

BIENNIAL REPORT

MINNESOTA POWER PLANT SITING ACT

Report to the Legislature

April, 2015

**As required by
Minnesota Statutes § 216E.18**

Submitted by the Minnesota Public Utilities Commission



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Reporting Requirement

Statutory Reporting Requirement

Minnesota Statutes (2014), Section 216E.18, subdivision 1 requires the Public Utilities Commission (Commission) to file a report with the Legislature at the end of each even-numbered year regarding the Commission's operations, activities, findings, and recommendations concerning the Minnesota Power Plant Siting Act (Minn. Stat. Chapter 216E). The Report must also contain information on the amounts paid in permit application fees and assessments pursuant to this section of law.

Costs of Preparing Report

Pursuant to Minnesota Statutes (2014), Section 3.197, it is estimated that the costs incurred by the Minnesota Public Utilities Commission in preparing this Report are minimal. Special funding was not appropriated for the costs of preparing this report.

Focus of this Report

This report specifically addresses the Commission's responsibilities for the siting and routing of large electric energy facilities.

In 1973 the Minnesota Legislature passed the Power Plant Siting Act. Minnesota Laws 1973, chapter 591, codified at Minnesota Statutes §§ 116C.51 – 116C.69, and recodified at 216E in 2005. The Power Plant Siting Act requires that any person who wants to build a Large Electric Power Generating Plant (LEPGP) or a High Voltage Transmission Line (HVTL), as those terms are defined in the Act, is required to obtain state approval for a specific site for the plant or a specific route for the transmission line.

The jurisdiction for power plant siting and transmission line routing was transferred from the Minnesota Environmental Quality Board (MEQB) to the Commission by 2005 legislation (Laws of Minnesota 2005, Chapter 97). The 2005 legislation also transferred jurisdiction for wind farm siting (216F) and pipeline siting (216G) from the MEQB to the Commission. These separate energy related jurisdictions had been administered in conjunction with the power plant siting and transmission line routing jurisdiction under a single program at the MEQB, labeled the Power Plant Siting Program.

The transfer of jurisdiction from the EQB to the Commission was made to enhance administrative efficiency. Previously, the determination on whether the energy facility was 'needed' was made by the Commission and the determination on 'where' the facility should be located was determined by the MEQB. The transfer consolidated the permitting and planning requirements for large energy facilities into a single regulatory agency. The previous Commission/MEQB split decision-making authority caused some confusion among the public and sometimes led to delays in permitting. Additionally, enabling the two separate processes to develop in parallel was intended to achieve time and cost efficiencies. Consolidation benefits have arisen from the Commission's jurisdiction of electric generation resource planning (Minn. Stat. § 216B.2422) and electric transmission planning (Minn. Stat. § 216B.2425), in which environmental and locational factors can be considered jointly.



Reporting Agency Unit

The Commission's Energy Facilities staff manages state oversight of proposals to construct or modify large energy facilities in Minnesota, which include fossil fuel electric generation units, transmission lines, wind power generation units, and gas and petroleum facilities. The Commission's jurisdiction encompasses Certificate of Need as well as Site or Route Permits. Applications for projects subject to the Commission's jurisdiction are electronically filed with the Commission in compliance with state statutes and administrative rules. Joint processing of applications for a Certificate of Need and a Site or Route Permit is allowed. The Commission's procedures for review of proposed large energy facilities incorporate compliance with the Minnesota Environmental Policy Act and provide for broad spectrum public participation, including timely public notice and multiple opportunities for public comment. The Commission's decisions preempt local jurisdictional authority. In addition to the review of requested permits for large energy projects, the Public Utilities Commission has specific jurisdiction related to electric transmission planning. The Energy Facilities staff actively participates in regional transmission planning and coordination efforts conducted by the Midcontinent Independent System Operator (MISO) and the associated Organization of MISO States (OMS) a non-profit, self-governing entity that coordinates state regulatory participation, representation and oversight of regional transmission issues.

