

980 CMR 13.00: CONSOLIDATED PERMIT REGULATIONS

Section

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13.01 Scope and Purpose.

(1) Purpose. 980 CMR 13.00 establishes the Board's rules for preparation and review of an Application for an EFSB Consolidated Permit for a request to construct Clean Energy Infrastructure Facilities.

(2) Scope. 980 CMR 13.00 shall apply to an Application for an EFSB Consolidated Permit for requests to the Board to construct Clean Energy Infrastructure Facilities, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V. The review of an EFSB Consolidated Permit for Clean Energy Infrastructure Facilities described in 980 CMR 13.00 shall be subject to 980 CMR 1.00: Rules for the Conduct of Adjudicatory Proceedings and 980 CMR 2.00: General Information and Conduct of Board Business, unless otherwise noted.

(3) Effective Date. 980 CMR 13.00 shall take effect on March 1, 2026, and shall apply to each Application for an EFSB Consolidated Permit to construct Clean Energy Infrastructure Facilities, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V, filed on or after July 1, 2026.

(4) Definitions. 980 CMR 13.00 shall be subject to the Definitions of 980 CMR 1.01(4): Definitions. The following definitions shall apply unless the context or subject matter requires a different interpretation:

Application means a submission to the Board, in such form and detail as prescribed by the Board, by an Applicant for an EFSB Consolidated Permit for the purpose of constructing, owning, or operating an LCEIF or SCEIF.

Board means the Energy Facilities Siting Board established under M.G.L. c. 164, § 69H.

Completeness Determination means a written ruling made by the Presiding Officer indicating the Application has been reviewed for substantial and material compliance with the Board's requirements for an Application for an EFSB Consolidated Permit.

Consolidated Local Permit Application Form means a submission by an Applicant, in such form and detail as prescribed in 225 CMR 29.00, that would otherwise go to a regional or municipal authority for a Consolidated Local Permit, for the purpose of constructing, owning, or operating an SCEIF. The Board will receive the Consolidated Local Permit Application Form and issue a Consolidated Local Permit as part of a Consolidated Permit except where an Applicant elects to apply separately to the local government.

Consolidated Local Permit Form means a permit in such form and detail as prescribed in 225 CMR 29.00, that would otherwise be issued by a regional or municipal authority to an Applicant for a Local Consolidated Permit. The Board will issue the Consolidated Local Permit as part of a Consolidated Permit except where an Applicant elects to apply to a regional or municipal authority.

Construction means work performed by the Applicant or on behalf of the Applicant on the project site or along the project route and shall not include contractual obligations to purchase such facilities or equipment.

EFSB Consolidated Permit means a Consolidated Permit or a Consolidated State Permit.

EFSB Construction Permit means the portion of an EFSB Consolidated Permit that contains the Board's findings on the Application.

Energy Storage System as defined in M.G.L. c. 164 § 1, means a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy and which may be owned by an electric distribution company; provided, however, that an energy storage system shall: (i) reduce the emission of greenhouse gases; (ii) reduce demand for peak electrical generation; (iii) defer or substitute for an investment in generation, transmission or distribution assets; or (iv) improve the reliable operation of the electrical transmission or distribution grid; and provided further, that an energy storage system shall: (1) use mechanical, chemical or thermal processes to store energy that was generated for use at a later time; (2) store thermal energy for direct heating or cooling use at a later time in a manner that avoids the need to use electricity at that later time; (3) use mechanical, chemical or thermal processes to store energy generated from renewable resources for use at a later time; or (4) use mechanical, chemical or thermal processes to capture or harness waste electricity and to store

the waste electricity generated from mechanical processes for delivery at a later time.

LCEIF means large clean energy infrastructure facility as defined in M.G.L. c. 164 § 69G. Large Clean Energy Infrastructure Facility means a large clean energy generation facility, large clean energy storage facility, or large clean transmission and distribution infrastructure facility.

LCEG means large clean energy generation facility as defined in M.G.L. c. 164 § 69G. Large Clean Energy Generation means energy generation infrastructure with a nameplate capacity of not less than 25 megawatts that is an anaerobic digestion facility, solar facility or wind facility, including any ancillary structure that is an integral part of the operation of the large clean energy generation facility, or, following a rulemaking by the board in consultation with the department of energy resources that includes the facility within the regulatory definition of a large clean energy generation facility, any other type of generation facility that does not emit greenhouse gas; provided, however, that the nameplate capacity for solar facilities shall be calculated in direct current.

LCES means large clean energy storage facility as defined in M.G.L. c. 164 § 69G. Large clean energy storage facility means an Energy Storage System with a rated capacity of not less than 100 megawatt hours, including any ancillary structure that is an integral part of the operation of the large clean energy storage facility.

