuant to Minnesota Statutes, section 116C.57, subdivision 3, 25 percent of the total estimated fee shall accompany the application and the balance is payable at the end of 90 days from the date of the board's acceptance of the application.

For applications filed pursuant to Minnesota Statutes, section 116C.57, subdivisions 5 and 5a, 50 percent of the total approved cost for processing the application shall be paid within 14 days of receipt of the application and the balance is payable as determined by the board.

**Statutory Authority:** *MS s 116C.66*

**History:** *15 SR 1598*

**4400.5100** [Renumbered 4350.3000]

**4400.5200** [Renumbered 4350.3010]

**4400.5300** [Renumbered 4350.3020]

**4400.5500** [Renumbered 4350.3030]

**4400.5600** [Renumbered 4350.3040]

**4400.5700** [Renumbered 4350.3050]

**4400.5800** [Renumbered 4350.3060]

**4400.5900** [Renumbered 4350.3070]

**4400.6000** [Renumbered 4350.3080]

**4400.6100** [Renumbered 4350.3090]

**4400.6200** [Renumbered 4350.3100]

**4400.6300** [Renumbered 4350.3110]

**4400.7000** [Renumbered 4350.3120]

**4400.9910** [Renumbered 4350.3130]