Agency Organization - Commission and the Department of Commerce Energy Environmental Review and Analysis Unit

At the same time the Power Plant Siting Act jurisdiction was transferred to the Commission (in 2005), the staff supporting the Power Plant Siting Program at the MEQB were moved to the Division of Energy Resources (DER) within the Minnesota Department of Commerce. See Minn. Stat. § 216E.03, subd. 11. This staff, the Energy Environmental Review and Analysis unit (EERA, previously Energy Facilities Permitting (EFP)), is directly administered by the Director of the DER. The EERA unit assists in compiling the Commission's record and comments on Commission decisions regarding permit applications. The EERA prepares environmental reports, assessments or impact statements, when appropriate. Certain environmental review procedures are the exclusive jurisdiction of the DOC. The EERA staff typically retains 10 full time employees, although several positions are vacant at this time.

To facilitate this unique dual-agency arrangement, the Commission was granted authority to retain Energy Facility Permitting staff to coordinate with the DOC EERA unit, provide public information and assistance, advise the Commissioners prior to decisions, and ensure sound record development. Defense of its decisions in a court of appeal remains a Commission responsibility. Commission costs to administer its actions on siting/routing dockets are recovered from fees charged to applicants. Currently the Commission has the equivalent of 3.5 full time employees including the Public Advisor that support this program.



Program Expenditures and Budget Overview

The DOC EERA unit independently manages application fees and the direct assessment, and has provided the following information upon request:

Biennial Expenditures

Expenditures for the permitting operations and activities of both the DOC EERA and the Commission:

Expenditure Type	FY13	FY14	Combined
Necessary and Reasonable Costs Incurred by Permitting	\$526,327	\$960,812	\$1,487,139
Activity and Program Costs	\$917,752*	\$1,038,462	\$1,956,214
Total	\$1,444,079*	\$1,999,274	\$3,443,353

* Adjusted to accurately represent totals within fiscal years

“Necessary and reasonable costs” must be paid by applicants to cover costs incurred by the Commission and the permitting staff at DOC in acting on a permit application (for power plants and transmission lines; Minn. Stat. § 216E.18, Subds. 2 & 3, and Minn. Rules 7850.1800: for wind farms; Minn. Stat. § 216F.05, and Minn. Rules 7854.1500: for pipelines, Minn. Stat. § 216G.02, Subd. 3, and Minn. Rules 7852.4000).

Activity and program costs are paid by an assessment against utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours as authorized by Minn. Stat. § 216E.18, Subd. 3.

Proposed Budget and Assessment

Permitting expenditures at approximately \$526K were significantly lower in FY13 than the approximately \$884K average in the surrounding years. This amount varies with the number of projects in a given year and their relative complexity. For example, projects requiring an Environmental Impact Statement (EIS) or a Comparative Environmental Analysis (CEA) can require the additional services of an external consultant, adding to the necessary and reasonable costs.

In FY14, an EIS was prepared for the Lakefield-Winnebago 345 kV project. In FY15, the Great Northern Transmission Line project will require an EIS and the Sandpiper Pipeline project will require a CEA. The Sandpiper Pipeline will incur additional expenses for environmental analysis of the alternatives in the need assessment.

In part, activity and program costs are higher in FY14 due to expenses involved with the four-year study to evaluate the impact of wind farm operations on bats. Those expenses will continue in FY15.

Therefore, due to the 1) increased activity in large and controversial projects in FY15 and 16, 2) the ongoing study work related to wind turbine impacts in FY15, and 3) accounting for inflation, the anticipated expenses in FY15 are estimated to be ten percent higher than the FY14 totals:



Expenditure Type	Expected Annual Expenditures
Necessary and Reasonable Costs Incurred by Permitting	\$1,056,893
Activity and Program Costs	\$1,142,308
Total	\$2,199,201

Public Information and Participation

The ‘on-the-ground’ consequences of the state’s policies establishing the public interest in the construction of needed large energy facilities can affect many landowners, communities, governmental agencies and other entities. The Power Plant Siting Act emphasizes a principle of broad spectrum public participation. The Commission and the DOC EERA unit manage the siting/routing programs with a strong emphasis on this principle. While the two agencies continue to provide substantial notice via regular mail, web-based information on the Commission and Department websites contains useful public guidance, and is continually updated. Further, the Commission website is undergoing a major revision which will continue into 2015. See <http://mn.gov/puc/energyfacilities/index.html> and <http://mn.gov/commerce/energyfacilities/>.