LCT&D means large clean transmission and distribution infrastructure facility as defined in M.G.L. c. 164 § 69G. Large clean transmission and distribution infrastructure facility means electric transmission and distribution infrastructure and related ancillary infrastructure that is: (i) a new electric transmission line having a design rating of not less than 69 kilovolts and that is not less than 1 mile in length on a new transmission corridor, including any ancillary structure that is an integral part of the operation of the transmission line; (ii) a new electric transmission line having a design rating of not less than 115 kilovolts that is not less than 10 miles in length on an existing transmission corridor except reconducted or rebuilt transmission lines at the same voltage, including any ancillary structure that is an integral part of the operation of the transmission line; (iii) any other new electric transmission infrastructure requiring zoning exemptions, including standalone transmission substations and upgrades and any ancillary structure that is an integral part of the operation of the transmission line; and (iv) facilities needed to interconnect offshore wind to the grid; provided, however, that the large clean transmission and distribution facility is: (A) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of clean energy infrastructure to the electric grid; (B) approved by the regional transmission operator in relation to interconnecting clean energy infrastructure; (C) proposed to ensure electric grid reliability and stability; or (D) will help facilitate the electrification of the building and transportation sectors; provided further, that a “large clean transmission and

distribution infrastructure facility” shall not include new transmission and distribution infrastructure that solely interconnects new and existing energy generation powered by fossil fuels on or after January 1, 2026.

Local Government means a municipal or regional authority, board, commission, office, or other entity, as defined in M.G.L. c. 25A, § 21, that would have had jurisdiction to issue at least one permit for an LCEIF or an SCEIF that would otherwise be issued without an EFSB Consolidated Permit. Local Governments enforce the portions of an EFSB Consolidated Permit which relates to subject matters within their jurisdiction as if an EFSB Consolidated Permit had been directly granted by the Local Government.

Local Government Representative means a decision-making entity within a Local Government, typically within the executive office.

Notice of Completeness means a determination made by the Presiding Officer that the Application is in substantial and material compliance with all Application requirements.

Permit means a municipal, regional, or state permit, authorization, or approval that would otherwise be individually required to construct and operate an LCEIF or a SCEIF absent an EFSB Consolidated Permit.

PEA means a permit enforcement agency; state agency, authority, board, commission, office, or other entity that would have had jurisdiction to issue at least one permit for an LCEIF or an SCEIF that would otherwise be issued without an EFSB Consolidated Permit. PEAs enforce the portions of an EFSB Consolidated Permit which relates to subject matters within their jurisdiction as if an EFSB Consolidated Permit had been directly granted by the PEA.

PAA means a permit advisory agency; a municipal, regional, or state agency, authority, board, commission, office, or other entity that would advise the Board through statements of recommended permit conditions on the issuance of at least one permit for an LCEIF or an SCEIF that would otherwise be issued without an EFSB Consolidated Permit.

SCEG means a small clean energy generation facility as defined in M.G.L. c. 25A § 21. Small clean energy generation facility means energy generation infrastructure with a nameplate capacity of less than 25 megawatts that is an anaerobic digestion facility, solar facility or wind facility, including any ancillary structure that is an integral part of the operation of the small clean energy generation facility. In addition, a SCEG, following a rulemaking by the Massachusetts Department of Energy Resources (DOER) in consultation with the Board, is a facility type which is added to the regulatory definition of a small clean energy generation facility, and any other type of generation facility that produces no greenhouse gas emissions or

other pollutant emissions known to have negative health impacts; provided, however, that the nameplate capacity for solar facilities shall be calculated in direct current.

SCES means small clean energy storage facility as defined in M.G.L. c. 25A § 21. Small clean energy storage facility means an energy storage system with a rated capacity of less than 100 megawatt hours, including any ancillary structure that is an integral part of the operation of the small clean energy storage facility.

SCEIF means a small clean energy infrastructure facility as defined in M.G.L. c. 25A § 21. Small clean energy infrastructure facility means a small clean energy generation facility, small clean energy storage facility, or small clean transmission and distribution infrastructure facility.

SCT&D means a small clean transmission and distribution infrastructure facility as defined in M.G.L. c. 25A § 21. Small clean transmission and distribution infrastructure facility means electric transmission and distribution infrastructure and related ancillary infrastructure, including: (i) electric transmission line reconductoring or rebuilding projects; (ii) new or substantially altered electric transmission lines located in an existing transmission corridor that are not more than 10 miles long, including any ancillary structure that is an integral part of the operation of the transmission line; (iii) new or substantially altered electric transmission lines located in a new transmission corridor that are not more than 1 mile long, including any ancillary structure that is an integral part of the operation of the transmission line; (iv) any other electric transmission infrastructure, including standalone transmission substations and upgrades and any ancillary structure that is an integral part of the operation of the transmission line and that does not require zoning exemptions; and (v) electric distribution-level projects that meet a certain threshold, as determined by the DOER; provided, however, that the “small clean transmission and distribution infrastructure facility” shall be: (A) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of clean energy infrastructure to the electric grid; (B) designed to ensure electric grid reliability and stability; or (C) designed to help facilitate the electrification of the building and transportation sectors; and provided further, that a “small clean transmission and distribution infrastructure facility” shall not include new transmission and distribution infrastructure facilities that solely interconnect new or existing generation powered by fossil fuels to the electric grid on or after January 1, 2026.

SSC means Site Suitability Criteria as established by the Executive Office of Energy and Environmental Affairs, pursuant to M.G.L. c. 21A, § 30.

