

## 980 CMR: ENERGY FACILITIES SITING BOARD

### 980 CMR 15.00: CUMULATIVE IMPACT ANALYSIS AND STANDARDS FOR APPLYING SITE SUITABILITY CRITERIA

#### Section

- 15.01: Purpose, Scope, Application, and Other General Provisions
- 15.02: Definitions
- 15.03: Overview of Cumulative Impact Analysis
- 15.04: Determination of Burdened Areas
- 15.05: Identification of Burdened Areas Intersecting the Specific Geographical Area of a Project Site or Route
- 15.06: Assessment of Burdened Areas for Elevated Indicators
- 15.07: Disproportionate Adverse Effect Analysis – Project Impacts that are Likely to Materially Exacerbate Elevated Indicators
- 15.08: Remedial Actions to Avoid, Minimize or Mitigate Disproportionate Adverse Effects
- 15.09: Contents of CIA Report
- 15.10: Standards for Applying Site Suitability Criteria
- 15.11: Board’s Findings in its Final Decision

#### 15.01: Purpose, Scope, Application, and Other General Provisions.

(1) Purpose. The purpose of 980 CMR 15.00 is to implement the provisions from M.G.L. c. 164, §§ 69G, 69H, 69J, 69J¼, 69T, 69U, 69V regarding Cumulative Impact Analysis (“CIA”) and standards for applying site suitability criteria to guide Energy Facilities Siting Board (“Board”) decisions. The purpose of those provisions is to evaluate existing environmental burdens and related public health consequences in a Specific Geographical Area (“SGA”) proximate to a proposed Project location, and to assess whether the Project would result in any Disproportionate Adverse Effects, including environmental and public health impacts, or the effects of climate change.

(2) Scope. 980 CMR 15.00 applies to every Application submitted to the Board for a Clean Energy Infrastructure Facility (CEIF) (M.G.L. c. 164, §§ 69T, 69U, 69V), and to every Petition to Construct a Facility (M.G.L. c. 164, § 69J) or a Generating Facility (M.G.L. c. 164, § 69J¼). 980 CMR 15.00 also applies to every project change that itself would qualify as a “Facility” or a “CEIF”, or requires a subsequent final decision of the Board. See 980 CMR 1.09(13).

(3) Context of Board Review. CIA is one aspect of the Board’s evaluation of a Project’s overall impacts. M.G.L. 164, § 69H. Nothing in 980 CMR 15.00 limits the Board’s consideration of the full range of Project Impacts (e.g., ecological, historical and archaeological resources, tree canopy cover, constructability, etc.) and geographical areas outside the Burdened Areas as defined in 980 CMR 15.00 when evaluating energy projects. M.G.L. c. 164, § 69H.

(4) Underlying Guidance. 980 CMR 15.00 reflects the “Guidelines and Standards for Cumulative Impact Analysis” issued by the Massachusetts Office of Environmental

## 980 CMR: ENERGY FACILITIES SITING BOARD

Justice and Equity pursuant to M.G.L. c. 21A, § 29. See M.G.L. c. 164, §§ 69G, 69T. 980 CMR 15.00 also applies the “Site Suitability Guidance” developed by the Executive Office of Energy and Environmental Affairs (“EEA”) pursuant to M.G.L. c. 21A, § 30, as applicable. See M.G.L. c. 164, § 69T. The Board shall consider revisions to 980 CMR 15.00, and related CIA implementation documents developed by the Board, in response to future modifications of the “Guidelines and Standards for Cumulative Impact Analysis” or the “Site Suitability Guidance.”

(5) Effective Date. 980 CMR 15.00 takes effect on [effective date of regulation] and applies to Applications or petitions to construct filed on or after July 1, 2026.

(6) Applicability of Earlier Sections. 980 CMR 15.00 relies upon provisions of 980 CMR that by their terms apply to all sections of chapter 980 CMR, unless otherwise noted.

(7) CIA Report Template and Instructions. The Board shall maintain and update, as appropriate, a document entitled “CIA Report Template and Instructions” (“CIA Report Template”). The CIA Report Template provides guidance to Applicants and other stakeholders engaged in preparation or review of a CIA Report pursuant to 980 CMR 15.00. The Board shall develop the CIA Report Template in accordance with 980 CMR 15.00, the “Guidelines and Standards for Cumulative Impact Analysis” by the Massachusetts Office of Environmental Justice and Equity, and “Site Suitability Guidance” developed by EEA. The Board will provide notice and the opportunity for comment on any changes to the CIA Report Template.