In 2012, the Commission added a Public Advisor position to enhance the public’s ability to effectively participate in Commission proceedings, particularly those involving facilities permitting. In addition, the Commission has authorized the DOC EERA unit to appoint project specific advisory task forces that include affected area residents and officials to assist in the review of a proposed facility when necessary.

The Power Plant Siting Act also requires the Commission to hold an annual hearing to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding any aspects of the Commission’s activities, duties or policies. Summary reports of this hearing for the calendar years of 2012 and 2013 are available via the Commission’s eDockets system in Dockets 12-360 and 13-965. The 2014 Annual Hearing (Commission Docket Number 14-887) was held on December 19, 2014, and a summary report will follow in the first quarter of 2015.



Operations and Activities in Biennium

Operations: Permits Processed

The following table shows the number and type of projects permitted or amended for fiscal years 2013 and 2014:

Energy Facility	FY 2013	FY 2014	FY 2013 - 2014
Power Plants	0	0	0
Transmission Lines ¹	7	3	10
Pipelines ²	0	1	1
Wind Farms ³	2	1	3
Transmission Line Amendments & Minor Alterations ⁴	2	1	3
Wind Permit Amendments or Revocations ⁵	7	2	9
TOTAL	18	8	26

Operations: Total Permitted Wind Capacity

The table and chart below show the total megawatts of permitted wind energy. Minnesota's current installed wind generation capacity is approximately 3,305 MW.⁶

	FY 2013	FY 2014	FY 2013-2014
Permitted Wind Generation Capacity, Megawatts (MW)	80	105	185

Docket Nos. Associated with each project

¹ FY13 - Dkt. Nos.: 12-1245, 12-1151, 11-948, 11-915, 11-867, 11-800, 11-795, FY14: 13-68, 12-1123, 12-401

² FY14 - Dkt. No.: 13-978

³ FY13 - Dkt. Nos. : 10-1240, 11-831, FY14: 13-216

⁴ FY13 - Dkt. Nos. MA: 08-1474, 12-898, FY14 MA: 14-163

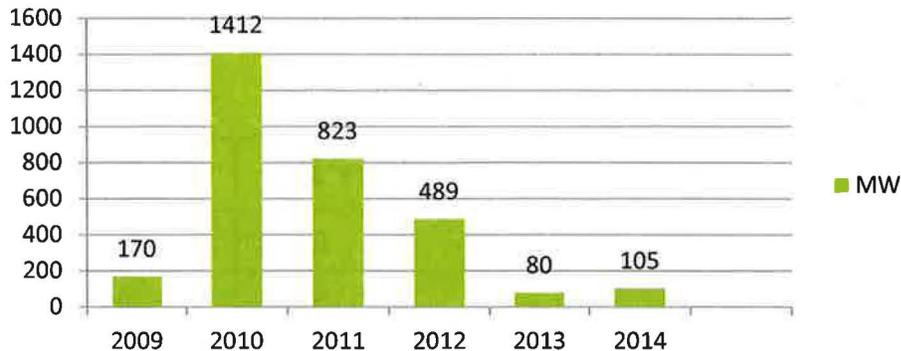
⁵ FY13 - Dkt. Nos.: 08-1448-R, 09-360-A, 10-49-A, 09-1197-A, 08-973-A, 07-318-A, 10-798-A, 11-195-R, FY14 - Dkt. No.: 09-1197-A (turbine type), 10-438-R

⁶ U.S. Department of Energy, Installed Wind Capacity by State,

http://www.windpoweringamerica.gov/wind_installed_capacity.asp, - USDOE Website 6/30/2014, retrieved 10/17/14



Permitted Wind Generation Capacity (MW) FY 2009 - 2014



Program Activities

Five major areas of program activity over the past biennium are noteworthy for the resources expended:

- 1) **Wind Farm Siting.** The number of wind farms (large wind energy conversion systems, LWECS) permitted by the Commission has steadily declined, both in number of projects and generation capacity since 2010. Areas of work related to wind farms include:
 - Collaborating with the Department of Commerce and Department of Natural Resources staff to determine next steps in bird and bat monitoring for wind farms.
 - Approval and use of updated wind site permit conditions, which is on-going.
 - Compilation of wind site data.

