



August 1, 2025

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Subject: 980 CMR 16.00 – Pre-Filing - Draft Regulations

RENEW Northeast, Inc. (“RENEW”)¹ submits these comments in response to the Energy Facilities Siting Board (“EFSB”) request for written comment on the 2024 Climate Act Siting and Permitting Reforms draft regulations and guidance proposals. Thank you for providing an opportunity for public input on the design of the single consolidated permit that comprises all state, regional and local permits that a “clean energy infrastructure facility” would otherwise be required to obtain to commence construction and operation. RENEW greatly appreciates that these draft regulations remove the strict timeline for the pre-filing engagement process and instead allow project proponents to conduct the required engagement on a timeline that works for the project and for the host community.

RENEW supports the establishment of clear and consistent pre-filing requirements that foster meaningful community engagement and outreach. At the same time, we recognize the inherent challenge of applying uniform standards to projects with diverse characteristics and contexts. While we are concerned that the proposed pre-filing framework and guidance may, in some cases, be overly prescriptive, particularly with rigid timelines and requirements that risk delaying project development and straining relationships with host communities, we appreciate that the language in 980 CMR 16.03(1) regarding potential waivers offers a pathway for flexibility. This provision could help accommodate project-specific needs and promote more effective, responsive engagement.

To avoid straining relationships between project proponents and host communities, RENEW recommends the EFSB consider any timeframes as guidelines and suggestions, rather than rigid requirements subject to strict enforcement. Any overly rigid approach will add unnecessary burdens to all parties, potentially limiting the ability for the proponent and host community to operate on a timeline that works for both parties. Meaningful engagement is not a “one-size-fits-all” process because no two projects or communities are the same. Each project is highly fact, design, technology and location specific. Procedures should be flexible to recognize a project’s uniqueness and prior engagement history.

¹ The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW. RENEW Northeast (www.renew-ne.org) unites environmental advocates with developers and operators of the region’s largest clean energy projects to coordinate their ideas and resources with the goal of increasing environmentally sustainable power generation in New England from the region’s abundant renewable energy resources.

Similarly, the pre-filing engagement structure creates duplicative requirements for a “Status Checklist,” a “Completion Checklist,” and a “Pre-filing Notice.” In the interest of expediting the permitting process and reducing the soft costs of development, we recommend consolidating the necessary information filings and avoiding duplication.

RENEW recognizes the need to balance providing communities with information on project design to key stakeholders early in the process with the need to pursue due diligence on site selection. As proposed by 980 CMR 13.03(12), the evaluation of alternative sites and routes are not required for clean generation facilities, project proponents are required to provide a narrative of the methods in the site selection process used to choose the singular location of the proposed clean energy infrastructure project. However, 980 CMR 16.04(1)(a) implies that a project proponent will continuously perform a site suitability and cumulative impact analysis throughout the duration of the pre-filing engagement to inform alternative sites. This neither conforms with 980 CMR 13.03(12) nor considers best practices for selecting the optimal site for clean energy generation and storage infrastructure. Further, this language contradicts the proposed language in 980 CMR 16.06(1)(a)(6), where a project proponent in consultation with the MEPA Office is required to “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.” Regardless, requiring any continuous evaluation of alternative sites after a clean energy project proponent has identified the singular site would add additional time, cost and administrative complexity to the site selection process, which could result in delays to a proponent beginning pre-filing consultation with the host community: this would run counter to the intent of the 2024 Climate Act.

The draft regulation concept continues to conflate transmission and distribution project applications and generation and storage facilities. Generation and storage facility developers are advancing projects that will be built or fail based on their own merits, unlike a utility who is determining the optimal approach, among many options, to addressing a reliability need.

If the intent of the draft regulation concept is to imply that clean energy generation and storage projects are required to engage stakeholders at alternative locations, it would impose undue burdens on both developers and communities. For example, engaging stakeholders around a particular alternative site ahead of having the property rights for that site is an exercise in vain as it may be impossible to even obtain the necessary property right. This would be inconsistent with the intent of the Climate Act.

Furthermore, the draft regulation does not provide interim guidance for clean energy projects that have begun community engagement and outreach prior to the implementation of these regulations. The EFSB must promulgate interim guidance for how to best grandfather in existing projects. A lack of guidance or requiring existing projects to restart the process under the new regulations would needlessly delay critical energy infrastructure crucial to meeting the Commonwealth’s climate and energy goals. Additional technical sessions with project proponents would allow for stronger interim guidance and mitigate any concerns or uncertainties while the new rules regime is being implemented.

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RENEW appreciates the opportunity to provide input on this important regulatory process. We remain committed to supporting the successful implementation of the 2024 Climate Act and welcome the opportunity to participate in future working groups and technical sessions, to ensure Massachusetts stays on track to attain its climate goals.

Sincerely,

Nathan Raike

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State & Local Affairs Manager