(8) Periodic Revision. The Board will assess 980 CMR 15.00 and the CIA Report Template no more than five years after promulgation, or sooner, as it deems appropriate.

### 15.02: Definitions.

(1) Definitions. 980 CMR 15.00 shall be subject to the definitions of 980 CMR 1.01(4): *Definitions*; 980 CMR 13.01(4): *Definitions*; 980 CMR 16.02: *Definitions*. The following additional definitions shall also apply unless the context or subject matter requires a different interpretation:

Benefit means a positive effect as it pertains to public health, the environment, or in ameliorating the effects of climate change. Benefits include, but are not limited to, access to: clean natural resources, including air, water resources, and open space; constructed playgrounds, outdoor recreational paths, facilities, and venues; clean renewable energy sources; affordable access to reliable electricity; improved public health from reduced pollution and environmental contaminants; improved socio-economic opportunity from additional jobs, education, training programs, tax revenues; enhanced environmental enforcement; and funding disbursed or administered by EEA. For the Board to consider Benefits as Project-related for CIA purposes, such Benefit must have a geographic, economic, public health, or scientific nexus to areas of overlap between Burdened Area(s) and a Project’s SGA. A ~~Benefit~~benefit incorporated into a

Community Benefit Agreement ~~is required to~~ is need not ~~required to~~ have a geographic, economic, public health, or scientific nexus to a Project Impact.

Burden means a negative effect such as destruction, damage or impairment of natural resources that is not insignificant, including but not limited to, climate change, air pollution, water pollution, improper sewage disposal, dumping of solid wastes and other noxious substances, excessive noise, activities that limit access to natural resources and constructed outdoor recreational facilities and venues, inadequate remediation of pollution, reduction of ground water levels, impairment of water quality, increased flooding or stormwater flows, and damage to inland waterways and waterbodies, wetlands, marine shores and waters, forests, open spaces, and playgrounds from private industrial, commercial, or government or private operations or activity that contaminates or alters the quality of the environment and public health.

Burdened Area means a Census Block Group, which is subject to an existing unfair or inequitable environmental burden or related health consequence. 980 CMR 15.00 identifies Burdened Areas as those areas that have a MassEnviroScreen Score (MES Score) of 75 or greater (i.e., at or above the 75<sup>th</sup> percentile, statewide), or an annual median household income of 65 percent or less of the statewide annual median household income.

Census Block Group means a statistical subdivision of a census tract used by the U.S. Census Bureau for data tabulation and presentation. It is a collection of census blocks and is the smallest geographic unit for which the U.S. Census Bureau publishes sample data from its household surveys.

Criteria-specific Suitability Score means the score for each criterion in the Site Suitability Report, as assessed following the methods outlined in the Site Suitability Guidance, representing the suitability of a site for a given Clean Energy Infrastructure Facility with respect to each criterion. These scores can range from 0.0 (most suitable, lowest impact, and/or greatest benefit) to 5.0 (least suitable, greatest impact, and/or lowest benefit).

Cumulative Impact means the combined effects of past and present private, industrial, commercial, federal, state, or municipal projects, operations, development, and other economic activities, in addition to the effects of the proposed Project on: (1) the environment; (2) public health; and (3) reasonably foreseeable effects of climate change. For purposes of 980 CMR 15.00, Cumulative Impact is determined for the area where a Project's SGA intersects one or more Burdened Area(s).

Cumulative Impact Analysis (CIA) means the process by which Applicants and Petitioners shall identify, consider, and address the Cumulative Impact of a Project, as articulated in 980 CMR 15.00. The Board reviews the Applicant's CIA pursuant to 980 CMR 15.00.

Cumulative Impact Analysis Report (CIA Report) means the written report that an Applicant submits as part of an Application or petition to construct for applicable Projects, pursuant to 980 CMR 15.09: : *Contents of CIA Report*.

## 980 CMR: ENERGY FACILITIES SITING BOARD

Disproportionate Adverse Effect means a Project Impact that is likely to materially exacerbate an Elevated Indicator in a Burdened Area intersecting a Project's SGA. As used in M.G.L. c. 164, §§ 69G and 69H, "disproportionate adverse impact" is the equivalent of "Disproportionate Adverse Effect." A Disproportionate Adverse Effect requires consideration of both positive and negative Project Impacts, and results in a net negative impact.