### 13.02 Overview of EFSB Consolidated Permit Application and Approval Process.

- (1) Application. The Applicant shall submit to the Board an Application that complies with all requirements of 980 CMR 13.00: Consolidated Permit Regulations.
  - (a) The Applicant submitting a SCT&D Facility Application pursuant to M.G.L. c. 164 § 69U, shall include a showing of good cause for the petition, and a description of how the SCT&D facility will serve the public convenience and is consistent with the public interest.
- (2) Completeness Determination. The Presiding Officer shall determine whether the Application satisfies applicable requirements. See 980 CMR 13.09: Completeness Determination. If the Presiding Officer provides Notice of Completeness, the Application may be adjudicated on the merits.
- (3) Adjudication of the Application. The Presiding Officer and staff shall adjudicate a project described in 980 CMR 13.06: EFSB Consolidated Permit Application and Approval Procedures.
- (4) Board Decision. The Board shall render a Decision for an EFSB Consolidated Permit, described in 980 CMR 13.10: EFSB Consolidated Permit Decisions. The Decision shall include conditions and permit requirements described in 980 CMR 13.08: Conditions for EFSB Consolidated Permit.
  - (a) Review Time Frame. The Board shall issue a Decision on each LCEIF and SCEIF Application within the following deadlines following Notice of Completeness: (i) 15 months for LCEIF Applications, pursuant to M.G.L. c. 164 § 69T(i); (ii) 12 months for SCT&D applications, pursuant to M.G.L. c. 164 § 69U(c); and (iii) 12 months for SCEG and SCES applications, pursuant to M.G.L. c. 164 § 69V(c). The Board may establish shorter time frames than the deadlines for reviewing different types of facilities based on the complexity of the facility and number of parties.
  - (b) Construction of Project. No Applicant shall commence Construction of a LCEIF or SCEIF at a site or along a route until an Application for an EFSB Consolidated Permit has been approved by the Board.
- (5) Constructive Approval. Pursuant to M.G.L. c. 164 §§ 69T(i), 69U(c), 69V(c), an LCEIF or SCEIF Application shall be deemed approved pursuant to 980 CMR 17.00: Constructive Approval by Operation of Law, if the Board does not issue a Final Decision described in 980 CMR 13.10: EFSB Consolidated Permit Decisions, within the applicable statutory review time frame 980 CMR 13.02(5)(a): Review Time Frame.

### 13.03 EFSB Consolidated Permit Application Requirements.

- (1) Applicability. Each section of 980 CMR 13.03 shall apply to an Application for an EFSB Consolidated Permit submitted to the Board, unless otherwise noted.
- (2) Application Summary Form. The Applicant shall submit a complete Application Summary Form. Application Summary Form shall meet Board specifications in “13.00: Guidance.”
- (3) Project Overview Presentation. The Applicant may include visual media illustrating the Project, Project site, and the surrounding area. Project Overview visual media shall meet the Board specifications in “13.00: Guidance.”
- (4) Description of the Project, Site, and Surrounding Area. The Applicant shall describe the project, project site, and the surrounding area with relevant maps, figures, drawings, or other attachments. The description shall meet Board specifications in “13.00: Guidance.”
- (5) Accessibility. The Applicant shall describe how the public can access project information, how project materials are consistent with the Board’s Language Access Plan, and provisions for meeting additional locality specific accessibility needs. Accessibility shall meet the Board specifications in “13.00: Guidance.”
- (6) Consultation and Community Engagement.
  - (a) Pre-filing Consultation and Community Engagement. The Applicant shall demonstrate compliance with 980 CMR 16.00: Prefiling Consultation and Engagement Requirements. The Applicant shall describe all pre-filing consultation and community engagement for the project. Pre-filing Consultation and Community Engagement shall comply with requirements in 980 CMR 16.00 and shall meet Board specifications in “13.00: Guidance.” This section shall not apply to M.G.L. c. 164 §69V Applications for a Consolidated State Permit for SCEG and SCES facilities.
  - (b) Waiver. If the Applicant has not complied with Pre-filing Consultation and Community Engagement requirements in 980 CMR 16.00, the Applicant may request a waiver of applicable requirements. To obtain a waiver, the Applicant shall demonstrate good cause why such requirements could not be satisfied.
  - (c) Continuing Consultation and Community Engagement. The Applicant shall describe continuing consultation and community engagement during construction and after the project is operational. Continuing Consultation and Community Engagement shall meet Board specifications in “13.00: Guidance.”
- (7) Project Need. The Applicant shall provide analysis demonstrating the need for the project, in Massachusetts and outside Massachusetts, if applicable. The Applicant shall provide analysis based on reliability considerations, load projections,

state policy, a combination of these, or another reason with explanation. Project Need shall meet Board specifications in “13.00: Guidance.” This section shall apply only to M.G.L. c. 164 §§ 69T, 69U Applications for LCT&D and SCT&D facilities.

(8) Benefits of the Project. The Applicant shall describe benefits of the project, including, but not limited to energy benefits, local benefits, and other benefits. Benefits of the Project shall meet Board specifications in “13.00: Guidance.”

