

980 CMR: ENERGY FACILITIES SITING BOARD

980 CMR 16.00: PRE-FILING CONSULTATION AND ENGAGEMENT REQUIREMENTS

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16.01: Purpose and Scope

- (1) Purpose. 980 CMR 16.00 describes, pursuant to M.G.L. c. 164 §§ 69J, 69J¼, 69T, 69U, the pre-filing requirements of the Energy Facilities Siting Board (“Board”) for Applicants of proposed energy infrastructure seeking approval from the Board.
- (2) Scope. 980 CMR 16.00 describes outreach obligations applicable to clean energy infrastructure facilities seeking a Consolidated Permit under M.G.L. c. 164, §§ 69T and 69U; and other jurisdictional Facilities seeking approval to construct under M.G.L. c. 164, §§ 69J and 69J¼. 980 CMR 16.00 does not apply to requests for a de novo adjudication pursuant to M.G.L. c. 164, § 69W, by an owner or proponent of a small clean energy infrastructure facility or other party substantially and specifically affected by a final decision of a local government; those projects are subject to provisions of 980 CMR 14.00. 980 CMR 16.00 does not apply to Applicants seeking a consolidated local permit; those projects are subject to outreach obligations pursuant to 225 CMR 29.00.
- (3) Applicability to Facilities. 980 CMR 16.00 shall apply to all jurisdictional Facilities. Applicants of petitions to construct Facilities must comply with all pre-filing consultation and engagement requirements for the LCEIF. Applicants who have previously engaged in outreach requirements for a Facility shall consult with the Director of DPP to determine the applicable outreach obligations for that proposed Facility. 980 CMR 16.00 relies upon provisions of 980 CMR that by their terms apply to all sections of chapter 980 CMR, unless otherwise noted.

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(4) Exemption from Outreach Requirements for SCGF and SCSF. If an Applicant for a proposed SCEIF that files for a Consolidated State Permit pursuant to M.G.L. c. 164, § 69V, and also initiates the process for a consolidated local permit and is subject to the outreach requirements in 225 CMR 29.00, the Applicant is not required comply with 980 CMR 16.00 pre-filing requirements.

(5) Effective Date. 980 CMR 16.00 shall take effect on March 1, 2026, and shall apply to all Applications and petitions to construct filed with the Board for approval on or after July 1, 2026.

16.02: Definitions

For the purposes of 980 CMR 16.00, the terms set forth in 980 CMR 16.02 shall apply, unless the context otherwise requires.

Agency Consultation means written, oral, and other communications with state, regional and local agencies with an interest in the permitting of a proposed LCEIF, SCEIF, or other Facility.

Applicant means a person or group of persons who submits to the Board a petition to construct a Facility, an application for a consolidated permit for a large clean energy infrastructure facility or small clean energy infrastructure facility, an application for a consolidated state permit for a small clean energy infrastructure facility, or a petition for a certificate of environmental impact and public need. An Applicant also means a person or group of persons who submits an application to for a consolidated local permit with a municipality pursuant to 225 CMR 29.00.

Application means an initial filing supporting a request for the issuance of a Consolidated Permit for Clean Energy Infrastructure Facilities and petition to construct a Facility, or request for zoning exemption pursuant to M.G.L. c. 40A, § 3 or St. 1956, c. 665.

Community means people residing or working a minimum distance of (1) one mile from a LCEIF or SCEIF or Facility site boundary or any project component, and (2) ¼ mile from linear LCEIF or SCEIF or Facilities, such as transmission lines or pipelines.

DPP means the Division of Public Participation at the Department of Public Utilities (“DPU”) established under M.G.L. c. 25, § 12T to assist stakeholders with navigating the DPU and the Board pre-filing requirements, clarifying filing requirements, and identifying opportunities to intervene.

DPP Opinion means a written communication from the Director of DPP to the Board relating to pre-filing requirements and/or activities of an Applicant

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Facility means any non-clean energy infrastructure facility subject to Board jurisdiction pursuant to M.G.L. 164, § 69G and as defined in 980 CMR 1.01.

Key Stakeholders means members of the public including local residents, public interest groups, organizations within the local community in the vicinity of a proposed project that could be affected by a proposed project, project abutting residents (both owners and renters) and businesses, community-based organizations, elected or appointed municipal officials (e.g., mayor or town/city manager, relevant Council/Select Board members, Chair(s) of the Conservation Commission, Planning Board, Zoning Board, and Head of the Department of Public Works), regional planning officials, and federally recognized, state-acknowledged, or state-recognized Tribal organizations.