Elevated Indicator for a Clean Energy Infrastructure Facility ("CEIF") means an Indicator that is above the 50<sup>th</sup> percentile statewide in Massachusetts, prior to consideration of additional Project Impacts. For Fossil Fuel-Related Energy Infrastructure, each Indicator is treated as an Elevated Indicator. For purposes of 980 CMR 15.00, an Elevated Indicator is identified solely in those areas where a Project's SGA intersects one or more Burdened Areas.

Facility Boundary means the outermost boundary of the Project site (such as a Project building or other structures, or the outermost areas of construction activity or disturbance), or the Project fence line. For linear projects, or project components, such as transmission lines or pipelines, the Facility Boundary shall be the edge of the right-of-way.

Fossil Fuel-Related Energy Infrastructure means Facilities subject to Board jurisdiction under M.G.L. c. 164, §§ 69J, 69J¼, that are not ~~CEIF~~CEIFs.

Indicator means a statistical measure, which is used to evaluate a Census Block Group's environmental exposures, environmental effects, climate effects, sensitive populations, and socioeconomic factors.

MassEnviroScreen (MES) means a GIS-based mapping tool developed and administered by the Office of Environmental Justice and Equity that uses Indicators to produce an MES Score and provide Indicator data for every Census Block Group across the Commonwealth.

MassEnviroScreen Score (MES Score) means the numerical score output from the MES.

Noticed Alternative Site or Route means a site or route that an Applicant has submitted for review by the Board, in addition to a Proposed Site or Route, and provided Notice to affected abutters and others concerning this site or route. 980 CMR 15.00 does not impose upon the Applicant an obligation to propose an alternative site or route but recognizes that in certain circumstances the Applicant may be required to do so or may elect to do so.

Project Impact means an effect on the environment, socioeconomic and public health conditions, or climate change resiliency, resulting from construction and operation of the Project. A Project Impact can be either positive or negative.

Proposed Site or Route means the Applicant's preferred location for a Project site or route that it submits for approval by the Board.

Remedial Action means an action taken that would avoid, minimize, or mitigate one or more Disproportionate Adverse Effects.

Site Footprint means the area of land and water encompassed by a CEIF's equipment, plus any land significantly impacted by construction of the CEIF, including, but not limited to, land altered for clearing, grading, and roadways.

Site Suitability Mapping Tool means a web-based mapping tool established and maintained by the EEA in accordance with the Site Suitability Guidance, which contains geographic information system data layers used to determine Criteria-specific Suitability Scores. The mapping tool shall have the capability to automatically calculate a CEIF's Criteria-specific Site Suitability Scores by delineating the CEIF Site Footprint in the mapping tool.

Site Suitability Report means a written report documenting the Applicant's Criteria-specific Site Suitability Scores, any Site Suitability Score Modifiers, as defined in the Site Suitability Guidance, the Applicant is seeking to apply, and any other required supporting documentation, in a form and manner established by the EEA, in consultation with the Board and the Department of Energy Resources.

Specific Geographical Area (SGA) means an area in which a proposed facility may be located and is determined based on facility-specific radial distances from the Facility Boundary, as established by the Board in 980 CMR 15.05(1). Each Proposed Site or Route and each Noticed Alternative Site or Route, if any, has its own SGA.

15.03: Overview of Cumulative Impact Analysis. The following steps set forth the process for an Applicant to determine a Project's Cumulative Impact and prepare a CIA Report.

(1) For each Proposed Site or Route and Noticed Alternative Site or Route, as applicable, the Applicant shall determine the applicable SGA consistent with 980 CMR 15.05(1). If the SGA intersects a Burdened Area according to MES, the Applicant or Petitioner is required to conduct additional CIA review steps below. An Applicant shall conduct a CIA for every noticed site or route that it intends to file with the EFSB with a petition to construct, an Application for a Consolidated Permit, or a project change in accordance with 980 CMR 1.09(13). There is no requirement that an Applicant conduct a CIA for every site or route that is under consideration for a Project, unless noticed.

(2) If the proposed Project's SGA does not intersect any Burdened Areas, no further CIA evaluation is necessary. However, a CEIF Project having an SGA that does not intersect a Burdened Area may be required to provide a Site Suitability Report, as applicable. See 980 CMR 15.10.

