



ENVIRONMENTAL LEAGUE
OF MASSACHUSETTS

August 8, 2025

BY ELECTRONIC MAIL ONLY

sitingboard.filing@mass.gov

Secretary Rebecca L. Tepper, Chair
Massachusetts Energy Facilities Siting Board
One South Station
Boston, MA 02110
sitingboard.filing@mass.gov

Subject: EFSB Draft 980 CMR 16.00 Regulations and Guidance on Pre-Filing Engagement

Dear Secretary Tepper:

The Environmental League of Massachusetts ("ELM") appreciates the opportunity to comment offered by the Executive Office of Energy and Environmental Affairs ("EEA"), the Energy Facilities Siting Board ("EFSB"), and the Department of Public Utilities ("DPU") on their Proposed Regulations for Pre-Filing Engagement as required by, "An Act promoting a clean energy grid, advancing equity and protecting taxpayers" ("2024 Climate Act"). ELM respectfully submits comments in response to the July 25, 2025 proposed 980 CMR 16.00 regulations and guidance.

ELM Supports

- **Sequence-Based Outreach:** ELM is pleased to see that the updated Pre-Filing engagement and outreach requirements are sequence-based rather than timeline-based. The updated regulations maintain important provisions to ensure Key Stakeholders, communities, and state agencies are consulted early and often, but without prescribing week-by-week timelines originally included in the Draft Regulations. The updated regulations balance meaningful community engagement while recognizing that each proposed project is unique and will require slightly different engagement and outreach timelines. The added flexibility appropriately addresses project-specific differences, increases the likelihood of hastening clean energy siting and permitting, and ensures that the community is consulted early in project design. If the applicant can work with the community to come to an agreement faster, they should be allowed to do so, and the updated regulations enable this.
- **Size-Specific Outreach (16.01):** ELM is pleased to see that EFSB clarified that large clean energy infrastructure projects seeking a consolidated state permit would be subject to the new proposed 980 CMR 16.00 Pre-Filing regulations, while small clean

energy infrastructure projects seeking a local consolidated permit would be subject to outreach obligations in 225 CMR 29.00, administered by DOER. The proposed regulations rightly acknowledge that projects of different scales should have different outreach processes requirements.

Recommendations

- Pre-Filing Checklists (16.04):** ELM appreciates EFSB's publication of guidance with a Pre-Filing Engagement Completion Checklist and a Pre-Filing Engagement Status Checklist for applicants to submit. While the forms provide the clarity necessary for project proponents to implement Pre-Filing requirements, ELM cautions that the forms could inadvertently create a box-checking exercise in place of meaningful community engagement. ELM recommends that EFSB provide additional clarity on how it will use the information collected in the checklists to evaluate applicant compliance with 980 CMR 16.00. For instance, the proposed regulations require applicants to summarize public comments received and whether/how each comment was addressed in project design. How will EFSB consider a project proponent's justification to address one comment in the project design, but not another? More detail is needed on EFSB evaluation procedures to ensure that the Pre-Filing requirements result in meaningful outreach.
- How will Site Suitability and Cumulative Impact Analysis (CIA) feed into Alternatives Analysis (16.04):** The proposed regulations say that, throughout the Pre-Filing Outreach period, the applicant will "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." It is unclear how the Site Suitability scoring and Cumulative Impact Analysis (CIA) will impact the alternative analysis described in 980 CMR 16.00. ELM requests more information on this point.
- Technology-Specific Requirements for Presenting Alternatives at Public Meetings (16.07):** The proposed regulations set different requirements for how to present alternative sites and routes during public meetings for generation and storage projects compared to transmission projects. Transmission projects are required to present on alternatives "under active consideration," whereas generation and storage projects are required to present on their site selection process, alternative locations considered, and alternative analysis used. While it is reasonable to craft technology-specific requirements that acknowledge the impracticality of moving a transmission route to an entirely different location in the middle of a proceeding (as it effectively creates an entirely new project with a different set of permitting requirements and timelines), EFSB should clarify what distinguishes "active consideration." One of the intents of the 2024 Climate Act is to solicit community



engagement early enough during project design that a site or route can be adjusted to address community concerns, but not so early that the project design is not substantive enough for meaningful community input. EFSB should endeavor to draw out information about alternatives preferred by community members even if they have been disfavored by the applicant and are no longer under “active consideration.”

- **Presenting on Benefits in Discussion of Project Need at Public Meetings (16.07):** ELM recommends that EFSB encourage project proponents to present on the tangible potential benefits that a project would provide to a community in public meetings and meetings with key stakeholders. The proposed regulations already require project proponents to present on the need that the project is filling, potential negative impacts, and potential mitigation measures. It is critical that communities have all the information about a project, both positive and negative, to make informed decisions and provide feedback. For infrastructure projects, it’s not uncommon for negative impacts to be felt tangibly and immediately within a community, while potential benefits may be intangible and diffuse. Encouraging developers to explain, in plain language, how a project translates into tangible benefits for the community is added context that is important to consider in public meetings. It can further form the basis of conversations around development of community benefits plans or community benefits agreements. ELM recommends that developers create apples to apples comparison charts that identify not only the negative impacts of each site/route options of significant to the community (i.e., jobs, noise, trucks, pollution, length of construction, etc.), but also potential benefits. The benefits described should be as specific and applicable to the community as possible.
- **Definitions:** ELM recommends that EFSB define or provide more context surrounding the below terms as used in the regulatory text.
 - What does “**early**” mean for applicant outreach to Key Stakeholders and MEPA referenced in Section 16.04?
 - What does “**under active consideration**” mean for transmission alternatives referenced in Sections 16.07 and 16.09?
 - What does “**wide reach**” mean for using at least two outreach channels referenced in Section 16.08?

