EFSB 2.0 Application Straw Proposal by Staff

I. INTRODUCTION

In November 2024, Governor Maura Healey signed into law "An Act promoting a clean energy grid, advancing equity and protecting ratepayers"[1] ("2024 Climate Act"). A major focus of the 2024 Climate Act is reforming the siting and permitting process for "clean energy infrastructure facilities" (or "CEIF") to help achieve the Commonwealth's ambitious climate and clean energy goals. Key provisions of the 2024 Climate Act will improve the speed and efficiency of siting and permitting CEIFs at state and local levels, while also ensuring communities and other stakeholders have meaningful opportunities for engagement and input in pre-filing and review processes.

The 2024 Climate Act redefines the roles and responsibilities of reviewing agencies at the state, regional, and local level, including the Massachusetts Energy Facilities Siting Board ("EFSB" or "Siting Board"), which has long exercised authority for energy facilities siting and permitting in the Commonwealth.[2] In particular, the 2024 Climate Act creates a new consolidated permit process[3] by which the EFSB would issue all necessary local, regional, and state approvals for large clean energy infrastructure facilities ("LCEIF"), and, in certain circumstances, consolidated state and/or consolidated local permits for small clean energy infrastructure facilities ("SCEIF").[4] The focus of this Straw Proposal is on the 2024 Climate Act's directive that the EFSB develop a "common standard application" for various types of CEIF that the Siting Board would review and permit under its revised authority. The 2024

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1 St. 2024, c. 239.

2 The Energy Facilities Siting Council, the predecessor of today's Siting Board, was first established in 1973. St. 1973, c. 1232.

3 The 2024 Climate Act defines a "consolidated permit" as a permit issued by the Siting Board to a large clean energy infrastructure facility that includes all municipal, regional and state permits that the large clean energy infrastructure facility would otherwise need to obtain individually, with the exception of certain federal permits that are delegated to specific state agencies, as determined by the Siting Board. Depending on the type of application filed, a consolidated permit issued by the Siting Board for a SCEIF may include consolidated state and/or consolidated local/regional permits.

4 G.L. c. 164 § 69U allows proponents of Small Clean Transmission & Distribution Infrastructure Facilities ("SCT&D") to elect to seek a consolidated permit from the EFSB that includes all necessary state, local, and regional permits. Section 69V allows proponents of Small Clean Energy Generation ("SCEG") and Small Clean Energy Storage ("SCES") facilities to elect to seek a consolidated state permit from the EFSB that includes all necessary state permits. Section 69W allows municipalities to elect to refer a request for a consolidated local permit for a SCEIF to the EFSB Director for "de novo" adjudication, which is review by the EFSB Director of a consolidated local permit request initially submitted to local permit officials.

Climate Act requires that the Siting Board develop and promulgate regulations and guidance to implement application requirements by March 1, 2026. The common standard application will serve the following goals: ensure the EFSB meets its statutory requirement to develop a standard application; ensure the EFSB has enough information to make its completeness determination and meet its statutory deadlines to render a decision; ensure the EFSB has sufficient information to make its statutory findings (in Section 69H); and provide transparency to stakeholders.

This Staff Straw Proposal contains various approaches for how the Siting Board may structure its application requirements. The purpose of the Straw Proposal is to solicit input from stakeholders before the Siting Board begins the formal regulation development process later this year. The Straw Proposal presents the statutory and regulatory context for development of such applications, options and considerations, and, finally, questions for stakeholder input to help inform this process.

II. CONTEXT FOR STRAW PROPOSAL

A. Legislative Requirements in the 2024 Climate Act

The 2024 Climate Act requires the EFSB to establish a "common standard application" to be used when LCEIF applicants submit an application to the Siting Board (G.L. c. 164, § 69T(b)(ii)).[5,6] The Massachusetts Department of Energy Resources ("DOER") has similar responsibilities for establishing a "common standard application" for SCEIFs, although DOER's role does not include adjudicating such applications. G.L. c. 25A, § 21(d)). The 2024 Climate Act also describes the following application criteria for LCEIF and SCEIF applications:

Large Clean Transmission and Distribution ("LCT&D") facility applications shall include:

(i) a description of the LCT&D facility site and surrounding areas;

(ii) an analysis of the need for the LCT&D facility, either within or outside, or both within and outside the Commonwealth, including a description of energy benefits;

(iii) a description of the alternatives to the LCT&D facility, including siting and project alternatives to avoid or minimize or, if impacts cannot be avoided or minimized, to mitigate impacts;

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5 St. 2024, c. 239, § 74. DOER is required to promulgate regulations to implement consolidated local permitting, including a "common standard application" for SCEIFs. G.L. c. 25A, § 21(d). The 2024 Climate Act does not explicitly address the relationship between the EFSB's and DOER's respective applications. Because SCEIFs can come to the EFSB for review under various permit request pathways, any divergence between EFSB and DOER applications could impede the efficient review of SCEIFs by the EFSB. Therefore, EFSB and DOER are coordinating closely on applications regarding SCEIFs.

6 The requirement that the Siting Board create a common standard application applies to LCEIF, and not legacy facilities under G.L. c. 164, §§ 69J and 69J¼.

(iv) a description of the environmental impacts of the LCT&D infrastructure facility, including both environmental burdens (such as increased noise or tree removal) and benefits (such as "shared-use recreational paths, or access to nature");

(v) evidence that all pre-filing consultation and community engagement requirements established by the Siting Board have been satisfied and, if not, a demonstration of good cause for a waiver of the requirements that could not be satisfied by the applicant; and

(vi) a cumulative impact analysis.

St. 2024, c. 239, § 74.

Large Clean Energy Generation ("LCEG") or Large Clean Energy Storage System ("LCES") facility applications are required to include all of the above requirements for LCT&D, *except* item § 69T(c)(ii) (there is no showing of "need" required); and for item § 69T(c)(iii), (there is no requirement for a description of project alternatives).[7] G.L. c. 164, § 69T(d)(ii), (iii). Although LCEG facilities are not required to demonstrate project need, LCEG and LCES applications are required to include "a description of the energy benefits" of the project. G.L. c 164, § 69T(d)(i).