(3) If any part of the Project's SGA intersects one or more Burdened Area(s), the CIA must assess whether the Project imposes a Disproportionate Adverse Effect within each such Burdened Area, for each Elevated Indicator per 980 CMR 15.07.

980 CMR: ENERGY FACILITIES SITING BOARD

(4) To determine whether a Disproportionate Adverse Effect may result from the Project, the Applicant shall evaluate the following for each Burdened Area intersecting the Project's SGA:

- (a) Whether any of the Indicators are Elevated Indicators; and
- (b) If there are one or more Elevated Indicator(s), whether the Project is likely to materially exacerbate such Elevated Indicators.

If the Project is likely to materially exacerbate one or more Elevated Indicator(s), the Project is deemed to have a Disproportionate Adverse Effect for such Indicator(s), in one or more of the applicable Burdened Areas.

(5) For a Project deemed to have a Disproportionate Adverse Effect, the Applicant must propose Remedial Actions that avoid, minimize, or mitigate such adverse effects.

(6) The Applicant prepares a CIA Report that documents the above steps, as required, and submits the CIA Report as part of its CEIF Application or petition to construct a Facility to the Board. The Applicant shall share the results of its CIA Report with Key Stakeholders, as defined in 980 CMR 16.02, during the Pre-Filing Outreach Period in accordance with 980 CMR 16.04, and communicate with Key Stakeholders throughout the Board adjudication regarding the CIA Report.

15.04: Determination of Burdened Areas. The Board, working with the Massachusetts Office of Environmental Justice and Equity, maintains the MES, which differentiates Census Block Groups within the Commonwealth based on their MES Score, and provides other Indicator data relevant to 980 CMR 15.00.

(1) Burdened Areas. MES identifies all Census Block Groups within the Commonwealth that are deemed to be Burdened Areas, based on either of the two following criteria:

- (a) A MES Score of 75 or greater, indicating that the Census Block Group is at or above the 75<sup>th</sup> percentile of MES Scores in comparison with other census blocks, on a statewide basis; or
- (b) Annual median household income in the Census Block Group is 65 percent or less of the statewide annual median household income.

(2) MES Indicators. MES Scores shall be based on the following categories of Indicators, including but not limited to:

- (a) pollution and climate burden (which consists of Indicators for environmental exposures, environmental effects, and climate risks); and
- (b) population characteristics (which consist of Indicators for sensitive populations and socioeconomic factors).

(3) Indicator Data. The Board shall ensure that MES relies on data that generally have the following characteristics:

- (a) Indicator data are publicly available (or otherwise provided in a publicly available manner);

## 980 CMR: ENERGY FACILITIES SITING BOARD

- (b) Indicator data are collected for all parts of the Commonwealth at a geographic resolution that allows for meaningful comparison between locations, as appropriate;
  - (c) Indicator data are specifically identified and quantifiable;
  - (d) Indicator data are generally accepted statistical measurements for the type of Project Impacts they describe; and
  - (e) Indicator data are reasonably current, and updated regularly, as practicable.
- (4) The Board shall work with the Massachusetts Office of Environmental Justice and Equity and MassGIS (Bureau of Geographic Information) to ensure that MES is updated periodically with the most current data, is reliable, and continues to serve the needs of 980 CMR 15.00 implementation, including for Applicants and other stakeholders.
- (5) Indicator Data Used in CIA. Throughout the Pre-Filing process, the Application process, and the adjudication process, the Applicant may rely upon Indicator data that was current as of the beginning of the pre-filing process.
- (6) Petition for a CIA in a Non-Burdened Area. ~~A Key Stakeholder, as defined in 980 CMR 16.02, A group of ten or more residents residing in, or businesses with a mailing address in, a Census Block Group that intersects the SGA~~ may petition the Director of the Board requesting that an Applicant be required to conduct a CIA for ~~asuch~~ Census Block Group, intersecting the SGA, which that is not a Burdened Area pursuant to 980 CMR 15.04(1): *Determination of Burdened Areas*, and to include the results of such CIA in its CIA Report filed pursuant to 980 CMR 15.09: *Contents of CIA Report*. At least one member of the ten-member petitioning group shall also be a Key Stakeholder as defined in 980 CMR 16.02.
- (a) Such request by a ~~Key Stakeholder~~ ten-member group, as described above in Section 980 CMR 15.04(6), shall initially be presented to a designated representative of the Applicant with a copy to the ~~DPP~~ Division of Public Participation Director and the Director of the Board during the Pre-Filing process pursuant to 980 CMR 16.00. The request ~~by the Key Stakeholder~~ shall include a statement describing the ~~Key Stakeholder's~~ group's specific interest in the proposed Project, and a description of the extraordinary circumstances which support the request.
  - (b) If the Applicant declines to perform the CIA for the requested portion of the SGA that is not a Burdened Area and declines to include the results in its CIA Report, ~~a Key Stakeholder~~ the petitioning group may file a petition with the Director of the Board to require such CIA no later than 14 days after the Applicant files its Application.
  - (c) The petition shall explain the extraordinary circumstances which support the request. Extraordinary circumstances may include, but are not limited to, significant adverse changes in conditions relevant to Indicators for such Non-Burdened Area(s) that are not accurately reflected in MES data, significant environmental exposures that are not reflected in MES data, or other anomalies with MES data or functions that would obscure significant Burdens in the specified Census Block Group.