LAP means the current Language Access Plan adopted by the Board that identifies language access services that shall be provided to allow residents with limited English proficiency to review materials and receive oral and written communications consistent with the language needs of the community.

LCEIF means Large Clean Energy Infrastructure Facilities as defined in M.G.L. c. 164, § 69G and 980 CMR 13.01(5).

LCT&D means Large Clean Transmission and Distribution Infrastructure Facilities as defined in M.G.L. c. 164, § 69G and 980 CMR 13.01(5).

MEPA Office means the Massachusetts Environmental Policy Act Office within the Executive Office of Energy and Environmental Affairs' ("EEA") that administers MEPA and 301 CMR 11.00.

OEJE means the Office of Environmental Justice and Equity at EEA as defined in M.G.L. c. 21A, § 29.

Pre-filing Engagement Status Checklist means an initial document to be filed by an Applicant with DPP approximately midway through the pre-filing outreach period that catalogs the status of pre-filing consultation and engagement requirements and includes supporting documentation identified in 980 CMR 16.00. The checklist shall require an attestation by the Applicant that all statements contained therein are true.

Pre-filing Engagement Completion Checklist means an updated document that reflects completed pre-filing consultation and engagement requirements and includes supporting documentation identified in 980 CMR 16.00 to be filed by an Applicant with DPP and the Board at the completion of the pre-filing outreach period and together with the Pre-filing Notice. If certain outreach requirements cannot be completed a statement clarifying the reason or a waiver demonstrating good cause that was requested from and approved by DPP shall

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be attached. The checklist shall require an attestation by the Applicant that all statements contained therein are true.

Pre-filing Outreach Period means the period of time between the start of pre-filing consultation and engagement activities specified in 980 CMR 16.04 and the submission of the Pre-filing Notice to the Board and DPP.

SCEIF means Small Clean Energy Infrastructure Facilities as defined in M.G.L. c. 164, § 69G and 980 CMR 13.01(5).

SCT&D means Small Clean Transmission and Distribution Infrastructure Facilities defined in M.G.L. c. 164, § 69G and 980 CMR 13.01(5).

16.03: Rules of General Applicability

(1) Waiver of Pre-filing Rules. Where good cause appears, but not contrary to the statute, the Director of DPP may permit deviation from any rules contained in 980 CMR 16.00. In evaluating whether good cause exists to grant a waiver from 980 CMR 16.00, DPP shall evaluate the interest of the person requesting the waiver, the interests of any other affected person, the efficient administration of 980 CMR 16.00, and the public interest. Any waiver request must be in writing. The Director shall review the requested waiver and provide a response in writing.

(2) Outreach Costs. The Applicant shall bear responsibility for all costs associated with outreach activities and obligations.

(3) Ex Parte Communication. The Director of DPP may communicate with parties or individuals and entities seeking to intervene in Board proceedings about substantive matters before an Application is filed with the Board and such communication shall not be deemed an ex parte communication consistent with 980 CMR 1.03(7)(c).

16.04: Pre-filing Consultation and Engagement Requirements

(1) In providing information to the public during pre-filing outreach, the Applicant shall endeavor to balance the goal of providing available information on project design criteria to Key Stakeholders at an early point during project development with the need to pursue due diligence on potential site options to develop the optimal project design.

- (a) Throughout the Pre-filing Outreach Period, the Applicant shall:
 - 1. Review and implement site suitability criteria, cumulative impact analysis requirements, and the cumulative impact analysis tool as described in 980 CMR 15.00 to inform the alternatives analysis in the selection of the preferred site/route;
 - 2. Discuss during Agency Consultations, meetings with Key Stakeholders, and Community meetings how site options were

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considered based on the site suitability criteria, cumulative impact analysis requirements, and the cumulative impact analysis tool.

Outreach shall include a discussion of how the alternatives analysis used in the selection of the preferred site/route option avoids or minimizes the potential for disproportionate adverse impacts;

3. Document all efforts to inform, involve, and partner with Key Stakeholders and the Community;

4. Maintain notes from meetings with Key Stakeholders, Agency Consultation, and Community meetings. Summarize comments received and how they influenced project design;

5. Publicize project information using multiple outreach channels; and

6. Create a project webpage at the start of the Pre-filing Outreach Period and maintain up-to-date information on project webpage(s).

(b) The Applicant shall meet with DPP and OEJE individually or jointly at the start of the Pre-filing Outreach Period, in accordance with 980 CMR 16.05 (1)(a), to discuss its proposed outreach plan and clarify pre-filing consultation and engagement requirements.