Small Clean Energy Infrastructure facilities. If proponents of SCEIF elect to seek consolidated state and/or consolidated local permits from the Siting Board, the Siting Board would require them to complete a common standard application. See St. 2024, c. 239, § 74. In these instances, the 2024 Climate Act directs the Siting Board to use the same application as required for the corresponding forms of LCEIFs. Additionally, the 2024 Climate Act allows municipalities to refer consolidated local permit applications to the EFSB for a de novo adjudication by the EFSB Director, which would be based on the same consolidated local permit application(s) submitted to local government. G.L. c. 164, § 69W(a).

Zoning Exemptions: Sections 37 and 91 of the 2024 Climate Act transfer Department of Public Utilities ("DPU") zoning exemption authority to the Siting Board. G.L. c. 40A, § 3, and St. 1956, c. 665, § 6 (for City of Boston zoning). The Chapter 40A zoning exemption authority transfer happened on February 18, 2025; Boston zoning exemption authority transfers on March 1, 2026. St. 2024, c. 239, §§ 37, 91, 139. This zoning exemption authority is applicable to energy projects that meet established criteria, and may be sought on a standalone basis, or in conjunction with other EFSB permit authorities. In general, the scope of the Siting Board's review for zoning exemptions is broad, and similar to that for its approvals to construct. A request for a zoning exemption may also be required concurrently with a consolidated permit, which could require the proponent to submit additional information with the application.

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[7] LCEG/LCES applications require a description of the project site selection process and alternatives analysis used in choosing the location of the proposed project to avoid, minimize, and mitigate impacts. G.L. c. 164, § 69T(d)(iii).

B. Other Key Characteristics of an Application

The application needs to clearly define the information required so that applicants know what is expected to achieve a completeness determination. The 2024 Climate Act requires the Siting Board to determine whether a CEIF application is complete within 30 days of receipt of the application. If an application is deemed not complete, the applicant has 30 days to cure any deficiencies identified by the Board before the application is rejected. The Board may provide extensions of time to cure deficiencies if the applicant can demonstrate extenuating circumstances (LCEIF § 69T(f); SCT&D § 69U(b); SCEG & SCES § 69V(b)). The mandatory timeframes established in the 2024 Climate Act for a Siting Board final decision commence once an application is determined to be complete.

One of the main goals of the 2024 Climate Act, to expedite siting and permitting, will not be achieved if proponents are uncertain of what is expected in the application and corrective actions are required to achieve a completeness determination (see Section III(F) below). The 2024 Climate Act's description of a "common standard application" may seem to suggest the development of a form-like application. However, given the complexity, and case-specific factors often involved in energy facilities siting and permitting, use of prescriptive, form-like applications is not common among siting entities in other states surveyed by EFSB staff. Instead, other states with similar "consolidated permitting" functions tend to use more general filing formats that typically include the following elements:

- Prescribed topics, standard nomenclature, a structured sequence of the required topics and supporting documentation, and detailed filing instructions;
- Applicable standards and requirements, specified by facility technology/size;
- Required project overviews, summaries, and narratives that explain the contents of the application in plain language that can be easily understood by all members of the general public and other stakeholders unfamiliar with application content; and
- Required supporting documentation.

C. Collaboration with Other State and Local Permit Agencies on EFSB Applications

The Siting Board's membership ensures that multiple points of view are considered in its deliberations and decisions. The Siting Board's membership under "EFSB 1.0" (the Siting Board prior to the revisions in the 2024 Climate Act) includes members from five state agencies plus three public members. The Siting Board's membership under "EFSB 2.0" (the revised Siting Board resulting from the 2024 Climate Act) includes representatives from seven state agencies plus four public members. G.L. c. 164, § 69H. Two of the new public members being added to the Siting Board in EFSB 2.0 – representatives of the Massachusetts Municipal

Association ("MMA") and the Massachusetts Association of Regional Planning Agencies ("MARPA") – bring municipal and regional permitting expertise and perspectives to the Board.[8]

In addition to the diverse perspectives reflected in the Siting Board's multi-agency membership and its public members, Siting Board staff works collaboratively with many other agencies. For example, the Siting Board staff and the DPU have been closely connected since Siting Board staff were administratively relocated to the DPU in 1992 and established as the "DPU Siting Division." The Siting Board staff also works in close collaboration with the Massachusetts Environmental Policy Act ("MEPA") office, which deals with similar environmental subject matters, and many of the same energy projects.[9] Siting Board staff also collaborates and consults with many other state and local agencies, as necessary.

In developing regulations for EFSB 2.0, the 2024 Climate Act specifically requires the Siting Board to consult with: the DPU; MEPA; DOER; the Massachusetts Department of Environmental Protection ("MassDEP"); Massachusetts Department of Fish and Game ("DFG"); the Department of Conservation and Recreation; the Massachusetts Department of Agricultural Resources ("MDAR"); the Massachusetts Department of Transportation ("MassDOT"); the Executive Office of Public Safety and Security ("EOPSS"), and all other agencies, authorities and departments whose approval, order, order of conditions, permit, license, certificate or permission in any form is required prior to or for construction of a SCEIF, or LCEIF, or other type of facility that is jurisdictional to the EFSB. St. 2024, c. 239, § 132.

D. Overview of Existing Siting Board Application Practices

General filing requirements for current jurisdictional facilities petitions to construct are identified in G.L. c. 164, §§ 69J and 69J¼.[10] Project proponents seeking Siting Board approval for jurisdictional facilities have prepared and submitted a variety of materials to the Siting Board in their initial filings that largely rely on case precedent to address the broad categories required

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[8] The 2024 Climate Act also establishes another new public member of the Siting Board who is "experienced in environmental justice issues or indigenous sovereignty." G.L. c. 164, § 69H.

[9] St. 2024, c. 239, § 62, states that neither the Siting Board nor the project proponent are subject to MEPA requirements (under G.L. c. 30, §§ 61 to 62L, inclusive) for CEIF projects. However, St. 2024, c. 239, § 74, specifies a role for MEPA in pre-filing consultations that applies to both LCEIF and SCEIF applicants. G.L. c. 164, §§ 69T(b); 69U(b); 69V(b).

