

## Comments on EFSB 2.0 Application Straw Poll

<https://www.mass.gov/doc/2024-ca-application-proposal/download>

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

I strongly support the development and use of a Purpose-Built model. The following reasons: The primary Pro offered for the Aggregation model is that it is easier to roll out quickly and includes all existing application formats. As I have mentioned in previous comments, the EFSB should be thinking about the new paradigm, now and in the long term. This means a creating a new application that includes both existing and new requirements in a process that is designed and managed to meet the new needs and expectations set out by the Climate law. A hodge-podge design will not get the Commonwealth to where it wants to be and will likely result in lots of effort to resolve duplication and limitations with providing good information in the appropriate formats.

EFSB staff should be struggling with how to collect non-duplicative information now and to create a process whereby the required information provides the basis for analysis, review and input required by the full range of decision-makers and stakeholders.

Equally important, if the driving motivation of the Clean Energy Law was to simplify to advance installations and deployment, than creating an assemblage of what exists now is woefully insufficient. An application that is clear and comprehensive that everyone can understand is the goal. Start now; it won't happen later.

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

I do not think this is the way to proceed. Reviewing a 157 document seems unreasonable - EFSB staff should summarize this and provide rationale for why this would be a model - and why this over other states' application.

### **3. Given the potential adjudication of SCEIF by the EFSB under certain regulatory pathways and DOER's development of the siting standards and applications for such facilities, what are the best means of aligning the respective EFSB and DOER roles for these facilities?**

It is my understanding that EFSB will only review small clean energy projects in two situations: 1) if a de novo review is requested (as an appeal) of a small clean energy project or 2) a local municipality, claiming insufficient capacity, requests de novo review by the EFSB. In both of these instances, I believe that the DOER application requirements and procedures should be required. The fact that the EFSB will end up reviewing them, does not mean that the application should be different. In fact the original receipt of the application would be the municipality given the size of the project.

EFSB has already stated that it will work closely with DOER on developing standards and processes that are consistent, when appropriate. This would mean that in most instances, the EFSB should be sufficiently able to work with the DOER application, since many elements will be the same.

Finally, one does not build a system for the exception. While these de novo requests will happen, the EFSB should be designing an application that works for the large clean energy projects, not contorting its needs for the small projects that may end up before it for review.

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

I would support the following elements (surely not a comprehensive list)

- All written documents should be in pdf format for universal access.
- All written documents should be searchable
- The filing system should be designed for use by people with visual challenges
- I support the idea of applicants being required to upload their own documents.
- If applicants upload documents, they should be easily recognized and found by being placed in fields with standardized headings/titles regardless of the file name (ie. field would be Project Description even though filename could be smalltownproject2024.docx)
- While large documents and high resolution images will be required, design of platform should be cognizant of the throughput and internet limitations of some residents, especially low income and/or rural residents with low quality internet connections (and yes some people in Mass. still do not have internet so having hard copy available locally is important so as not to discriminate based on location or income)
- Must be well designed for usability
- Projects and related documents must be searchable by various parameters by the public - municipal location, applicant name, docket number, etc. EFSB must assume that if someone is looking for information online regarding a project, they may not know the basics regarding a project - ie applicant's corporate name may not be what it is commonly known as

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

I think the design of this site might evolve over time given the breadth and depth of information required and expected, while acknowledging that the statutory requirements must be met by the deadline. I can imagine that a project will have various sub-platforms that can be accessed. For example, the posting of public comments can be automated with a blog-like platform; the mapping of the project would be available via another component, while the main repository of written documents available for viewing and documenting are a more traditional file management system. All files however should be findable via the Project record. A project level dashboard should perhaps be available on the webpage that holds the project record to provide project specific details - status, file date, applicant name, physical location description, summary description.

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

YES! While I am more concerned about protective measures for the public, I am sure that some developers would also appreciate this clarity. Vague guidance helps no one and provides no assurances. A simple example - the acceptable level of slope for a large solar development or the noise levels for a wind turbine or an energy storage facility. These are essential.

Again, acknowledging the breadth of these requirements and the need for solid research, EFSB should definitely start with an essential core of specific standards to meet the law and the intent of the law; allowing for gradual development of all numeric standards within an extended but reasonably short time.

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

I may be missing the legal point, but I think the evidentiary requirement would be met if the project's application meets the DOER requirements established for small clean energy projects. As noted above in #3, the only two pathways to EFSB would be by first applying to a municipality for a small clean energy application, which is then either appealed or advanced to EFSB for lack of municipal capacity to review.

Of note, in the case of an appeal, as noted at the Stakeholder Session of April 10, 2025, all documentation generated by the prior review would be transmitted to EFSB as evidence.

In terms of procedural requirements, EFSB would simply need to have regulations that specify that if the application met the DOER application requirements, that in those two scenarios, the application would be complete and ready for review by the EFSB.

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

Below are the required documents and procedures established in a Town Meeting-approved Solar/ESS bylaw for the Town of Shutesbury. I would recommend review of these. While intended for municipal review of projects, now deemed small clean energy projects, elements are pertinent to EFSB and large clean energy projects. In particular the noticing and the historic/cultural report may provide additional sense of what would be needed for the EFSB application website. A full version of this bylaw can be provided upon request.