980 CMR: ENERGY FACILITIES SITING BOARD

- (d) The Director of the Board shall grant such request only if extraordinary circumstances are shown to exist regarding the requested Census Block Group. The Director shall rule on the request concurrently with the Notice of Completeness pursuant to 980 CMR 13.06(2). The Director’s decision on whether to grant the request is non-appealable.
- (e) If the Director grants the request, the Applicant shall conduct the CIA assessment and file its CIA Report as a supplemental exhibit within 60 calendar days of the Director’s grant of the request. The filing of the supplemental exhibit shall not delay the Presiding Officer’s issuance of a Notice of Completeness pursuant to 980 CMR 13.06.
- (f) If the Applicant files its CIA Report as a supplemental exhibit within 60 calendar days, the Presiding Officer shall determine whether the CIA Report is consistent with the Board’s requirements at 980 CMR 15.00. An Applicant may request by motion, filed before the end of the 60 calendar day deadline for the CIA, a reasonable extension of time to prepare the CIA Report as a supplemental exhibit. The Presiding Officer may grant such request upon a showing of good cause. If the Applicant fails to file its CIA Report as a supplemental exhibit within 60 calendar days without an extension from the Presiding Officer, then the Applicant may be subject to an unexcused delay pursuant to 980 CMR 13.07(7).

15.05: Identification of Burdened Areas Intersecting the Specific Geographical Area of a Project Site or Route. For all Applications or petitions to construct facilities identified in 980 CMR 15.01(2): *Scope*, the Applicant shall assess for each Proposed Site or Route and each Noticed Alternative Site or Route, if any, whether the SGA intersects any Burdened Area pursuant to 980 CMR 15.04: *Determination of Burdened Areas*. This is a threshold analysis that determines whether the Applicant shall continue with its CIA. The Applicant conducts this assessment by doing the following:

- (1) Identification of the Project SGA. For each Proposed Site or Route or Noticed Alternative Site or Route, the Applicant shall use the following Facility Boundary and radial distances from the Facility Boundary to determine the SGA:
  - (a) Facility Boundary. The SGA shall rely on the outermost boundary of the Project site (such as a Project building or other structures, or the outermost areas of construction activity or disturbance), or the Project fence line. For linear projects, or project components, such as transmission lines or pipelines, the Facility Boundary shall be the edge of the right-of-way;
  - (b) Specific Geographical Area. For Projects that include multiple facility types (such as transmission and distribution lines, and a battery energy storage system), the SGA is determined using the Facility Boundary and the radial distance from the Facility Boundary applicable to each component of the Project, as described in the table below.

<b>Facility Type (or component of a Facility)</b>	<b>Radial Distance from Facility Boundary</b>
Transmission and Distribution Line (part of an LCTDIF or SCTDIF)	1/4 Mile