[10] A petition to construct a facility shall include, in such form and detail as the board shall from time to time prescribe, the following information: (1) a description of the facility, site and surrounding areas; (2) an analysis of the need for the facility, either within or outside, or both within and outside the commonwealth; (3) a description of the alternatives to the facility, such as other methods of transmitting or storing energy, other site locations, other sources of electrical power or gas, or a reduction of requirements through load management; and (4) a description of the environmental impacts of the facility. G.L. c. 164, § 69J. See also G.L. c. 164, § 69J¼.

by the statute. Initial filings include a "petition," which sets forth a summary of the proposed project, legal and regulatory provisions applicable to the Siting Board's review of the proposed project, an overview of key evidence offered in support of the proposed project, and the basis of the applicant's recommendation for Siting Board approval of the proposed project.

Supplementing the petition are one or more compilations of information and analysis ("Project Analysis") that provide both a high-level overview, and detailed data and information that are statutorily required in the Siting Board's review, and other topics that have evolved over time as a matter of case precedent.[11] Additional documentation included with the Project Analysis may provide supporting data such as detailed maps, technical and scientific studies on various topics, project renderings and other visual impact information; financial data; stakeholder and permit agency meeting summaries; zoning ordinances; and other materials that a petitioner may provide to inform the review process.

Under its longstanding Certificate of Environmental Impact and Public Interest ("Certificate") authority, the Siting Board is authorized to issue a composite of all state and local permits and approvals required to construct and operate a project – which is the functional equivalent of the newly created consolidated permit.[12] However, unlike the newly created consolidated permit in EFSB 2.0, issuance of a Certificate requires a prior final decision of the Board granting an "approval to construct." Siting Board regulations require a Certificate application to include, among other things: (1) a long-range forecast documenting need for the facility; (2) various maps; (3) facility plans; (4) photographs of the site and renderings of the facility; (5) a complete list of all licenses, permits and other regulatory approvals required and obtained; (6) other information an applicant deems relevant. 980 CMR 6.03(3).[13]

Implementation of the 2024 Climate Act's requirement for developing a "common standard application" for future EFSB filings should help to address the following deficiencies of the current EFSB approach:

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[11] Project Analysis topics typically include: (1) project overview; (2) project need; (3) project alternatives; (4) route/site selection; (5) construction methods; (6) project impacts; (7) cost; (8) environmental and reliability analysis of proposed and alternative routes/sites; and (9) consistency with energy and environmental policies of the Commonwealth.

[12] The Siting Board retains its Certificate authority for projects that are not CEIFs (e.g., gas pipelines and gas storage facilities, fossil fuel generating facilities, etc.) under the 2024 Climate Act. For CEIFs, the 2024 Climate Act's consolidated permit effectively supersedes the Siting Board's Certificate as the means of granting all necessary state, regional, and local permits for CEIFs.

[13] Some Certificate application components specified in 980 CMR 6.03(3) (such as long-range forecasts) are no longer in use by the EFSB, and therefore, are not required of applicants.

- Filings do not always follow the same structure and organization, making it difficult for the Siting Board and other parties to easily find materials of interest. The absence of any standard format can make it challenging to find even basic descriptive details about the project;

- Filings do not consistently provide sufficient supporting documentation, often leading to routine inquiries from Siting Board for the information that may delay the proceeding;

- Methods used by petitioners to analyze various impacts lack consistent data sources, computational methods, models, and assumptions;

- Information expectations of the Siting Board based on precedent, that are not explicitly established in regulation or guidance, may not be consistently observed by applicants; and

- Information gaps that could have been avoided with a more systematic approach can delay proceedings with additional inquiries from the Siting Board.

III. APPLICATION STRAW PROPOSAL

A. Application Type: Aggregation Model vs. Purpose-Built Model

Applications to support EFSB 2.0 must address the informational needs of the EFSB, local, regional, and state permitting agencies, host communities, and other stakeholders.[14] As noted above, CEIF applications must contain the information necessary for review by each local, regional, and state permitting agency normally having jurisdiction, so that they can provide a statement of recommended permit conditions, and other comments, to the EFSB. To fulfill its statutory requirements, the EFSB also requires specific types of information that are not always within the scope of other permitting programs. The information needed in an EFSB 2.0 application will parallel the expansion of the Siting Board's review authority, which will mean even more extensive EFSB filings than those seen in the past.

EFSB staff reviewed application filing requirements of various states with comparable siting and permitting mandates for energy facilities (e.g., Michigan, New Hampshire, New York, Oregon, Rhode Island). Broadly, there appear to be two main approaches for structuring energy facility applications to solicit the required information: (1) the "aggregation of existing applications" approach; and (2) the "Purpose-Built application" approach, which are described below as potential options, tailored to the needs of EFSB 2.0.

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[14] The Siting Board notes that the 2024 Climate Act did not abrogate the existing substantive permitting law, e.g., Chapter 91. Permit applications must still meet these laws. The Siting Board will also determine whether the project as a whole meets its statutory mandate in G.L. c. 164, § 69H.

1. Aggregation of Existing Applications ("Aggregation Model")

Under the Aggregation Model, a CEIF application would consist of two sections: (1) a "broad-scope section" reflecting the type of information traditionally contained in MEPA submissions and EFSB initial filings; and (2) an "all other requirements" section, including permit applications and filings that would otherwise be required by state, regional, and local agencies absent consolidated permitting by the EFSB. Certain enhancements would be made in both sections of the aggregated application, such as eliminating redundant information, and resolving conflicting provisions, methods, and standards that may exist among various state, regional, and local permit programs. Examples of the Aggregation Model include the existing EFSB Certificate process, the consolidated license issued by the Rhode Island Energy Facilities Siting Board, and certificates of the New Hampshire Site Evaluation Committee.