- 2) **Transmission Line Routing.** Several large transmission projects have progressed through to their final stages, including the CapX 2020 Phase I transmission lines: Brookings to Hampton; St. Cloud to Monticello; Fargo to St. Cloud and Hampton to Rochester to La Crosse. Additional large transmission projects currently before the Commission include the 75-mile 345 kV MN to Iowa transmission line project and the 225 to 300 mile 500 kV Great Northern Transmission Line project.

- 3) **Petroleum Pipelines.** During 2013-2014 the Commission has handled several petroleum pipeline permit applications: three Certificate of Need applications to increase the throughput of existing pipelines and one Route Permit application for a new pipeline. The Commission anticipates an additional Need and Route Permit applications for a second petroleum pipeline project in the next biennium.

- 4) **Public Participation.** The Commission has implemented several new efforts to aid public participation in the permitting process:
 - The Commission has made improvements to its website to allow for better and direct commenting functions by the public. In addition, the Commission is implementing major changes to its website.



- The Commission has clarified the permitting process and relationship with the DOC EERA staff to provide more transparency about the Commission to the public.
 - The Commission has added a full-time Public Advisor in its Consumer Affairs Office to further aid public participation and communication in all Commission proceedings.
 - The Commission has implemented changes to its notice format for clarity and uniformity.
- 5) **Rulemaking.** The Commission has initiated rulemaking for Minn. Rules 7849 and 7850. After extensive meetings with a stakeholder advisory group, a draft for Commission approval and public notice is near completion. [See Administrative Rules, below]
- 6) **Memorandum of Understanding with the Department of Commerce.** The Commission has finalized a Memorandum of Understanding with the DOC to better define and delineate its role in the Commission's permitting process.

Administrative Rules

The Commission's certificate of need rules are in Minn. Rule 7849 and the siting/routing rules are in Minn. Rules 7850. The Commission initiated rulemaking, held numerous stakeholder meetings to review the existing language and propose modifications, and staff is now drafting rule language for Commission review. The purpose of the rulemaking is, among other things, to obtain greater clarity, eliminate obsolete provisions, and strive for better coordination within and between the certificate of need and the siting/routing permit processes.

Conclusions

Based on its administrative and procedural experience with the provisions of the Power Plant Siting Act, and the separate but corollary wind farm and pipeline siting acts, the Commission observes that the basic procedural model for the Power Plant Siting Act is sound, relevant, and in the public interest. The Commission continues to make adjustments to its institutional procedures to support and improve compliance. However, the DOC EERA's statutory responsibility for administering certain portions of the Commission's permitting process has inherent challenges and continues to be an area where the Commission and the DOC are working to make improvements within the framework provided by statute. Most notably, the Memorandum of Understanding (MOU) was agreed to by the agencies to clarify the DOC EERA's role in acting on behalf of the Commission.

The siting/routing of large energy facilities can engender significant controversy. The credibility of the Commission, its role and actions in the review process, are critical to the management of controversial projects. Transparency in the regulatory review process is essential in establishing public trust in the Commission's decision-making and in maintaining credibility in the overall review process. In addition, it is important to maintain a high degree of professional and experienced staff to support this program.