(9) System Benefits. The Applicant shall describe how the project will increase the capacity of the system to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation, clean energy storage or other clean energy generation sources that qualify under any clean energy standard regulation pursuant to M.G. L. c. 21N §3(d), or will facilitate the electrification of the building and transportation sectors. System Benefits shall meet Board specifications in “13.00: Guidance.” This section shall apply only to M.G.L. c. 164 §§ 69T & 69U Applications for LCT&D and SCT&D facilities.

(10) Project Alternatives. The Applicant shall describe alternative methods of transmitting or storing energy; siting and project alternatives to avoid or minimize or, if impacts cannot be avoided or minimized, mitigation impacts; other sources of electrical power; or a reduction of requirements through load management. The Applicant shall describe consideration or implementation of advanced conductors, advanced transmission technologies, grid enhancement technologies, non-wire alternatives, and other alternatives to avoid or minimize expenditures. Project Alternatives shall meet Board specifications in “13.00: Guidance.” This section shall apply only to M.G.L. c. 164 §§ 69T & 69U Applications for LCT&D and SCT&D facilities.

(11) Route and Site Selection. The Applicant shall describe other site locations. The Applicant shall demonstrate: (i) the Applicant has considered a reasonable range of practical siting alternatives; (ii) the Applicant’s proposed facility is sited in locations that avoid or minimize or, if impacts cannot be avoided or minimized, mitigate environmental impacts and negative health impacts to the extent practicable while ensuring a reliable, resilient, and clean supply of energy consistent with the commonwealth’s climate change and greenhouse gas reduction policies and requirements; (iii) the Applicant’s proposed facility is sited consistent with the SSC; and (iv) the proposed Facility will be constructed in a manner that avoids or minimizes costs. Route and Site Selection shall meet Board specifications in “13.00: Guidance.” This section shall apply only to M.G.L. c. 164 §§ 69T & 69U Applications for LCT&D and SCT&D facilities.

(12) Site Selection and Alternatives. The Applicant shall describe the project site selection process and alternatives analysis used to choose the location of the project to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts. The Applicant shall demonstrate: (i) the Applicant’s facility is sited



consistent with the SSC; (ii) the Applicant's proposed facility is sited in a location that reliable, resilient and clean supply of energy consistent with the commonwealth's climate change and greenhouse gas reduction policies and requirements; and (iii) the proposed Facility will be constructed in a manner that avoids or minimizes costs. Site Selection and Alternatives shall meet Board specifications in "13.00: Guidance." This section shall apply only to M.G.L. c. 164 §§ 69T, 69V Applications for LCEG, LCES, SCEG, and SCES facilities.

(13) Cumulative Impact Analysis (CIA). The Applicant shall provide a CIA Report specified in 980 CMR 15.05: *Applicant's Preparation of Cumulative Impact Analysis Report*. Cumulative Impact Analysis shall meet Board specifications in "13.00: Guidance."

(14) Environmental Impacts. The Applicant shall describe environmental impacts of the Facility, including both environmental benefits and burdens, including a description of efforts to avoid, minimize and mitigate burdens, and efforts to enhance benefits, such as shared use, recreational paths or access to nature. The Applicant shall include, but is not limited to, the following environmental impacts: (i) land-based resources, including land use and land resources; (ii) water resources and aquatic ecology; (iii) transportation; (iv) air quality; (v) climate mitigation and resiliency; (vi) public health, safety, and security; (vii) solid waste and hazardous materials; (viii) site restoration and decommissioning; (ix) radiation, including magnetic fields; (x) noise and vibration; and (xi) visual. The Environmental Impacts section shall meet Board specifications in "13.00: Guidance."

(15) Climate Change Impacts. The Applicant shall describe consideration of reasonably foreseeable long-term climate change impacts related to the project; impacts may include additional greenhouse gas or other air pollutant emissions known to have negative health impacts, predicted sea level rise, flooding, and any other disproportionate adverse effects of climate change on a specific geographical area. See M.G. L. c. 164 § 69H. Climate Change Impacts shall meet Board specifications in "13.00: Guidance."

(16) Project Cost. The Applicant shall provide an analysis of cost estimates associated with the project, including net present value of project cost and impacts on ratepayers. Project Cost shall be specified by the Board in "13.00: Guidance." This section shall apply only to M.G.L. c. 164 §§ 69T, 69U Applications for LCT&D and SCT&D facilities.

(17) Project Reliability. The Applicant shall provide an analysis of the reliability benefits of the project. Project Reliability shall be specified by the Board in "13.00: Guidance."

(18) Policies of the Commonwealth. The Applicant shall describe, to the extent practicable, the energy, environmental, land use, labor, economic justice,

environmental justice and equity, and public health and safety policies of the Commonwealth, its subdivisions and its municipalities that apply to the project. The Applicant shall demonstrate how the project complies with each applicable policy. The Policies of the Commonwealth shall be specified by the Board in “13.00: Guidance.”

(19) Decommissioning and Site Restoration Plan. The Applicant shall file decommissioning and site restoration plan described in 980 CMR 1.10: *Decommissioning and Site Restoration Plan*.