(a.) The broad-scope section would cover topics traditionally included in an EFSB application (e.g., project description, need, project approach, site selection, environmental impacts, cost) as well as new requirements from the 2024 Climate Act (e.g., pre-filing community engagement, cumulative impacts analysis, and site suitability analysis). New EFSB regulations and guidance documents would provide greater clarity and instructions on the form and required contents of the broad-scope section to achieve greater consistency, meet regulatory standards and expectations, and enable quick and efficient completeness determinations. However, the guidance would not be so rigid or "prescriptive" as to preclude an applicant's flexibility to present material in support of its proposal.

(b.) In the "all other requirements" section, applicants would first be required to identify all permits, approvals and authorizations required by local, regional, and state agencies that would otherwise have jurisdiction for the project absent the EFSB's consolidated permit authority required to construct and operate a project. The applicant would systematically compile and submit the information, narratives, data, maps, and specifications, and application forms otherwise required for each state, regional, or local permit agency. New EFSB regulations and guidance would direct filers to provide a complete application package for each permit in the form typically required by the reviewing authority. EFSB guidance would encourage applicants to cross-reference redundant information requirements in the application and propose any suggested resolution of conflicting requirements among the various permitting programs, including conflicts with zoning provisions.

2. New Standard Application ("Purpose-Built Model")

Under the "Purpose-Built Model," the EFSB would create a standard application to address the array of information needs of state, regional, and local agencies and programs that would otherwise have siting and permitting jurisdiction over CEIF projects.[15] The goal of the

[15] Major Transmission Facility Draft Regulations recently proposed by New York's Office of Renewable Energy Siting and Electric Transmission provide an example of a "purpose-built" approach that creates a single, set of application requirements. Although the Public Service Commission of Wisconsin does not issue a consolidated approval for eligible energy facilities, it is another example of the "purpose-built" approach for application requirements, differentiated by facility type.

Purpose-Built Model would be to provide a single, integrated, comprehensive set of filing requirements for CEIF applications, pursuant to EFSB 2.0 regulations and guidance, which would avoid the need to submit each permit application otherwise required (as described in the Aggregation Model). The Purpose-Built Model would also include the broad scope information described above.

3. Considerations in Choice of Application Model

The choice of application model is one of the fundamental questions facing the Siting Board for the rulemaking process to implement the 2024 Climate Act. The pros and cons of the two approaches for structuring application filing requirements are discussed below. Overall, Siting Board staff favor the Aggregation Model over the Purpose-Built Model given its amenability to: (1) leveraging the expertise of existing permit programs/agencies; (2) providing necessary project data and information in a familiar form to help facilitate other agency reviews of the application and submission of draft permit conditions; and (3) reflecting ongoing changes in other state and local permit program policies and requirements without a regulatory lag. From an administrative standpoint, the Aggregation Model will also be more straightforward to develop and implement, and therefore, provides greater assurance that the legislative timelines for the new siting and permitting program will be met. The Staff Straw Proposal is to use the Aggregation Model beginning in 2026 and consider over time whether to move to a Purpose-Built Model.

A potentially significant drawback of the Purpose-Built Model stems from the end product that the Siting Board is required to produce – a consolidated permit – which is defined as "a composite of all individual permits, approvals or authorizations that would otherwise be necessary." This language, which mirrors the provisions of the Board's existing Certificate authority, requires individual approvals or permits in lieu of those normally issued by other state and local agencies having jurisdiction. The inclusion of individual approvals in a Certificate (or in a consolidated permit in the future) also facilitates the enforcement of such provisions by the agencies normally having jurisdiction over such matters.[16] A Purpose-Built application may prove inefficient in that it divorces the information collected from the underlying permit program's own documents, only to reconstitute an approval closely resembling the existing permits of such agencies in the Board's consolidated permit.

Table 1: Pros and Cons of Models for Structuring Application Requirements

Model	Pros	Cons
Aggregation Model	• Existing permit applications already collect necessary information for review and approval; requiring applicants to include existing application formats for state and local permits otherwise needed would help	• Need to provide specific instructions to minimize duplicative information required in multiple permit applications. • EFSB 2.0 may need to resolve conflicting requirements between the

[16] The Act returns enforcement of permit conditions to the permitting agencies. St. 2024, c. 239, § 74.

Model	Pros	Cons
	other agencies review for completeness and provide draft permit conditions. Even with elimination of redundant information, the learning curve for project applicants could be shorter. • Relies upon pre-existing state and local rules, regulations, and permitting programs. • Ensures CEIF application requirements remain current while other state and local permit requirements evolve. • May help to avoid determinations that a consolidated application is not "complete." • Administratively efficient to create compared to a "Purpose-Built Application."	various permit applications. • Applicants may view the process of providing all permit applications otherwise required, in the format required by the typical reviewing authority, as burdensome.
Purpose-Built Model	• Creates a single set of CEIF application requirements designed to collect all information necessary to meet the legal requirements of all individual permits encompassed in the EFSB's consolidated approval. • Intrinsically requires eliminating/minimizing duplicative requirements and resolving possible conflicts between state and local permit applications. • Provides applicants with consistent requirements.	• Requires significant amount of resources and wide array of agency and consulting expertise to synthesize dozens of permitting programs (see Appendix A), regulatory requirements, and applications into one, uniform set of CEIF application requirements that will work for all reviewers; could jeopardize timely implementation of 2024 Climate Act requirements. • Agency reviewers (and stakeholders) may find this application unfamiliar and less helpful to their particular interests and needs than pre-existing applications already in use. Project applicants will also have to learn a new set of requirements. • Keeping a Purpose-Built application up-to-date would be a constant challenge as the requirements of state and local permits evolve. • An approval decision would require the Board to effectively disaggregate the application information back into individual permits, given the definition of a consolidated permit, and enforcement by agencies normally having jurisdiction over such matters. This would create added work, and inefficiencies.

