

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

<u>Rulemaking Implementing the Requirements of</u>)	
<u>the 2024 Climate Act, St. 2024, c. 239, to</u>)	
<u>Establish New Requirements, Revise Existing</u>)	EFSB 25-10
<u>Requirements, and Repeal Unused Requirements</u>)	
<u>Governing the Energy Facilities Siting Board</u>)	

TENTATIVE DECISION OPENING RULEMAKING

September 4, 2025

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The Energy Facilities Siting Board (“Siting Board”) hereby opens a rulemaking to implement An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239 (“2024 Climate Act” or the “Act”). G.L. c. 30A §§ 1-7. To implement the 2024 Climate Act, the Siting Board proposes the following regulatory changes: revisions to 980 CMR 1.00, Rules for the Conduct of Adjudicatory Proceedings and 980 CMR 2.00, General Information and Conduct of Board Business; promulgating new regulations 980 CMR 13.00, Consolidated Permits for Clean Energy Infrastructure Facilities; 980 CMR 14.00, De Novo Adjudications of Consolidated Local Permit Applications; 980 CMR 16.00, Pre-Filing Consultation and Engagement Requirements; and 980 CMR 17.00, Constructive Approvals. The Siting Board also proposes to repeal the following regulations: 980 CMR 4.00, Freedom of Information; Protection of Trade Secrets; 980 CMR 5.00, Environmental Assessment and Environmental Impact; 980 CMR 7.00, Long-Range Forecasts and Supplements; 980 CMR 8.00, Notices of Intention to Construct an Oil Facility; 980 CMR 9.00, Coastal Zone Facility Site Selection, Evaluation, and Assessment; and 980 CMR 11.00, Licensing of Hydropower Generating Facilities.

I. INTRODUCTION

On November 20, 2024, Governor Maura Healey signed into law the 2024 Climate Act. The 2024 Climate Act reforms the siting and permitting process for clean energy infrastructure facilities (“CEIF”) and revises the statutory obligations of the Siting Board. A major focus of the 2024 Climate Act is reforming the siting and permitting process for CEIF to help achieve the Commonwealth’s ambitious climate and clean energy goals. Key provisions of the 2024 Climate Act will improve the speed and efficiency of siting and permitting CEIFs at state and local levels, while also ensuring communities and other stakeholders have meaningful opportunities for engagement and input in pre-filing and review processes. Specifically, the 2024 Climate Act requires the Siting Board to promulgate regulations to implement changes to G.L. c. 164, §§ 69G to 69J¼, inclusive, §§ 69O and 69P, §§ 69R and 69S, and §§ 69T to 69W, inclusive. The 2024 Climate Act requires the Siting Board to promulgate regulations by March 1, 2026, for projects filed with the Siting Board on or after July 1, 2026. St. 2024, c. 239, § 132.

In recognition of those broad revisions to the Siting Board’s mandate, the Siting Board is issuing new proposed regulations and deleting existing regulations that are no longer consistent with, or necessary under, the Siting Board’s current statutory authority. In addition, further amendments are proposed to provide greater procedural efficiency and clarity. The Siting Board proposes to revise two chapters of existing regulations, promulgate four new chapters, and repeal six existing chapters,¹ each noted below in Table 1.² Section IV describes each chapter in more detail. The proposed regulations – 980 CMR 1.00, 2.00, 13.00, 14.00, 16.00, and 17.00 – are included as Attachments 1 – 6, 3-a, and 5-b, respectively.

Table 1. Summary of Proposed Regulations.

Regulation	Status	Regulation Title
980 CMR 1.00	Revised	Rules for the Conduct of Adjudicatory Proceedings
980 CMR 2.00	Revised	General Information and Conduct of Board Business
980 CMR 13.00	New	Consolidated Permits for Clean Energy Infrastructure Facilities
980 CMR 14.00	New	De Novo Adjudications of Consolidated Local Permit Applications
980 CMR 16.00	New	Pre-filing Consultation and Engagement Requirements
980 CMR 17.00	New	Constructive Approval
980 CMR 4.00	Repealed	Freedom of Information; Protection of Trade Secrets
980 CMR 5.00	Repealed	Environmental Assessment and Environmental Impact
980 CMR 7.00	Repealed	Long-Range Forecasts and Supplements
980 CMR 8.00	Repealed	Notices of Intention to Construct an Oil Facility
980 CMR 9.00	Repealed	Coastal Zone Facility Site Selection, Evaluation and Assessment
980 CMR 11.00	Repealed	Licensing of Hydropower Generating Facilities

¹ While the 2024 Climate Act does not mandate the repeal of these six chapters, the Siting Board takes this opportunity to remove obsolete regulations that are no longer in use, in furtherance of the goal of increased clarity and efficiency.