#### 13.04 Zoning Exemption Requirements.

- (1) If an Applicant seeks zoning exemptions for a project, the Applicant shall:
  - (a) File a companion zoning exemption petition, pursuant to M.G.L. c. 40A §3, or Section 6 of Chapter 665 of the Acts of 1956.
  - (b) Submit a copy of the companion zoning exemption petition with the Application.
  - (c) Describe each zoning exemption the project needs to be constructed which shall include: (i) a copy of the applicable zoning bylaws or ordinances; (ii) the type of zoning exemption requested; and (iii) a reason the zoning exemption is necessary for the project. Zoning Exemptions shall be specified by the Board in “13.00: Guidance.”
- (2) The Presiding Officer may consolidate a zoning exemption petition with an EFSB Consolidated Permit proceeding pursuant to 980 CMR 1.09(2): *Consolidation*. In the order consolidating the zoning exemption request with the EFSB Consolidated Permit proceeding, the Presiding Officer shall indicate that in the event of a constructive approval, the Constructive Approval would include the requested zoning exemptions.
- (3) The Applicant shall state no zoning exemptions are required if the Applicant does not file a companion zoning exemption petition, pursuant to M.G.L. c. 40A §3, or Section 6 of Chapter 665 of the Acts of 1956.

#### 13.05 Agency Permit Requirements.

- (1) The Applicant shall provide the following information for Permits:
  - (a) State Permits. The Applicant shall provide the following for each State Permit required for the project:
    1. A description of the State Permit, the related PEA, and the name of the agency permitting program.
    2. A description of why the State Permit is necessary for the project.
    3. A permit application form and required filing document applicable to the project, to the extent possible.

4. The requirements of the PEA for the State Permit, with relevant information provided.
  5. A draft State Permit proposed for the project, including but not limited to Board standard conditions for each State Permit, standard conditions on a State Permit approval form that would otherwise have been issued individually, and supplemental conditions proposed by the Applicant, to the extent possible.
- (b) Regional Permits. This section shall not apply to M.G.L. c. 164 § 69U Applications for SCEG and SCES facilities. The Applicant shall provide the following for each Regional Permit required for the project:
1. A description of the Regional Permit, Local Government, and the name of the permitting program.
  2. A description of why the Regional Permit is necessary for the project.
  3. A Permit application form and required filing documents.
  4. The requirements of the Local Government for the Regional Permit, with the relevant information provided.
  5. A draft Regional Permit proposed for the project, including but not limited to Board standard conditions, standard conditions on a Regional Permit approval form in the form pursuant to 225 CMR 29.00, and supplemental conditions proposed by the Applicant, to the extent possible.
- (c) Local Permits. This section shall not apply to M.G.L. c. 164 § 69V, Applications for SCEG and SCES facilities. The Applicant shall provide the following for each Local Permit required for the project:
1. A description of the Local Permit, the Local Government, and the name of the regulatory authority permitting program.
  2. A description of why the Local Permit is necessary.
  3. A Local Permit application form and required filing documents.
  4. The requirements of the Local Government for the Permit, with the relevant information provided.
  5. A draft Local Permit proposed for the project, including but not limited to Board standard conditions, standard conditions on a Local Permit approval form in the form pursuant to 225 CMR 29.00, and supplemental conditions proposed by the Applicant, to the extent possible.
- (d) Federal Permits. The Applicant shall provide a list of Federal permits required for the project; the list shall include the following for each Federal permit:
1. The Federal permit form.
  2. A description of the Federal permit.
  3. The date the Applicant requested the Federal Permit and the date the Applicant received or anticipates receiving the Federal permit.
  4. The status of the Federal Permit when the Application is submitted.

(2) Agency Permit Procedures.

- (a) The Applicant shall provide information that would normally be provided to each PEA, PAA, and Local Government for each Permit.
- (b) The Applicant shall expressly identify duplicative information or conflicting requirements across Permits included in the Application. The Applicant shall provide a proposed resolution of such conflicting requirements, with an explanation.
- (c) The Applicant shall determine the applicability of Permits for the project pursuant to 980 CMR 16.00: Prefiling Consultation and Engagement Requirements, prior to the submission of an Application to the Board.
- (d) Proof that each PEA, Local Government, and PAA received notice of each Permit for which they would have had subject matter jurisdiction if the Applicant had sought permits with that agency.
- (e) Agency Permit Requirements shall be specified by the Board in "13.00: Guidance."

13.06 EFSB Consolidated Permit Application and Approval Procedures.(1) General.

- (a) Filing. The Applicant shall file an Application in the manner specified by the Board in "13.00: Guidance."
- (b) Concurrent Filings. The Applicant shall submit a copy of each draft Permit filed with the Board pursuant to 980 CMR 13.05: Agency Permit Requirements to the PEA or Local Government to which that Permit may be enforced.

(2) Intervention and Grant Rulings. The following shall apply to PEA, PAA, and Local Government regarding requests for Intervention:

- (a) Each PEA and Local Government Representative is deemed to be substantially and specifically affected by the proceeding and shall be granted intervenor status upon written request to the Board.
- (b) If a PAA or Local Government seeks to intervene or participate in the Consolidated Permit proceeding, the PAA or Local Government shall follow intervention rules at 980 CMR 1.05.