B. Standards Used in EFSB Applications

To date, the Siting Board application requirements have included relatively few examples of specific, numerical regulatory compliance standards, that demarcate "compliant" environmental or other types of impacts.[17] Instead, in its adjudications, the Siting Board has generally relied on regulatory standards established by federal, state and local agencies, or recognized standard-setting bodies. The 2024 Climate Act directs the Siting Board to establish criteria governing the siting and permitting of LCEIF and SCEIF that include "a uniform set of baseline health safety, environmental and other standards that apply to the issue of a consolidated permit." G.L. c. 164, § 69T(b), § 69U(b), § 69V(b).

The 2024 Climate Act includes other provisions that will establish new standards and criteria to be incorporated in the EFSB 2.0 process, and the applications submitted to the Board. For example, the Executive Office of Energy and Environmental Affairs ("EEA") is tasked with developing site suitability criteria to evaluate the social and environmental impacts of CEIF project sites, that includes a mitigation hierarchy to avoid, minimize, and mitigate impacts of siting such facilities. G.L. c. 164, § 69T(b). In turn, the Siting Board is required to develop standards for applying the site suitability criteria. The EEA Office of Environmental Justice and Equity will develop standards and guidelines for applicants conducting cumulative impact analysis, with regulations to be promulgated thereafter by the Siting Board applying these standards and guidelines. G.L. c. 164, § 69T(b). DOER is tasked with developing standards, requirements and procedures relating to the site and permitting of SCEIF project, which, in certain instances, could come to the Siting Board for adjudicatory review. G.L. c. 25A, § 21; G.L. c. 164, § 69W.

As part of the application development process, the Siting Board could choose to provide greater specificity regarding the health, safety, environmental, and other standards that apply to the issue of a consolidated permit. In addition, Siting Board applications could establish either general guidelines or more detailed methods for applicants to use in conducting various types of studies and analyses to assess health, safety, and environmental impacts. While some states surveyed do embed these detailed provisions directly into siting and permitting applications, this would add complexity for EFSB 2.0 applications.

We invite comments on whether it is appropriate to use the application development process for the Siting Board to prescribe specific health, safety, environmental and other project impact standards, or limit itself to existing standards already in use. Separately, we also invite comments on whether the application development process should establish specified analytical procedures, methods, or approaches for determining a proposed project's compliance with

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[17] There are some EFSB regulations that do articulate numerical thresholds. For example, Technology Performance Standards establish specific air emissions limits for fossil generating facilities that presume that the proponent has incorporated "state of the art environmental performance characteristics." 980 CMR 12.01(1). The Siting Board's regulations for Siting of Intrastate Liquefied Natural Gas Storage also contain specific numerical limits and standards relating to several safety-related parameters for such facilities. 980 CMR 10.00.

health, safety, environmental, or other project impact standards. If so, should these procedures, methods, and approaches be required, or merely recommended?

C. Improvements to the "Broad Scope" Section of EFSB Applications

The EFSB plans to develop requirements detailing the contents of each application section, including new requirements from the 2024 Climate Act. The following is a list of major application sections, as well as initial EFSB objectives in standardizing those sections:

- **Description of the project, site, and surrounding area**: the EFSB intends to develop requirements that standardize basic project information, context, and facts that applicants provide in the initial section of a CEIF application. Doing so will likely involve a standard form, by type of CEIF (e.g., T&D, generation, energy storage);

- **Pre-filing consultation and community engagement**: The EFSB and DPU are jointly developing a standard set of requirements for pre-filing consultation and community engagement as required by the 2024 Climate Act. CEIF applications would include a summary or brief narrative regarding the completion of required pre-filing activities. (See Pre-Filing Consultation and Engagement Staff Straw Proposal for additional information);

- **Project need and energy benefits**: For T&D facilities, the Board intends to develop requirements that reference existing practices for demonstrating project need, established through EFSB case precedent. These practices include describing: (1) relevant T&D system planning criteria; (2) the methods used for assessing system reliability (including load forecasts); and (3) whether the existing electric system meets reliability criteria under peak and emergency conditions over a forecast period;

- **Description of energy benefits**: The 2024 Climate Act requires LCEG and LCES applications to include a "description of energy benefits" (see G.L. c. 164, § 69T(d)(i)). New requirements for EFSB applications will elaborate on the type of information a petitioner should provide to document such "energy benefits;"

- **Project alternatives**: For T&D facilities, the Siting Board intends to develop application requirements that build on EFSB precedent for evaluating project alternatives. EFSB 2.0 proposed requirements will also elaborate on the 2024 Climate Act's directive that the Siting Board analyze advanced conductors, advanced transmission technologies, grid enhancing technologies, and non-wires alternatives;

- **Route selection and site selection**: The Siting Board will improve its quantitative scoring practices for the route and site selection process by codifying best practices in regulations and guidance, and incorporating some new elements, such as EEA's forthcoming site suitability criteria, and cumulative impact analysis ("CIA") criteria that are being developed by the EEA Office of Environmental Justice and Equity ("OEJE"), and the EFSB staff, in consultation with other EEA agencies and offices;

- **Environmental impacts**: The Siting Board intends to develop a standard set of environmental impact categories for use in all CEIF applications. Application requirements will likely differentiate the scope of analysis required for each impact category by type of facility proposed (e.g., solar, wind, energy storage, transmission). This section may include specific standards and analytical methods, as described above;

- **Cumulative impacts analysis**: Applications will include CIA information for all proposed facilities, as delineated in standards and guidance from the EEA OEJE and the Board's forthcoming regulations and guidance on this topic;

- **Policies of the Commonwealth**: The Siting Board intends to develop regulations and guidance that reflect recommended practices for analyzing a project's compliance with policies of the Commonwealth;

- **Request for zoning exemptions**: The 2024 Climate Act transfers DPU zoning exemption authority to the EFSB and clarifies its eligibility by defining "public service corporation" broadly to encompass a range of energy facilities and proponents. EFSB 2.0 requirements will address the type of information required for zoning exemption requests, whether sought on a standalone basis, or in conjunction with a consolidated permit request. The standard of review for zoning exemptions is broad, and the information required is similar in most respects to the Siting Board's current approval to construct cases;

- **Preparation and submission of project overview videos**: The EFSB is considering including a requirement for applicants to supplement written application materials with a short (5-10 minute) project overview video. Guidance would specify the intended type of factual information, neutral language, graphics, and other features in the video that would aid interested members of the public in gaining an understanding of the project, while avoiding a tone of "marketing advocacy" for the proposed project. An illustrative application-related project video (produced by National Grid) for a T&D project can be viewed at https://shorturl.at/Uj7OI; and

- **Accessibility Features**: Consistent with EFSB public engagement and participation objectives, application regulations and guidance, a Language Access Plan would address filing formats and specifications conducive to language translation and interpretation needs and Americans with Disabilities Act ("ADA") compliance. The Siting Board is also interested in understanding how application formats and specifications can leverage the beneficial use of Artificial Intelligence ("AI")-based analytical tools, or other technology that promote public engagement and participation, and overall process efficiency and effectiveness.