(c) The Applicant shall meet with relevant Key Stakeholders early during the Pre-filing Outreach Period to inform, seek input, and be responsive to questions and feedback received on the proposed project. The Applicant shall add Key Stakeholders to the project email distribution list and send quarterly updates that include but are not limited to new project developments, any changes to site or project design, and the contact details (name, email, and phone number) of the Applicant's representative(s).

(d) The Applicant shall submit to DPP a Pre-filing Engagement Status Checklist and the following supporting documentation related to its pre-filing consultation and engagement efforts approximately midway through the Pre-filing Outreach Period:

1. A list of Key Stakeholder, Agency Consultation, and Community meetings held to date, including date/time and location;

2. A summary of how the site suitability criteria, cumulative impact analysis requirements, and cumulative impact analysis tool informed project design and planning, and any related improvements proposed by state, regional or local agencies during Agency Consultation; and

3. A table summarizing comments received at meetings with Key Stakeholders and Agency Consultation and Community meetings held to date, and any modifications in project design in response to the comments.

(e) The Applicant shall consult with the MEPA Office at least once during the Pre-filing Outreach Period.

1. The consultation with the MEPA Office shall be held early during the Pre-filing Outreach Period to receive feedback on

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compliance with regulatory requirements and other best practices to avoid or minimize impacts, as well as to receive recommendations for scientific studies or analyses that may be needed to inform the agencies' review of the Application once it is filed with the Board.

2. The Applicant shall hold subsequent consultation(s) with the MEPA Office as appropriate.

(f) The Applicant shall complete Agency Consultation, as appropriate, to receive feedback on compliance with regulatory requirements.

(g) The Applicant shall publicize and conduct at least two public meetings for Key Stakeholders and the Community.

1. The Applicant shall endeavor to hold the first mandatory public meeting after meeting with Key Stakeholders and addressing feedback received, as appropriate.

2. The Applicant shall hold the second mandatory public meeting prior to submitting the Pre-filing Notice with the Board. The Applicant shall present any changes to the project design and how input received during the first public meeting was considered.

3. In addition to the two mandatory public meetings, Applicants shall endeavor to use other engagement channels such as open houses, workshops, or meetings that are tailored to discuss specific topics of interest to Key Stakeholders and the Community.

4. The pre-filing comment period shall remain open until the deadline to submit public comments after the second mandatory public meeting. The Applicant shall provide sufficient time after the second mandatory public meeting for Key Stakeholders and Community to submit written comments and for comments to be considered prior to filing the Pre-filing Notice.

(h) No less than 45 days and no more than 60 days prior to filing an Application with the Board, the applicant shall submit a Pre-filing Notice (Notification of Intent to File Application) to the Board. If the Applicant does not file its Application with the Board more than 60 days after filing the Pre-filing Notice, the Applicant shall resubmit a Pre-filing Notice. If more than 60 days pass after the second Pre-Filing Notice has been filed without the filing of an Application, DPP staff shall review the outreach efforts conducted to date by the Applicant to assess if additional outreach is necessary before a Pre-filing Notice can be resubmitted to the Board.

(i) At the conclusion of the Pre-filing Outreach Period, the Applicant shall file the Pre-filing Notice and the Pre-filing Engagement Completion Checklist, and the following supporting documentation related to its pre-filing consultation and engagement efforts with DPP and the Board. The Pre-filing Notice shall include:

1. An overview of all pre-filing consultation and engagement efforts that have occurred to date including:

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- a. List of Key Stakeholder, Agency Consultation, and Community meetings held, including date/time and location;
 - b. Description of the outreach materials created and outreach recipients, including date and method(s) of contact;
 - c. Notes from meetings with Key Stakeholders, Agency Consultation and Community meetings;
2. A table summarizing all comments received throughout the Pre-filing Outreach Period, how the comments were considered, and any modifications in project design in response to the comments;
 3. A description of how site suitability criteria, cumulative impact analysis requirements, and cumulative impact analysis tool as described in 980 CMR 15.00 were incorporated into the selection of the Applicant's preferred project site;
 4. Details of any partnerships developed with Key Stakeholders and/or Community, including any advisory bodies formed to provide ongoing input;
 5. A copy of the Pre-filing Engagement Status Checklist; and
 6. An update on any ongoing discussions regarding Community Benefits Plans and Community Benefits Agreements.

16.05: Pre-filing Requirements for Consultation with DPP and OEJE

- (1) At least two weeks before the meeting(s) with DPP and OEJE, the Applicant shall share a brief plain language description of the project, its need, location map, any alternative sites/routes under consideration, and meetings already held or planned with Key Stakeholders and the Community. The Applicant may meet with DPP and OEJE individually or jointly.