(3) Procedural Schedule. The Presiding Officer shall set a preliminary procedural schedule for the project following Notice of Completeness. The Procedural Schedule shall be in substantial compliance with the form and timeline specified by the Board in "13.00: Guidance." The schedule shall include the following procedural steps for an EFSB Consolidated Permit proceeding unless the Presiding Officer rules otherwise:

- (a) Public Comment Hearing(s). The Presiding Officer shall provide a date for the Public Comment Hearing(s) within 45 days of Notice of a Completeness.

- (b) Deadline for Public Comments. The Presiding Officer shall set the deadline for public comments not less than two weeks following the last date of Public Comment Hearing(s).
- (c) Deadline for Petitions for Intervention and Limited Participant Status. The Presiding Officer shall set the deadline for petitions for intervention and limited participant status not less than two weeks after the last date of Public Comment Hearing(s).
- (d) PEA and Local Government Representative Notification of Intention to Intervene. PEA and Local Government Representative shall notify the Presiding Officer at or before the deadline for petitions for intervention of intention to intervene in the project.
- (e) Presiding Officer Rulings and Procedures. The Presiding Officer shall issue a ruling on petitions for intervention and limited participant status. The Presiding Officer shall issue the service list and procedural ground rules for the proceeding with the ruling for intervention and limited participant status.
- (f) Preliminary Procedural Conference and Procedural Order. The Presiding Officer shall schedule a Preliminary Procedural Conference at their discretion after the ruling on intervention and limited participant status is issued.
- (g) Issuance of Information Requests and Responses. A Party shall not issue information requests prior to the issuance of procedural ground rules, except information requests issued by the Presiding Officer or the Board. The Presiding Officer shall issue the deadline for responses to information requests not less than two weeks from the issuance of information requests.
- (h) Deadline for Pre-Hearing Testimony to be Filed by Intervenor(s). The Presiding Officer shall set the deadline for pre-hearing testimony filed by Parties with intervenor status not less than two weeks prior to the initial Evidentiary Hearing.
- (i) Deadline to Submit Statements of Recommended Permit Conditions. The Presiding Officer shall set the deadline for Intervenors, PEAs, and Local Government Representative to submit to the Board statements of recommended Permit conditions not less than three weeks before the initial Evidentiary Hearing.
- (j) Conditions Conference. The Presiding Officer may schedule a Conditions Conference prior to the initial Evidentiary Hearings.
- (k) Evidentiary Hearing(s). The Presiding Officer shall schedule the Evidentiary Hearing(s) at their discretion and in consultation with each Party.
- (l) Record Requests and Responses. The Presiding Officer may set the deadline for responses to record requests at the Evidentiary Hearing in consultation with each Party but may not set the deadline more than two weeks from the date of the last Evidentiary Hearing, unless good cause is shown for a different date.
- (m) Initial Brief(s). The Presiding Officer shall set the deadline for the Parties to file Initial brief(s) within three weeks of the deadline for record request responses, unless good cause is shown for a specific delayed filing.

- (n) Reply Brief(s). The Presiding Officer shall set the deadline for reply brief(s) to be filed not more than two weeks after the deadline for initial brief(s), unless good cause is shown for a different date.
  - (o) Tentative Decision. The Presiding Officer shall determine the timeline for a 980 CMR 1.08(2): *Tentative Decision* based upon a Board Meeting within the applicable deadline for Final Decisions.
  - (p) Board Meeting. The Presiding Officer shall schedule a Board meeting within the applicable deadline for 980 CMR 1.08(3): *Final Decisions*.
- (4) Preliminary Procedural Conference and Procedural Order. The Presiding Officer shall provide notice to each PEA and Local Government Representative of the opportunity to participate in the preliminary procedural conference, regardless of intervention status. The Presiding Officer may provide notice to a PAA, at the Presiding Officer's discretion, of the opportunity to participate in the preliminary procedural conference. The Presiding Officer shall establish the scope of an EFSB Consolidated Permit proceeding, including, but not limited to:
- (a) Topics which require discussion and analysis.
  - (b) Topics each Party agree meet the requirements of the Board.
  - (c) Topics each Party agrees do not necessitate extensive analysis or inquiry.
  - (d) Possible conditions to be applied to the project.
- (5) Statement of Recommended Permit Conditions. Each PEA and Local Government Representative shall submit a Statement of Recommended Permit Conditions regarding the subject matter for which the PEA or Local Government Representative would otherwise issue a permit, regardless of intervention status. If a PEA or Local Government Representative has consulted with a PAA in the creation of their Statement of Recommended Permit Conditions, the PAA shall be identified. Each Intervenor may submit a Statement of Recommended Permit Conditions for the project. The Applicant may submit a Statement of Recommended Permit Conditions for the project to supplement the conditions previously submitted as part of the Application. Each Statement of Recommended Permit Conditions shall comply with the form and requirements specified by the Board in "13.00: Guidance."
- (6) Conditions Conference. The Presiding Officer shall provide each Party with a copy of Proposed EFSB Consolidated Permit Conditions, compiled by the Presiding Officer from Standard Conditions and Supplemental Conditions submitted by the Applicant, and Statement of Recommended Permit Conditions submitted by Parties, prior to the scheduled conference. The Conditions Conference shall provide discussion on all conditions anticipated for the project.
- (a) Recommendation on Conditions. The Presiding Officer shall provide each Party with a recommendation stating each Standard Condition and Supplemental Condition to be applied to an EFSB Consolidated Permit, pending Board approval.