D. De Novo Adjudication under G.L. c. 164, § 69W

As noted above, G.L. c. 164, § 69W could result in the EFSB 2.0 adjudicating cases for energy facilities that fall below the Siting Board's LCEIF thresholds. De novo adjudication by the Board would follow DOER requirements for the submission of a consolidated local permit

application to municipal permitting authorities. Under the de novo adjudication, the Siting Board would prefer to rely on the consolidated local permit application previously submitted and not require proponents to prepare and submit additional applications. To ensure that adequate information is included in the consolidated local permit applications, EFSB will work closely with DOER.

E. Information Technology Needs

Applications covering all of the above requirements would likely be voluminous; existing applications are already hundreds of pages long, with dozens of supporting attachments. Some of the filing content would necessitate high-resolution maps, images, graphs, supporting data, and sound or video files, among other things. Given the potential scale of such filings and the expected steep increase in CEIF filings,[18] it is imperative that the filing system be conducive to efficient and reliable electronic submission, access, and use by the Board, other permit agencies, and other stakeholders.[19] The Department is updating its existing electronic filing system soon but still may not have all the necessary functionality to meet the needs of EFSB 2.0. Some potential filing features that could better meet the electronic filing needs of EFSB 2.0 are described below.

The DPU File Room (https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber) is the public database and archival storage center for EFSB & DPU records of past and active projects organized in case dockets. These dockets can be searched by number, industry, filing date, and chronological order from newest to oldest (if filed within the previous 20 months). An improved file room has been in development to replace the current file room system and debuted in March 2025. Importantly, the new system is searchable by keyword and accommodates larger individual file sizes (now, up to 300 megabytes). However, the new file room still relies on agency administrative staff to manually upload all submissions in the dockets and enter information for various identification fields in the database.

We have observed a number of other state agencies in Massachusetts and elsewhere that rely on applicants and other stakeholders to upload documents directly into similar electronic file room portals. Such a practice could reduce demands on EFSB staff time now spent manually uploading such files. At a minimum, the Siting Board would like to revise the current filing system so that the numerous public comments in EFSB dockets are submitted directly to the file room and require minimal administrative effort. The EFSB staff is also interested in considering

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[18] See the CEISP report on expected increase in electrical infrastructure needing to be permitted to meet the state's ambitious climate goals. https://www.mass.gov/doc/recommendations-to-governor-maura-healey-on-clean-energy-infrastructure-siting-and-permitting-reform/download.

[19] The 2024 Climate Act requires the EFSB to develop and maintain a Dashboard, which will provide a location for stakeholders to locate information on applications. St. 2024, c. 239, § 8. The initial Dashboard may be found here: https://www.mass.gov/info-details/efsb-permitting-dashboard.

additional changes, or possibly an entirely new system, to achieve even greater functionality and efficiency.

From the perspective of other state and local agencies that would normally receive permit applications and use that information to populate other information systems they use, there may be particular concerns about the transition to EFSB 2.0 being the entity that receives and processes applications. The EFSB's new application process will need to address these agency needs to ensure that they are able to continue performing vital functions such as compliance oversight, which remains the responsibility of the agencies having jurisdiction once an EFSB Consolidated Permit is issued. Additionally, other agencies have expressed interest in prompt notifications to inform them when relevant information is submitted to EFSB 2.0, and that review is required by the agencies to provide statements of recommended permit conditions. There is also a need for EFSB 2.0 and other agencies to assess whether applications submitted are complete and have a timely, efficient and effective coordination process in place to address that issue.

F. Application Completeness Determination

The 2024 Climate Act requires the EFSB to determine whether an application is complete but does not define what constitutes a "complete" application, and therefore, the Siting Board needs to do so. Given the significance of this determination to the timing of the review and project development, it is critical for the Siting Board to provide clarity and avoid a vague or overly subjective standard, that defeats the intent of the legislation's reforms of the siting and permitting process. The Siting Board offers the following as a definition of a "complete" application:

> "An application that is in substantial and material compliance with all informational requirements established in statute, regulations, and policies applicable to review of CEIF applications by the Siting Board. Such determination shall be made in writing by the Presiding Officer and is not subject to appeal."

The suggested definition recognizes that there is a considerable risk of procedural delay if the standard of completeness is predicated on "perfection," i.e., no need of further inquiry or additional fact finding during the subsequent evidentiary phase of the proceeding. In general, the application must include: (i) an accurate and complete description of the facility, site, and surrounding areas; (ii) proof of satisfactory completion of pre-filing requirements; (iii) all Application requirements, including sufficient information for state and local agencies to provide statements of recommended permit conditions; and (iv) evidence sufficient for the Siting Board to make required findings. Given the need for judgment in applying such a standard, the Siting Board emphasizes a few specific considerations as part of this determination:

- The application must identify all relevant local, regional and state permits, authorizations, and approvals that would otherwise be required to construct and

operate the proposed facility absent a consolidated permit of the Siting Board.[20] Any questions as to applicability of such permit requirements, and the information expected by such agencies, must be addressed by the proponent with the permitting agency prior to submission of the application;

- The application must demonstrate due diligence in providing the information that would normally be provided to each local, regional and state agency for permits, authorizations, and approvals. Duplicative information or conflicting requirements across permit programs included in the application shall be explicitly identified; cross-referenced (as needed); and a proposed resolution of such conflicting requirements provided, with adequate explanation;[21]

- The application must include supporting documents, workpapers, modeling, studies, and authorities cited must be provided at the level of detail, and in the form, required by the Siting Board's regulations and guidance; and

- The applicant must complete and certify a "completeness checklist," to be established by the EFSB.