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### **Shutesbury Required Documents**

#### **A. Required Pre-Submission Documents**

**1. Project Notifications for Historic and Cultural Mitigation.** The purpose of the project notifications is to provide a reasonable opportunity for knowledgeable parties to: comment on the project, inform the Phase I Cultural Resource Survey Report required in 8.10-7 A2, or participate in the development of the Cultural Resource Management Plan 8.10-4 C5. Notifications shall at a minimum include: the project name, a narrative description of the project; contact information for the applicant; most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location, a site map showing the Area of Potential Effect as defined by the National Historic Preservation Act, and a narrative including relevant historical or cultural information about the site.

Project notifications shall be sent to the following parties: Massachusetts State Historical Commission; Shutesbury Historical Commission; the Tribal Historic Preservation Officers (THPOs) for tribes in Massachusetts, Connecticut, Rhode Island, Vermont, New York, and New Hampshire listed by the U.S Department of the Interior and the National Conference of State Legislatures. If a tribal government or organization has no THPO, project notifications shall be sent to the appropriate tribal representative for that given tribal government. At a minimum, project notifications shall be sent to the following Tribal governments or their successors: Wampanoag Tribe of Gay Head-Aquinnah, Mashpee Wampanoag Tribe, Stockbridge-Munsee Band of Mohican Indians, Nipmuc Nation, Nipmuck Tribal Council of Chaubunagungamaug, Chappaquiddick Wampanoag Tribe, Herring Pond Wampanoag Tribe, Mashantucket Western Pequot Tribal Nation, Mohegan Tribe of Indians of Connecticut, Narragansett Indian Tribe, Schaghticoke Tribal Nation, Elnu Abenaki Tribe of Vermont, Golden Hill Paugussett Indian Nation, Eastern Pequot Tribal Nation, Saint Regis Mohawk Tribe, and Seneca Nation of Indians. Applicants are encouraged to contact the Massachusetts' Commission on Indian Affairs or the Massachusetts Historical Commission so that the applicant can notify additional tribes that have historical ties to the Algonquian-speaking Indigenous people of Western Massachusetts.

Project notifications shall be written with a requirement to respond within 45 days from date of receipt. A failure of parties to respond within 45 days from date of receipt shall allow the applicant to submit the special permit application under this Section 8.10. Late- responses shall be provided to the Planning Board.

**2. Phase I Cultural Resource Survey Report.** The primary objective of a Phase 1 Cultural Resources Survey is to identify and record all cultural resources within a project area. This shall include locations of all known, mapped or suspected historic properties, Indigenous archaeological sites, or sites of Indigenous ceremonial activity, as well as documentation demonstrating the required Project Notifications in 8-10.7A and any received written responses to the notification. Identification of such sites shall be based upon all of the following: 1) a determination of the Area of Potential Effects as defined by the National Historic Preservation Act - the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties; 2) cultural resource survey; 3) field work; 4) review of available records of historic or cultural properties; and 5) review of information about suspected historic properties, including those of religious and cultural significance to an Indigenous community, and historic properties suggested by noticed parties.

The Planning Board strongly encourages the owner or applicant to allow appropriate site access to parties noticed in accordance with 8.10-7A to determine the presence of historical resources and properties and to assess possible impacts. In the instance that the noticed parties are unable to gain access to the site and are therefore unable to submit comments based upon direct knowledge to the Planning Board, the lack of this documentation shall not be deemed to establish that there are no historical resources or properties present or that possible disruptions might not occur.

To protect the cultural resources, any reports deemed, by either the Massachusetts Historical Commission or the Shutesbury Historical Commission, to contain sensitive information about sites and specimens, as defined in section 26B of MGL Chapter 9, shall not be a public record. Any such reports shall be available only to the permitting authorities, the Shutesbury Historical Commission, the Massachusetts Historical Commission, any consulting Tribes, and the project applicant.

## **B. Required Documents for Special Permit Submission**

- 1. Site Plan.** A Site Plan of the Installation additionally showing:
  - a. Locations of wetlands and surface water resources including hydrogeological modeling of groundwater systems.
  - b. Location of BioMap 2, and when available BioMap 3, Core Habitats and Critical Natural Landscapes as designated by the Natural Heritage and Endangered Species Program (NHESP).

- c. Location of Habitat of Potential Regional and Statewide Importance located on Massachusetts Ecological Integrity Maps as mapped by the Dept. of Environmental Protection.
- d. Location of Priority Habitat as codified by MA Endangered Species Act (MESA).
- e. Locations of local or National Historic Districts.
- f. Locations of vegetative plantings.
- g. Locations of stormwater management elements.

**2. Blueprints.** Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing:

- a. The proposed layout of the Installation.
- b. One- or three-line electrical diagram detailing Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.