1. Standard Conditions shall reflect conditions established by the Board, DOER and PEAs that apply for all projects and conditions that apply to each technology type the Application has identified for the project.
2. Supplemental Conditions shall reflect reasonable and appropriate project requirements.

(7) Board Decision on EFSB Consolidated Permit.

- (a) Consolidated Permit Decision. The Board shall issue a Consolidated Permit in the form of all individual Permits otherwise necessary for the construction and operation of the LCEIF or SCT&D facility pursuant to M.G.L. c. 164 §§ 69T & 69U.
- (b) Consolidated State Permit Decision. The Board shall issue a Consolidated State Permit in the form of all individual State Permits otherwise necessary for the construction and operation of the SCEG and SCES facilities pursuant to M.G.L. c. 164 § 69V.
- (c) Final Decision of the Board. Final Decisions of the Board for Consolidated Permitting shall be as described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions.*

13.07 Baseline Health, Environmental, Safety, and Other Standards.

- (1) Baseline Standards. The Board may develop Baseline Health, Environmental, Safety, and Other Standards (“Baseline Standards”) to be applied for LCEIF and SCEIF. Baseline Standards shall be *specified by the Board in “13.00: Guidance.”*

13.08 Conditions for EFSB Consolidated Permit.

- (1) Board Conditions. The Board shall include the following conditions in an EFSB Consolidated Permit:
  - (a) Level 1: Standard Conditions. The Board shall apply each Standard condition to an EFSB Consolidated Permit or a Constructive Approval permit. Standard Conditions shall be *specified by the Board in “13.00: Guidance, Attachment 1.”*
  - (b) Level 2: Threshold-Specific Conditions. The Board may apply each Threshold-specific condition based upon use of technology of a project. Thresholds shall be determined by the Board. Threshold-specific Conditions shall be *specified by the Board in “13.00: Guidance, Attachment 1.”*
- (2) PEA Standard Conditions. The Board shall apply standard conditions that would otherwise individually apply to a State Permit approval form, and are submitted with the Application pursuant to 980 CMR 13.05(1) and (2).
- (3) DOER Standard Conditions. The Board shall apply standard conditions in the form established by DOER on a Regional and/or Local Permit approval form pursuant to 225 CMR 29.00.

- (4) Supplemental Conditions. The Board shall determine and apply Supplemental Conditions for an EFSB Consolidated Permit. The Presiding Officer shall provide recommendations to the Board for the inclusion of Supplemental Conditions in the Recommendation on Conditions as described in 980 CMR 13.07(6)(a): *Recommendation on Conditions*.

### 13.09 Completeness Determination.

(1) Completeness Review.

- (a) The Presiding Officer shall review an Application and make a Completeness Determination in writing within 30 days.
- (b) The Presiding Officer's Completeness Determination shall not be subject to appeal.
- (c) The Presiding Officer or Staff may communicate with the PEA, PAA, Local Government Representative and Local Government and such communications shall not be considered *ex parte* communication unless the communication is substantive and occurs after the Presiding Officer's Notice of Completeness.
- (d) The Presiding Officer may require the Applicant to provide supplemental evidence to the Application, where appropriate, for the Board to make the required findings for an EFSB Consolidated Permit. Supplemental evidence shall include supporting documents, work papers, modeling, studies, authorities cited, and reference to any other evidence relied upon in the Application.

(2) Notice of Completeness. The Presiding Officer shall determine an Application is complete if the Application is in substantial and material compliance with the following:

- (a) Application requirements in 980 CMR 13.03: *EFSB Consolidated Permitting Application Requirements*.
- (b) Zoning exemption requirements in 980 CMR 13.04: *Zoning Exemption Requirements*.
- (c) Permitting requirements in 980 CMR 13.05: *Agency Permit Requirements*.
- (d) Conditions in 980 CMR 13.08: *Conditions for EFSB Consolidated Permit*.
- (e) The Completeness Determination Checklist. The Completeness Determination Checklist shall be specified by the Board in "13.00: Guidance."

(3) Incomplete Application. The Applicant shall have 30 days from Notice of an incomplete Application to cure each deficiency identified by the Presiding Officer before the Application is rejected per 980 CMR 13.09(6): *Rejected Applications*. The Application may only be determined to be incomplete twice before the Application shall be rejected per 980 CMR 13.06(6): *Rejected Applications*.

- (a) Missing Permit. If the Presiding Officer, prior to the Final Decision, determines that a Permit was not included in the Application, the Presiding



Officer may deem the Application incomplete. The Applicant shall file an amended Application with the Siting Board and the omitted permit with the PEA that has subject matter jurisdiction. The Presiding Officer may extend the Board's review time frame when reasonable to ensure adequate participation by each PEA; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a revised Notice of Completeness.