IV. REQUEST FOR COMMENTS

Staff requests comments on any of the content in the straw proposal as well as responses to the following questions.

1. Staff proposes to use the Aggregation Model for applications filed beginning in 2026 and consider whether to move to the Purpose-Built Model. Should the EFSB plan to use the Aggregation Model in the long-term or move to developing the Purpose-Built Model? Why?

2. If the Siting Board were to develop a common application after 2026 by a Purpose-Built Model for various types of facilities, please comment on the usefulness of the Major Transmission Facilities and Renewable Energy Generation Facilities application requirements recently issued in draft regulations by the New York Office of Renewable Energy Siting and Electric Transmission.

3. Given the potential adjudication of SCEIF by the EFSB under certain regulatory pathways and DOER's development of the siting standards and applications for such

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[20] The Siting Board will also need to establish requirements that would apply if an applicant fails to identify a needed permit in its application. Any agencies normally having jurisdiction regarding such omitted permits should be able to intervene, regardless of when the omission is identified. Other cure provisions may also be necessary.

[21] In resolving conflicts between permit programs, the EFSB could establish guidance that directs an applicant to use the most-restrictive requirement, unless this conflicts with other statutory or regulatory objectives, and is documented in the application submission.

facilities, what are the best means of aligning the respective EFSB and DOER roles for these facilities?

4. If the EFSB were to develop a new or substantially modified electronic filing system for EFSB 2.0, please describe the features and functionality that are most important.

5. Given the expected increase in the number of cases for EFSB 2.0, expanded subject matter content of EFSB cases, more public participation, and the new EFSB de novo adjudication role, what components of a modified e-filing platform are necessary?

6. Should the application specify specific numerical standards and analytical methods for conducting noise analyses, electromagnetic frequency analyses, visual impact analyses, and other required studies?

7. With EFSB 2.0's de novo adjudication role under § 69W, how can the Siting Board ensure that the record submitted to the Board (after first being submitted to municipalities for their consolidated local permitting purposes) meets evidentiary and procedural requirements?

8. What other concerns or recommendations do you have to guide the development of EFSB applications?

V. APPENDICES

A. Appendix A: Overview of Key Siting Permits for Clean Energy Infrastructure Facilities

As explained above, the 2024 Climate Act creates a new consolidated permit process by which the EFSB would issue all necessary local, regional, and state approvals for large clean energy infrastructure facilities ("LCEIF"), and, in certain circumstances, consolidated state and/or consolidated local permits for small clean energy infrastructure facilities ("SCEIF"). To assess what other state, regional, and local permits might be included in an EFSB consolidated permit, staff reviewed EFSB certificate cases and recent filings; those permits are summarized in Table 1, below. Table 1 does not include an exhaustive list of all possible permits, but rather highlights the state, regional, and local permits which staff anticipate the EFSB may include with its consolidated permits.

Table 1. State, Regional, and Local Permits Commonly Required for Siting Energy Facilities.

Agency	Permit	Relevant statutes and/or regulations	Relevance to CEIF Siting
State-level Permits			
Massachusetts Board of Underwater Archaeological Resources	Reconnaissance, excavation, or special use permits for underwater archaeological resources	G.L. c. 6, §§ 179-180; 312 CMR 2.00	Required where a proponent seeks to investigate potential underwater archaeological resources during project planning and where facility would affect known sites.
Massachusetts Department of Conservation and Recreation (MassDCR)	Construction access, road access, and short-term commercial permits	302 CMR 12.00	Required where a facility would be located within, affect, or involves construction on DCR property or within DCR rights-of-way (e.g., transmission line spanning or paralleling a highway, directional drilling beneath a highway).
Massachusetts Department of Environmental Protection (MassDEP)	401 Water Quality Certification	G.L. c. 21, §§ 26-53; 314 CMR 9.00; Clean Water Act (33 U.S.C. 1251 et seq.); 40 CFR §121	Required where a facility involves discharge of dredged material, dredging, or dredged material disposal activities in waters of the United States within the Commonwealth which require federal licenses or permits, and which are subject to state water quality certification under 33 U.S.C. 1251. Ensures that federally permitted discharge activities comply with state water quality standards. Section 401 water quality certification is also required for other discharges (e.g. NPDES permits and hydroelectric licensing by FERC).
MassDEP	Chapter 91 Waterways License	G.L. c. 91; 310 CMR 9.00	Required where a facility involves construction, filling, or dredging in tidelands, great ponds, and non-tidal rivers and streams.
MassDEP	Final Comprehensive Air Plan Approval and other air permits	G.L. c. 111, §§ 142A-142M; (for greenhouse gas emissions) G.L. c. 21N, G.L. c. 30, §§ 62-62L; 310 CMR 7.00; Federal Clean Air Act (42 U.S.C. 7401 et seq); State Implementation Plan (40 CFR Part 51)	Required where a facility involves operational air emissions. Specific permit depends on the type and level of expected emissions and local air conditions.
MassDEP	Groundwater Discharge Permit (general and individual)	G.L. c. 21, §§ 27 & 43; Groundwater Discharge Permit: 314 CMR 5.00; Reclaimed Water Permit: 314 CMR 20.00; Permitting Procedure: 314 CMR 2.00	Required where a facility involves discharging sanitary or industrial wastewater to the ground (e.g., significant dewatering activities)