16.06: Pre-filing Requirements for Consultation with MEPA Office and Agency Consultation

- (1) Applicants shall meet the following requirements:
 - (a) During the consultation with the MEPA Office and other relevant Agency Consultation, the Applicant shall:
 1. Provide basic project details including a description of proposed work activities;
 2. List all required local, state, regional, and federal permits it anticipates needing to obtain;
 3. If available, present copies of relevant draft applications for applicable state, regional and local permits and approvals that would otherwise be issued by each relevant state/regional/local permitting entity;
 4. If available, present copies of relevant draft permits that would otherwise be issued by each relevant state/regional/local permitting entity;

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5. Discuss with the MEPA Office the need for meetings with additional state or federal agencies;
 6. For clean energy generation facilities, clean energy storage facilities, and generating Facilities, present a description of the site selection process and the alternatives analysis used in selecting the Applicant's preferred option along with locus maps/lists showing project locations considered and associated environmental resource constraints (e.g., Article 97 land, wetlands, M.G.L. c. 91 boundaries, rare species habitat, ACEC, etc.);
 7. For clean transmission and distribution facilities, and transmission Facilities, present a description of the route/site selection process and the alternatives analysis used in selecting the Applicant's preferred option. Include a description of project alternatives and alternative sites/routes considered along with locus maps/lists showing anticipated project locations and associated environmental resource constraints (e.g., Article 97 land, wetlands, M.G.L. c. 91 boundaries, rare species habitat, ACEC, etc.);
 8. Discuss how site suitability criteria, cumulative impact analysis requirements, and cumulative impact analysis tool as described in 980 CMR 15.00 were incorporated into the selection of the Applicant's preferred project site in the case of clean energy generation facilities and clean energy storage facilities, and how it is incorporated during the route/site selection process for transmission projects;
 9. Identify any Unfairly Burdened Areas using the Unfairly Burdened Areas Map referenced in 980 CMR 15.04. Include a map showing project location and proximity of Unfairly Burdened Areas;
 10. Identify any Unfairly Burdened Areas that touch any parcel boundaries that will host one or more portions of a project for each site location using the Commonwealth's Unfairly Burdened Areas Map;
 11. Share preliminary information on environmental impacts and potential mitigation measures; and
 12. Discuss decommissioning and site restoration plans developed pursuant to 980 CMR 1.10.
- (b) During any subsequent meetings with the MEPA Office and relevant Agency Consultation, the Applicant shall present:
1. Project details that are updated to reflect any design changes that have occurred since the previous meeting and describe how the Applicant has responded to feedback provided by agencies, Key Stakeholders, and the Community;
 2. A status update and/or results of any scientific studies or analyses that are ongoing or have been completed;

16.07: Pre-filing Engagement Requirements for Meetings with Key Stakeholders and Public Meetings with the Community

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- (1) Applicants shall meet the following requirements:
 - (a) For one-on-one or joint meeting(s) with Key Stakeholders and public meetings, the Applicant shall:
 1. Present a brief plain language description of the project, its need, and location map(s);
 2. Describe anticipated impacts from the proposed project and solicit input on minimization and mitigation of those impacts;
 3. For transmission projects, present potential route/site alternatives under active consideration, the Applicant's preferred alternative, a comparison of anticipated impacts of each alternative, and proposed mitigation measures;
 4. For all clean energy generation facilities, clean energy storage facilities, and generating Facilities, present the site selection process, the alternative locations considered, the alternatives analysis used in selecting the preferred option, the anticipated health, environmental, and safety impacts of the preferred alternative, and proposed mitigation measures;
 5. Discuss decommissioning and site restoration plans at the public meetings;
 6. Share the estimated timeline for filing the Pre-filing Notice with the Board and future opportunities for public comment or input on the project;
 7. Share link to main project webpage that will serve as repository of up-to-date project information; and
 8. Provide hard copies of project materials to Key Stakeholders upon request.

16.08: Pre-filing Outreach Requirements for Public Meetings with the Community

- (1) The Applicant shall meet the following pre-filing outreach requirements for public meetings:
 - (a) Tailor outreach for public meetings to the project and characteristics of potentially impacted populations and publicize project information using at least two outreach channels that have wide reach.
 1. Outreach channels can include, but are not limited to, door-knocking, emails, phone calls, social media posts, flyers posted in community gathering spaces, radio spots, and contacting local cable channel(s). The Applicant may consult with local officials and community-based organizations on the appropriate outreach channels that will have the broadest reach in the project area.
 2. Outreach materials shall note the availability of intervenor funding to eligible entities through the DPU and the Board's Intervenor Support Grant Program and include a link to the program website.