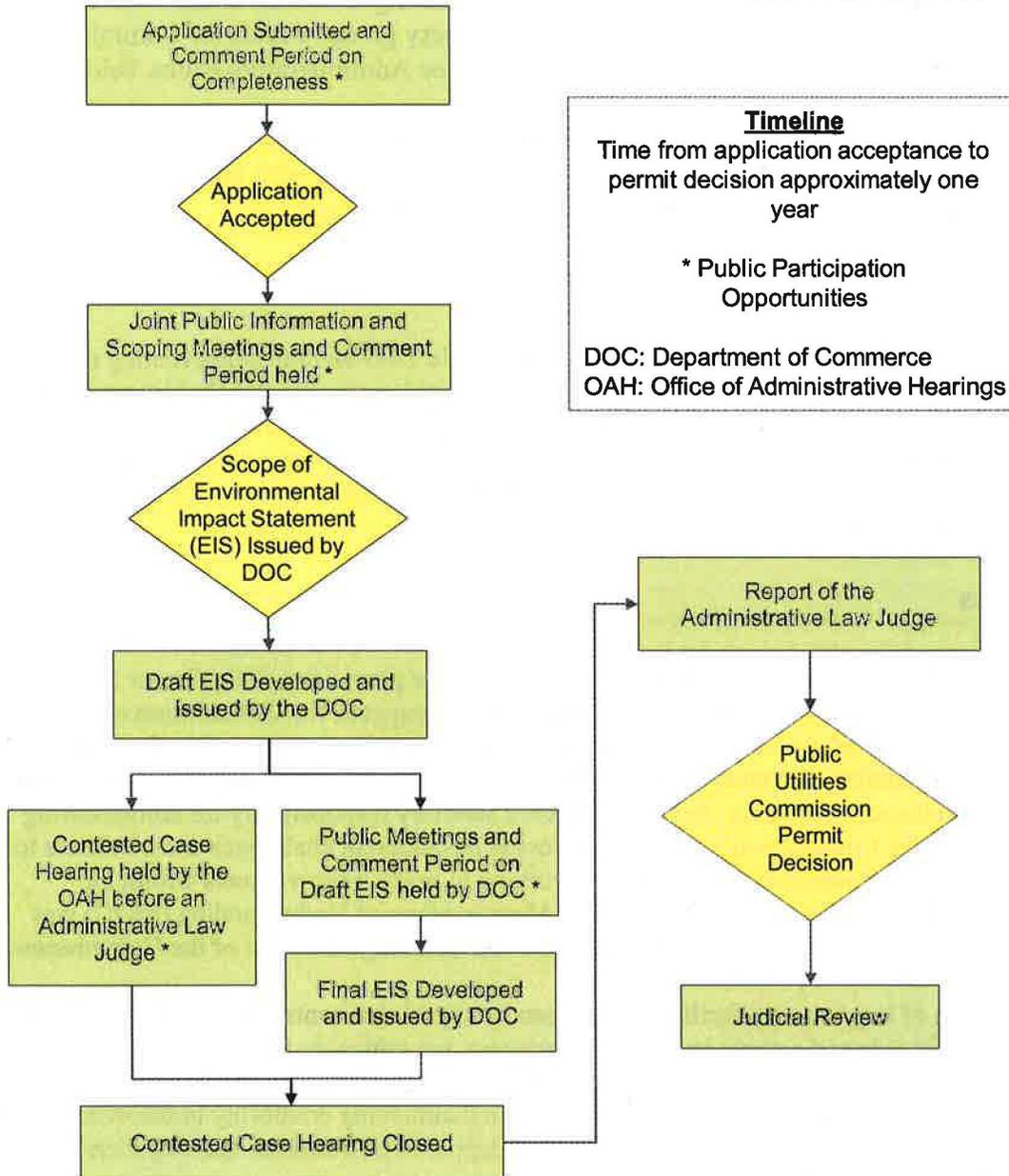
Attachment 1



STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

HVTL Routing and Power Plant Siting
Full Permitting Process

Minnesota Statute 216E
Minnesota Rules 7850



Timeline
Time from application acceptance to permit decision approximately one year