980 CMR: ENERGY FACILITIES SITING BOARD

<b>Facility Type (or component of a Facility)</b>	<b>Radial Distance from Facility Boundary</b>
Clean Energy Storage Facility (LCESF or SCESF)	1 Mile
Substation (Part of an LCTDIF or SCTDIF)	1/2 Mile
Ground-Mounted Photovoltaics (LCEGF or SCEGF)	1/2 Mile
Onshore Wind Facility or Anaerobic Digester (LCEGF or SCEGF)	1 Mile
Liquefied Natural Gas Facility (§ 69J)	1 Mile (no Air permit) 2 Miles (non-Major Air Permit)
Gas Pipeline (§ 69J)	1 Mile
Fossil Generating Facility (§ 69J¼)	2 Miles (non-Major Air Permit) 5 Miles (Major Air Permit)
Gas Compressor Station (§ 69J, as part of a Gas Pipeline)	1 Mile (no Air permit) 2 Miles (non-Major Air Permit) 5 Miles (Major Air Permit)

(2) Determine whether the SGA Intersects with a Burdened Area. The Applicant shall determine whether the SGA of the Project intersects with one or more Burdened Areas.

(3) Implications of the Burdened Area Assessment. If the SGA intersects with a Burdened Area, the Applicant shall comply with the requirements of 980 CMR 15.06. If the Project SGA does not intersect a Burdened Area, the Applicant shall: (1) conclude the CIA and complete 980 CMR 15.09: *Contents of CIA Report*; and (2) pursuant to 980 CMR 15.10: *Standards for Applying Site Suitability Assessments Guidance*, determine whether a Site Suitability Report is required, and, if so, include a Site Suitability Report in the Project’s Application to the Board. Applicants should refer to the CIA Report Template for detailed information regarding the preparation of a CIA Report. Applicants should refer to the Site Suitability Template for detailed information regarding preparation of a Site Suitability Report.

15.06: Assessment of Burdened Areas for Elevated Indicators.

(1) The CIA Report Template provides a list of Indicators that an Applicant must evaluate, as applicable, for its proposed Project. The Indicators are used in MES to produce the MES Score. The Applicant shall analyze the Indicators for all Burdened Areas that intersect the Project’s SGA.

(2) For each Burdened Area intersecting the Project’s SGA, the Applicant shall use MES to identify all Indicators that are also Elevated Indicators. For Fossil Fuel-Related Energy Infrastructure, each Indicator is treated as an Elevated Indicator. An Applicant shall evaluate whether the Project is likely to materially exacerbate such Elevated

Indicators, and therefore produce a Disproportionate Adverse Effect, in accordance with the requirements of 980 CMR 15.07: *Disproportionate Adverse Effect Analysis*.

15.07: Disproportionate Adverse Effect Analysis.

The Applicant shall evaluate whether, and to what extent, the Proposed Project Site or Route and any Noticed Alternative Site or Route(s) are likely to increase or decrease Elevated Indicators identified for Burdened Areas intersecting the Project's SGAs. For purposes of making such assessment, the Applicant may consider the Project Impacts inclusive of any actions to avoid, minimize, or mitigate Project Impacts for which the Applicant has made a firm commitment to undertake. The Applicant shall use the following methods to identify and, where practicable, quantify such Project Impacts. See the CIA Report Template for additional details.

(1) Determination of Disproportionate Adverse Effect on an Elevated Indicator. To determine if a negative Project Impact to an Elevated Indicator constitutes a Disproportionate Adverse Effect, the Project must materially exacerbate the condition reflected in the Elevated Indicator causing additional negative Project Impacts.

(2) Qualitative Assessment Methods. In determining whether a Project materially exacerbates an Elevated Indicator during construction or operation, an Applicant shall first assess qualitatively whether, and how, the Project may impact each Elevated Indicator. Project Impacts related to an Elevated Indicator may include but are not limited to air emissions, stormwater or wastewater discharges, solid or hazardous waste generation, traffic, impervious surfaces, heat-island effect, climate change effects such as heat, flooding or wildfire risk, impacts to natural resources and habitat, impacts to public health or socioeconomic conditions, among other possible Project Impacts.

(3) Quantitative Assessment Methods. If qualitative assessment methods indicate Project Impacts to one or more Elevated Indicators, the Applicant shall endeavor to provide a quantitative assessment of each such Project Impact. Quantitative methods may include quantification of emissions and other discharges, modeling analysis, detailed assessment of Project Impacts through engineering or construction plan reviews, and other means. See CIA Report Template for examples of quantitative assessment methods.

(4) Applicant's or Petitioner's Analysis and Findings. Based on the qualitative and quantitative information developed, the Applicant shall assess whether the Project is expected to materially exacerbate one or more of the Elevated Indicators and shall include a narrative analysis and findings of supporting data, as appropriate, in its CIA Report. The Applicant shall also include community input gathered during pre-Filing consultation and engagement pursuant to 980 CMR 16.00 and address that input in its CIA Report.