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3. Outreach materials shall include information on how to request translation and/or interpretation services.
 4. Outreach materials shall link to the Applicant's project webpage.
 5. Paper copies of the outreach materials shall be available for review in municipal office buildings (e.g., clerk's office) and public libraries within the municipality(ies) of proposed project boundaries.
- (b) Guidelines for Public Meetings
1. Hold public meetings in a format that allows for both in-person and virtual participation, where possible.
 2. Translate the meeting agenda, presentation, and other materials and provide simultaneous interpretation according to the current Board LAP. Provide translation and interpretation in additional languages as requested.
 3. Hold public meetings at reasonable times that reflect community availability (e.g., weekends and evenings) and in accessible locations that community members routinely use (e.g., community centers and public libraries).
 4. Where possible, meeting locations shall be near public transit and/or have ample no-cost parking.
 5. Provide notice of the public meeting at least two weeks in advance and communicate event date/time through a variety of outreach channels.

16.09: Pre-filing Requirements for Project Webpage(s)

- (1) The Applicant shall establish a project webpage, and include the following requirements:
 - (a) Project webpage(s) shall be updated as new information becomes available and include the following information:
 1. Plain language project summary and translated versions as per the current Board LAP;
 2. Project description including project size, project footprint, and plain language description of project area and abutting properties, and translated versions as the current Board LAP;
 3. Location map(s);
 4. A summary of the how site suitability criteria and cumulative impacts analysis requirements have been incorporated into the selection of the preferred project site/route and project design;
 5. For all clean energy generation facilities, clean energy storage facilities, and generating Facilities, the project webpage shall include a description of the site selection process, and the alternative analysis used in selecting the preferred option, the anticipated health, environmental, and safety impacts of the preferred option, and proposed mitigation measures;

6. For clean transmission and distribution infrastructure facilities projects, and transmission Facilities, the project webpage shall present details of potential route/site alternatives under active consideration, the preferred alternative, a general comparison of anticipated health, environmental, and safety impacts of each alternative under consideration, and proposed mitigation measures;
7. Materials shared during meetings with Key Stakeholders;
8. Materials shared during Community meetings;
9. Date, time, and location of scheduled public engagement events;
10. Prominently placed link to sign up for a project email distribution list that provides subscribers with a quarterly (or more) progress report, reminders of how Community members can participate (e.g., upcoming public engagement events), and an estimated timeline for filing an Application with the Board;
11. Contact information for a designated contact person(s) (email, phone, and mailing address) to respond to questions regarding the project;
12. A comment submission form or link with information on how to submit comment and any comment deadlines;
13. List of meetings with relevant Key Stakeholders regarding the proposed project, including the names of organization, or community-based organizations and date of the meeting;
14. A summary of the feedback received from Key Stakeholders and how the Applicant considered this feedback in the project design (e.g., any modification or deselection of potential routes or sites under consideration or changes to project design);
15. Information on how to request translation and/or interpretation services;
16. Prominent note that funding is available to eligible entities through the DPU and the Board's Intervenor Support Grant Program and include a link to the program website; and
17. Pre-filing notice along with any translated versions required as per the current Board LAP.

16.10: Pre-filing Notice (Notification of Intent to File Application) Requirements

- (1) Pre-filing Notice requirements shall apply to all facilities seeking permit approval by the Board. The Pre-filing Notice shall be emailed to the Board, and DPP. In addition to posting the Pre-filing Notice and any translated versions as per the Board's current LAP on the project webpage, the Applicant shall also email the Pre-filing Notice to person(s) the Applicant met during pre-filing consultation and engagement, including host community(ies) of the project, Key Stakeholders, and agencies consulted.
- (2) Pre-filing Notice shall include:

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- (a) Basic project details such as a plain language project summary, project name, location map, anticipated project filing date, link to main project webpage; and
- (b) Clarifying or supporting information, if appropriate.

(3) The Applicant shall submit the Pre-filing Engagement Completion Checklist and supporting documentation as described in 16.04 (i) together with the Pre-filing Notice to DPP. DPP shall review the documentation submitted and assess if the pre-filing consultation and engagement requirements are met, insufficient, or incomplete and provide a DPP Opinion to the Board for consideration during the adjudicatory process. The Applicant shall be copied on the DPP Opinion sent to the Board.

16.11: Pre-filing Consultation and Engagement Documents to be Submitted with Application to the Board

- (1) The Applicant shall submit the Pre-filing Engagement Completion Checklist and supporting documentation as described in 16.04 (i) to the Board as part of the project Application package as defined in 980 CMR 13.00.

REGULATORY AUTHORITY

980 CMR: M.G. L. c. 164, §§ 69J, 69J1/4, 69T, 69U, 69V.