* Public Participation Opportunities

DOC: Department of Commerce
OAH: Office of Administrative Hearings



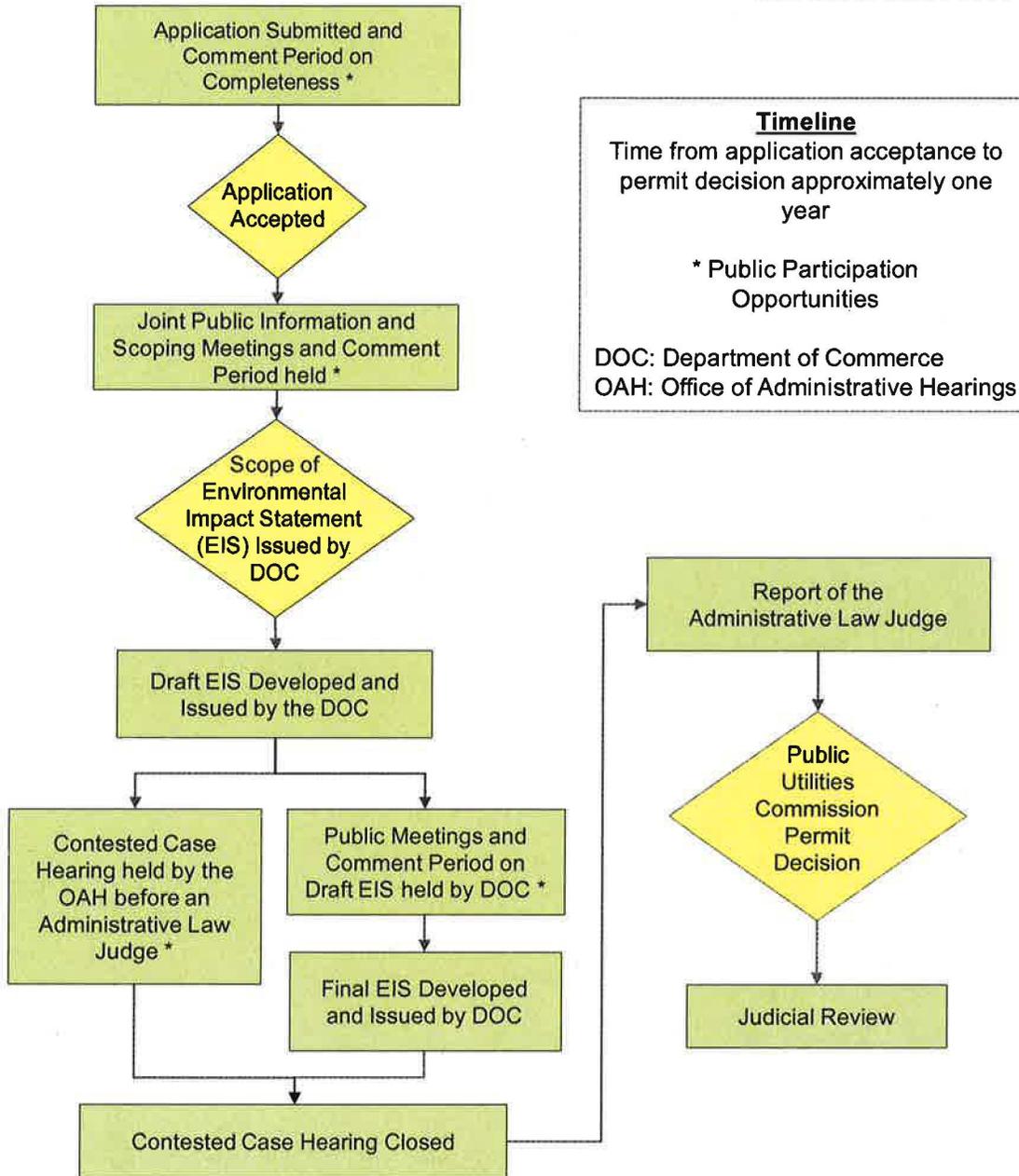
Attachment 2



**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

**HVTL Routing and Power Plant Siting
Full Permitting Process**

**Minnesota Statute 216E
Minnesota Rules 7850**



Timeline
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* Public Participation Opportunities

DOC: Department of Commerce
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