15.08: Remedial Actions to Avoid, Minimize or Mitigate Disproportionate Adverse Effects.

If the Project is expected to materially exacerbate one or more Elevated Indicators, based on the finding made according to 980 CMR 15.07(4): *Applicant's or Petitioner's Analysis and Findings*, the Applicant shall include in its CIA Report the following:

(1) Evaluation of Remedial Actions for Disproportionate Adverse Effects. A description of any actions the Applicant proposes to undertake to avoid, minimize, or, if **negative** Project Impacts cannot be avoided or minimized, mitigate, the Disproportionate Adverse Effects of the proposed Project on each Burdened Area, and how those actions address the Project Impacts.

(a) An Applicant is required to describe how its proposed actions could avoid one or more Project Impacts to each Elevated Indicator.

(b) If an Applicant cannot avoid one or more Project Impacts to an Elevated Indicator, it shall describe how its proposed actions could minimize one or more Project Impacts to an Elevated Indicator.

(c) If an Applicant cannot minimize one or more Project Impacts to an Elevated Indicator, it shall describe how its proposed actions could mitigate one or more Project Impacts to an Elevated Indicator. An Applicant is required to mitigate Project Impacts to the extent practicable. Proposed mitigation actions shall ensure that Project Impacts will not materially exacerbate an Elevated Indicator.

(2) Cumulative Impact Summary. A summary of the Project's Cumulative Impact in light of any avoidance, minimization, or mitigation actions the Applicant or Petitioner proposes to undertake.

15.09: Contents of CIA Report. The Applicant shall describe in its CIA Report its assessment pursuant to 980 CMR 15.05(2): *Determine whether the SGA Intersects with a Burdened Area* and the implications of that assessment under 980 CMR 15.05(3): *Implications of the Burdened Area Assessment*. See CIA Report Template for additional details of contents in a CIA Report.

15.10: Standards for Applying Site Suitability Guidance. In 980 CMR 15.00, the Board follows the "Site Suitability Guidance" for CEIF, as issued and updated from time to time by EEA.

(1) Applicability. The Site Suitability Guidance is applicable to LCEGFs, SCEGFs, LCESFs, SCESFs, and also to LCTDIFs and SCTDIFs, as defined in 980 CMR 1.01, in newly established public rights of way. 980 CMR 15.10 does not apply to Projects exempted under 225 CMR 29.07(1).

(2) Pre-filing. Applicants shall utilize the Site Suitability Mapping Tool, pursuant to instructions provided in the Site Suitability Guidance, to derive the anticipated Criteria-specific Suitability Scores for a proposed CEIF prior to submitting an Application for a Consolidated Permit or Consolidated State Permit to the Board. Applicants shall share

## 980 CMR: ENERGY FACILITIES SITING BOARD

these anticipated Criteria-specific Suitability Scores with stakeholders during the Pre-Filing process, per 980 CMR 16.00.

(3) File with Application. An Applicant shall file a Site Suitability Report with its Application for a Consolidated Permit or Consolidated State Permit per 980 CMR 13.00, as applicable. Unless a Request for Score Revision by the Board pursuant to 980 CMR 15.10(4) is requested or a Social and Environmental Benefit Criteria Score Modifier is applied pursuant to 980 CMR 15.10(5), the Criteria-specific Suitability Scores in the Site Suitability Report submitted by the Applicant shall be final.

(4) Request for Score Revision by the Director. If the Applicant, a Local Government, or any other Key Stakeholder asserts that one or more Criteria-specific Suitability Scores were calculated based on materially erroneous, incomplete, or otherwise faulty data, they may request a score revision from the Director in a form prescribed by the Director. The Director shall review one or more Criteria-specific Suitability Scores subject to the request.

(a) Parties seeking a Request for Score Revision must identify the specific deficiencies that resulted in one or more erroneous Criteria-specific Suitability Scores. Failure to specify such deficiencies may result in the Director's denial of the Request for Score Revision.

(b) The Director shall issue a decision on a Request for Score Revision not more than 30 days after receipt.

(c) Any revised Criteria-specific Suitability Scores issued by the Director shall be final, subject to the application of one or more Site Suitability Score Modifier.