Agency	Permit	Relevant statutes and/or regulations	Relevance to CEIF Siting
MassDEP	Superseding Order of Conditions	G.L. c. 131, § 40 (The Wetlands Protection Act); 310 CMR 10.00	Required where a proponent appeals a local wetlands decision to a MassDEP regional office.
MassDEP	Post-Closure Use-Major Permit	G.L. c. 111, § 150A and 310 CMR 19.000	Required for post-closure use of landfill to ensure that project will not cause adverse impact to public health, safety, or the environment; will not impair the integrity of the landfill cover, containment, control, or monitoring systems; provides maintenance of landfill cap's stormwater drainage system.
Massachusetts Department of Transportation	Vehicular and Non-Vehicular Access Permits	G.L. c. 81, § 21; 700 CMR 13.00	Required where a facility would be located within, affect, or involves construction within MassDOT rights-of-way (e.g., transmission line spanning or paralleling a highway, directional drilling beneath a highway).
Massachusetts Department of Fish and Game ("DFG")	Massachusetts Endangered Species Act ("MESA") project review, determination letter, Conservation and Management Permit	G.L. c. 131A; 321 CMR 10.00	Required where a facility involves state-listed species habitat. MESA project reviews may occur in coordination with wetlands permitting or separately, depending on the project.[22] Also, implements the rare wetlands species habitat component of the Wetlands Protection Act.
Massachusetts State Fire Marshal Department of Fire Services (DFS)	Above Ground Storage Tank Construction Permit and Use Permit	G.L. c. 148 § 37; 502 CMR 5.00	Required where a facility involves aboveground storage tanks over 10,000 gallons and store any fluid other than water
Regional-level Permits			
Cape Cod Commission	Development of Regional Impact Approval	The Cape Cod Commission Act (St. 1989 c. 716; amended St. 1990 c. 2; amended St. 2014 c. 259)	Required where a facility exceeds regional impact thresholds set by the Cape Cod Commission. Ensures that developments affecting multiple localities are consistent with key planning documents including the Cape Cod Commission's "Regional Policy Plan."
Martha's Vineyard Commission ("MVC")	Development of Regional Impact Approval	The Martha's Vineyard Commission Act (St. 1977 c. 831)	Authorizes the MVC to review developments that are either so large or have such significant impacts on their surroundings that they would affect more than one town. Such projects are labeled Developments of Regional Impact (DRIs). Once officially classified as a DRI, the project must

[22] MESA functions of DFW may be subject to exclusion from Consolidated Permits based on the delegation provisions of federal authority. See St. 2024, c. 239, § 52.

Agency	Permit	Relevant statutes and/or regulations	Relevance to CEIF Siting
			be approved by the MVC before a town board may issue a required permit or take any action.
Massachusetts Water Resources Authority	8(m) Permit	St. 1984, c. 372, § 8(m)	Required where a facility would involve building, constructing, excavating, or crossing within an easement or other property interest held by the MWRA.
Local-level Permits			
Local Conservation Commission	Wetlands Order of Conditions	G.L. c. 131 § 40 (Wetland Protection Act); 310 CMR 10.00; local wetland protection ordinances	Required where a facility would impact protected wetlands and their buffer zones.
Local engineering/building/ inspections department	Building Inspector Approvals (e.g., building permit, demolition permit, foundation permit, certificate of occupancy)	G.L. c. 143, §§ 3-3A; Massachusetts State Building Code (780 CMR); Massachusetts Comprehensive Fire Safety Code (527 CMR 1.00)[23]	Required to ensure the facility complies with Massachusetts' Building Code (which includes fire, structural, electrical, and other safety standards) and any local variation (e.g., historic district bylaws), to any building or structure not owned in whole or in part by the state. For battery energy storage systems, local building inspectors ensure compliance with the Massachusetts Comprehensive Fire Safety Code as a component of issuing building permits.
Local planning/zoning board (final approval from local Select Board or City Council)	Site Plan Approval	G.L. c. 40A, § 9; G.L. c. 41, §§ 81A-81J; G.L. c. 40A, § 3.	Potentially required to ensure that a facility complies with local zoning, land use regulations, and community planning objectives. Project developers will likely request relief from local site plan reviews by requesting the EFSB issue individual and comprehensive zoning exemptions.
Local planning/zoning board (final approval from local Select Board or City Council)	Special Permit	G.L. c 40A § 9 (except for Boston, which is governed by St. 1956, c. 665); local ordinances G.L. c. 40A, § 3.	Potentially required where a facility, depending on local zoning, is only an allowable "use" subject to special permit approval. Project developers will likely address zoning and use issues by requesting the EFSB issue individual and comprehensive zoning exemptions.
Local zoning board of appeals	Zoning Variance, and Zoning Appeals	G.L. c. 40A, §§ 9-17 (except for Boston, which is	Potentially required where a facility requires relief from development standards included in local zoning ordinances. Project developers will likely address zoning relief by

[23] 527 CMR 1.00 includes requirements specifically for stationary storage battery systems (including lithium-ion battery systems). 527 CMR 1.00 incorporates by reference several standards and codes from the National Fire Protection Association (NFPA), including NFPA 855 which sets forth the national and international safety standards for the proper installation of stationary energy storage systems.

Agency	Permit	Relevant statutes and/or regulations	Relevance to CEIF Siting
		governed by St. 1956, c. 665); G.L. c. 40A, § 3.	requesting the EFSB issue individual and comprehensive zoning exemptions.
Local public works or engineering department	Sewer discharge/connection permit	G.L. c. 83 § 1	Required where a facility would connect and/or discharge to (e.g., construction dewatering, new occupied structures) a locally managed sewer system.
Local public works or engineering department	Street Opening/Excavation/ Trenching Permit	Street Opening Permit for Utilities: G.L. c. 166, §25; Excavation and Trench Safety: G.L. c. 82A ("Jackie's Law"); 520 CMR 14.00	Required where facility construction involves excavating a public right-of-way (e.g., road, sidewalk). Ensures project construction: 1) is coordinated with safety services and traffic routing, and 2) complies with safety requirements.
Local Select Board or City Council	Grants of Location	G.L. c. 166, § 22	Required where a facility would be permanently located in a public right-of-way.
Local tree warden and/or local planning board	Tree removal permit, stone wall removal permit	G.L. c. 40, § 15C; G.L. c. 87	Required where a facility would remove a public shade tree, a tree along a designated scenic road, and certain stone walls. Tree sizes for requiring a permit vary by local regulation. Aims to protect the visual character of scenic roads.