**3. General Documentation.** The following information shall also be provided:

- a. Name, address, and contact information for proposed system installer.
- b. The name, contact information and signature of any agents representing the project applicant.
- c. A list of any listed hazardous or known carcinogenic materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate. In addition, if an ESS is included in the Installation, a list of materials that are flammable or toxic when burned shall be provided.

**4. Site Control**

The project applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Installation.

**5. Financial Surety**

Applicants shall provide a form of surety, either through an escrow account, bond or otherwise, accessible to the Town of Shutesbury, to cover the cost of removal in the event that the Town must remove the Installation and remediate the site to its natural preexisting condition, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**6. Utility Notification**

No Installation shall be constructed, nor building permit issued until evidence has been provided to the Planning Board that the utility company that operates the electrical grid where the Installation is to be located has approved the owner or operator's intent to install an interconnected customer-owned generator and that the utility has approved connection of the proposed generator into their power grid. Off-grid systems shall be exempt from this requirement. A signed copy of the interconnection service agreement with the utility company shall be submitted before the Installation may go into operation.

**7. Proof of Liability Insurance.** Proof of liability insurance shall be provided to the Planning Board. If the Installation includes an ESS, proof of additional liability insurance shall be provided, adequate to address costs associated with possible fires, explosions or water contamination, as identified in the Hazard Mitigation Analysis.

**8. Proof of Compliance.** The applicant shall submit to the Planning Board evidence of compliance with local, state and federal permitting and procedures, as applicable. Proof of compliance shall be submitted regarding compliance with Section 106 of the National Historic Preservation Act, Mass. Wetlands Protection Act, Mass. Endangered Species Act, Mass. Environmental Protection Act, Mass. Forest Cutting Practices regulations, and the Shutesbury General Wetlands Protection Bylaw. Submission of evidence for compliance or exemption, as relevant, will be required before construction of the Installation may begin.

## **9. Materials**

The project proponent must submit a full report of all materials to be used, including but not limited to the use of cleaning products, paints or coatings, hydro-seeding, fertilizers, and soil additives. Whenever available, Material Safety Data Sheets shall be provided. Documentation of the major system components to be used shall be provided.

## **10. Operation and Maintenance Plans**

The project applicant shall submit a plan for the operation and maintenance of the Installation, which shall include measures for maintaining safe access, stormwater management (consistent with DEP's and, where appropriate, Shutesbury's stormwater regulations and vegetation controls), as well as general procedures for operational maintenance of the Installation. Plans for vegetative controls and stormwater management shall include regular annual inspection and maintenance. If an ESS is installed, operation and maintenance plans shall be provided for regular inspection, servicing, repair and renovation of the ESS.

**11. Noise Assessment.** The applicant and owner shall submit a noise assessment by a qualified professional of the noise levels projected to be generated during construction and operation of the facility, including for an ESS; a noise mitigation plan for construction and operation consistent with Massachusetts DEP Noise Control Regulation, 310 CMR 7.10; and a noise

monitoring plan as it relates to residents and wildlife consistent with state or national best practices.

**12. A report by a qualified professional with demonstrated knowledge in hydrogeology** that provides an estimate of how and to the extent construction and operation of the Installation may affect water volume, water storage, and drinking water well recharge within 400 feet of property lines for the installation.

### **13. Energy Storage System Plans and Documentation**

For installations that include an ESS, the following documents shall be submitted:

- a. A site specific Hazard Mitigation Analysis conducted, at the applicant's expense
- b. A written emergency response plan to be provided to Planning Board that is consistent with the findings and recommendations of the Hazard Mitigation Analysis and is approved by the Fire Chief, Police Chief, and the Emergency Management Director. The emergency response plan shall include the sequence of operations relative to the ESS shutdown and emergency response intervention.
- c. Material Safety Data Sheets for batteries and electrical components, and for fire suppression chemicals that would be used in the case of a fire at the ESS.
- d. A copy of the project summary, electrical schematic, and site plan for the ESS which shall be provided to the Shutesbury Fire Chief, Police Chief, and the Emergency Management Director in addition to the Planning Board.
- e. Fire and explosion prevention and mitigation information including venting system operation; location of detectors and types of detectors/sensors including manufacturer and model, accuracy, and sensitivity; suppression system design, including type of agent, system layout, application rate, source.
- f. Design specifications for:
  - i. Energy storage units including cells, modules, and rack systems including manufacturer and model and unit levels of storage cells; pertinent UL test data.
  - ii. Energy storage containers including but not limited to the general physical layout relative to doors, access panels, vents; interior layout of cabinets, racks, ductwork, compartmentation; ventilation system; construction materials.
  - iii. Exterior of containers including spacing between containers and the specifications of structural supports/foundations for the containers.

14. If appropriate for the site, a **Cultural Resource Management Plan (CRMP) or a Historic Properties Management Plan (HPMP)** written by a professional with generally recognized credentials. The Planning Board encourages good faith engagement with interested parties to resolve adverse effects including development and evaluation of alternatives or modifications that could avoid, minimize, or mitigate adverse effects. The applicant shall submit the CRMP or HPMP to the Planning Board and all parties noticed in 8-10. 7A.