(b) Changes to the Project before Final Decision. If an Applicant identifies significant changes to a project before the Board issues a final decision, the Presiding Officer may determine the Application incomplete and shall be subject to a Completeness Determination upon filing a supplemented Application. The Presiding Officer may extend the Board's review time frame when reasonable to ensure adequate review of the changes to the project; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a revised Notice of Completeness.

(c) Agency Deficiencies. Each PEA, Local Government Representative, PAA or Local Government may describe any deficiencies in the Permit documentation provided within 21 days of receipt of notice of a Permit for which they would have subject matter jurisdiction. The Presiding Officer shall determine if a deficiency is substantial and material. The Presiding Officer may deem the Application incomplete as described in 980 CMR 13.09(3): **Incomplete Application** if a deficiency is determined to be substantial and material.

(4) Deficiencies. The Applicant shall file the following within 30 days of notice of the deficiency if the Presiding Officer determines the Application does not substantially and materially comply:

(a) Identify each deficiency in the Application, including the section or permit, and the page number or exhibit.

(b) The complete cured section or Permit for each identified deficiency. If a section or Permit contains multiple deficiencies, provide the complete cured section or Permit for the group of deficiencies identified for that section or Permit.

(c) Include proof of service of notice of the filing of the cured Permit to the PEA, PAA, Local Government Representative or Local Government whose jurisdictional responsibilities are affected by the deficiency.

(5) Extensions of Time. The Presiding Officer may provide extensions of time to exceed 30 days to cure deficiencies if the Applicant demonstrates extenuating circumstances for the delay. The Applicant shall provide a request for an extension in writing within 30 days of filing the Application. The Presiding Officer shall include a reason for the extension and a new deadline in the ruling on the extension request.

(6) Rejected Applications.

(a) Failure to Timely Cure. The Presiding Officer shall reject Applications if determined to be incomplete within 30 days and the Applicant does not file a modified Application addressing each identified deficiency within the time permitted. If the Application is rejected for Failure to Timely Cure, absent extenuating circumstances, the Applicant may not file an Application for the same project within three months of the rejection.

(b) Failure to Cure. The Presiding Officer shall reject an Application determined to be incomplete three consecutive times. If the Application is rejected for Failure to Cure, absent extenuating circumstances, the Applicant may not file an Application for the same project within six months of the rejection.

(c) Previously Rejected Applications. The Presiding Officer shall deem an Application that was rejected as a new project and review the Application based on the new Application submitted to the Board.

13.10 EFSB Consolidated Permit Decisions.

(1) Final Decision. The Board shall approve, approve with conditions, or reject each Application for an EFSB Consolidated Permit. The Board shall include 980 CMR 2.06(3) *Required Findings*.

(2) Zoning Exemptions. Zoning exemptions, if granted by the Board, shall be issued as part of the Final Decision for an EFSB Consolidated Permit.

(3) Permits. The Board's issuance of an EFSB Consolidated Permit shall be a composite of all individual Permits that would otherwise be necessary for the construction and operation of an LCEIF or SCEIF, including the EFSB Construction Permit.

(4) Conditions Applicable to the Project. The Board shall state each condition and permitting requirement applicable to the project. The Board shall identify the entity with jurisdiction to enforce each condition and permitting requirement.

13.11 Enforcement of EFSB Consolidated Permit Requirements.

(1) Jurisdiction.

(a) The PEA or Local Government shall enforce each condition and permit requirement whose subject matter is within their jurisdiction as if an EFSB Consolidated Permit had been directly granted by said PEA or Local Government.

(b) The Board shall enforce each condition or permit requirement whose subject matter is not within the jurisdiction of a PEA or Local Government.

(2) Enforcement Procedure. An alleged violation of conditions or other permitting requirements may be reported to the Board. A copy of the alleged violation shall be provided to the Board and the affected PEA or Local Government.

(a) A violation of conditions or permitting requirement enforced by a PEA or Local Government shall follow enforcement procedures as prescribed by that PEA or Local Government.

1. A PEA or Local Government may request clarification or guidance from the Board regarding a condition or permitting requirement.

2. The Director shall provide guidance or clarification if a request is made for clarification or guidance.

(b) A violation of the conditions or permitting requirement enforced by the Board shall proceed as follows:

1. The Board shall receive notice of the alleged violation in writing. The Board may develop a form for submitting a written alleged violation. The written alleged violation shall be specified by the Board in “13.00: Guidance.”

2. The Director may request additional information on the alleged violation.

3. The Director shall make a timely ruling on the alleged violation.

4. The Director may provide the following relief:

a. Dismissal of the alleged violation.

b. Reserve judgment. The Applicant shall be provided time to remedy the alleged violation.

c. Sustain the violation, probation. The Applicant shall be subject to a probationary period during which the Director may apply additional conditions to the project to maintain compliance with conditions or permitting requirements.

d. Sustain the violation, penalty. The Director shall impose a reasonable penalty. M.G.L. c. 164, § 69H(4).

#### REGULATORY AUTHORITY

980 CMR 13.00: M.G.L. c. 164 §§ 69G, 69H, 69P, 69T, 69U, 69V; c. 25A, §21; c. 40A, §3.