(5) Social and Environmental Benefit Criteria Score Modifier. The Applicant's Criteria-specific Suitability Scores may be modified by the Board when the Applicant agrees to provide certain social or environmental benefits as described in the Site Suitability Guidance. Score modification may only occur upon the mutual written agreement between the Applicant and a Local Government.

(6) Consideration by the Board During Adjudication of a Consolidated Permit.

(a) The Board shall consider the Site Suitability Report in its CIA and route and site scoring analysis. The Board shall consider Criteria-specific Suitability Scores to assess avoidance, minimization, and mitigation of Project Impacts. The Board shall consider the Criteria-specific Suitability Scores in its decision on whether to grant a Consolidated Permit or Consolidated State Permit, as applicable.

(b) The Board may consider as evidence a Community Benefit Agreement between a host municipality and an Applicant regarding Benefits of a Project.

### 15.11: Board's Findings in its Final Decision.

(1) The Board shall assess the adequacy of the CIA Report and Site Suitability Report, including whether the Applicant, if required to, presented a comprehensive analysis of whether its Project Impacts will result in a Disproportionate Adverse Effect,

and make findings based on that review. Findings shall include the extent to which the CIA Report and Site Suitability Report, as applicable, inform the evidentiary record upon which the Board may approve or deny an EFSB Consolidated Permit Application or Facility Petition to Construct.

(2) Pursuant to G.L. c. 164, § 69H, the Board shall, in issuing a final decision, make findings as to whether the Applicant has given due consideration to the Cumulative Impact of the Project, and whether the Applicant has adequately undertaken actions to avoid, minimize, or mitigate any Disproportionate Adverse Effects from the Project. In making such determinations, the Board may consider ~~;~~, but is not limited to:

- (a) The population characteristics such as sensitive populations and socioeconomic factors of the population living within Burdened Areas intersecting the Project's SGA;
- (b) Pollutant exposures and environmental effects, and climate risks;
- (c) The extent, nature, magnitude, duration, and geographic reach of any Elevated Indicators on any of those populations;
- (d) Project Impacts related to the Elevated Indicators identified, including Benefits and Burdens;
- (e) The extent and efficacy of the obligations the Applicant has undertaken to remediate Project Impacts;
- (f) Any remaining Disproportionate Adverse Effects from the Project on the Burdened Areas within the SGA, in light of the Applicant's plans to avoid, minimize, or mitigate the negative Project Impacts;
- (g) Conditions obligating the Applicant to further address any remaining Disproportionate Adverse Effects from the proposed Project;
- (h) The Applicant's use of a Community Benefit Plan or Community Benefit Agreement to identify community needs and provide Benefits for a host community, in accordance with guidance from the Massachusetts Office of Environmental Justice and Equity<sup>2</sup>; "Standards and Guidelines for Community Benefits Plans and Community Benefits Agreements"<sup>2</sup>.

(3) The Board shall consider whether an Applicant has made reasonable efforts to consider and develop a Community Benefit Plan or Community Benefit Agreement. See 980 CMR 2.02(3).

- (a) If an Applicant has developed a Community Benefit Plan or signed a Community Benefit Agreement, the Board shall give it due weight in the final decision;
- (b) If an Applicant has not developed a Community Benefit Plan or signed a Community Benefit Agreement for a Project in a Burdened Area, then the Board shall consider imposing additional Project conditions to address Disproportionate Adverse Effects in Burdened Areas intersecting the Project's SGA.
  - 1. Mitigation is a mechanism to address Project Impacts related to construction or operational Impacts of the Project;
  - 2. A Community Benefit Agreement is aimed at creating tangible, equitable ~~Benefits~~benefits that address a community's specific and local needs and priorities separate from required mitigation. See "Standards

980 CMR: ENERGY FACILITIES SITING BOARD

and Guidelines for Community Benefits Plans and Community Benefits Agreements” issued by the Massachusetts Office of Environmental Justice and Equity pursuant to M.G.L. c. 21A, § 29.

(c) The Board may add enforceable conditions to a final decision that it deems necessary to avoid, minimize, or mitigate Project Impacts to a Burdened Area. Conditions may include enforceable Remedial Actions designed to address Project Impacts.

REGULATORY AUTHORITY

980 CMR 15.00: M.G.L. c. 164, §§ 69G, 69H, 69J, 69J¼, 69T, 69U, 69V.