² The Siting Board plans to also propose a new chapter of regulations (980 CMR 15.00) focused on cumulative impacts analysis and site suitability criteria. This regulation will be proposed at a later date.

II. DESCRIPTION OF THE 2024 CLIMATE ACT

The 2024 Climate Act creates a new Consolidated Permit process³ by which the Siting Board will issue all necessary local, regional, and state permits and approvals for large clean energy infrastructure facilities (“LCEIF”), and in certain circumstances, for small clean energy infrastructure (“SCEIF”) facilities as well. Additionally, G.L. c. 164, § 69U allows proponents of small clean transmission and distribution infrastructure facilities (“SCTDIF”) to elect to seek a Consolidated Permit from the Siting Board that includes all necessary state, regional, and local permits. G.L. c. 164, § 69V allows proponents of small clean energy generation facilities (“SCEGF”) and small clean energy storage facilities (“SCESF”) to elect to seek a Consolidated State Permit⁴ from the Siting Board that includes all necessary state permits. The 2024 Climate Act establishes mandatory deadlines for the Siting Board to issue these permits; if the Siting Board fails to issue a decision on the permit Application by the deadline, the Application will be constructively approved, meaning that the Applicant will receive a Consolidated Permit with certain pre-determined standard conditions without the Siting Board voting to approve any project-specific components and conditions. St. 2024, c. 239, § 74.

G.L. c. 164, § 69W allows Local Governments to elect to refer a request for all necessary local permits for a SCEIF to the Siting Board Director (“Director”) for “De Novo Adjudication” of a Consolidated Local Permit request initially submitted to local permit officials.⁵ G.L. c. 164, § 69W also allows Applicants and other substantially and specifically affected parties to seek

³ A Consolidated Permit is a permit issued by the Siting Board to a CEIF that includes all state, regional, and local permits that the CEIF would otherwise need to obtain individually, except for certain federal permits that are delegated to specific state agencies.

⁴ Capitalized terms throughout this Decision refer to terms defined in the proposed regulations.

⁵ A Consolidated Local Permit is a permit issued by a Local Government for a SCEIF that includes all required local permits, approvals, or authorizations that the Applicant would otherwise need to obtain individually from the Local Government. The Department of Energy Resources (“DOER”) is promulgating 225 CMR 29.00 to implement the Consolidated Local Permit process.

De Novo Adjudication by the Director of Consolidated Local Permit decisions made by Local Government (or issued by constructive approval).⁶

The 2024 Climate Act establishes a new mandate, scope of review, and required findings for the Siting Board. These changes expand the Siting Board’s current mandate (i.e., ensuring a reliable supply of energy for the Commonwealth with a minimum impact on the environment at the lowest possible cost) to include compliance with policies of the Commonwealth (and its subdivisions and municipalities) such as energy, environmental, land use, labor, economic justice, environmental justice and equity, public health and safety. St. 2024, c. 239, § 60. In addition, the Act requires that any determination by the Siting Board include findings that: (1) efforts have been made to avoid, minimize, or mitigate environmental impacts; (2) due consideration has been given to the findings and recommendations of Local Government; (3) in the case of LCTDIF, SCTDIF, and natural gas pipelines, due consideration has been given to advanced conductors, advanced transmission and grid enhancement technologies, and non-wires or non-pipeline alternatives (including repair or retirement of pipelines and other alternatives); (4) LCTDIF and SCTDIF increase capacity to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation and storage, and facilitate the electrification of the building and transportation sectors; and (5) due consideration has been given to cumulative burdens on host communities and efforts to avoid, minimize, or mitigate such burdens. Id. In considering and issuing a decision, the Board is also required to consider reasonably foreseeable climate change impacts, including additional greenhouse gas or other pollutant emissions known to have negative health impacts, predicted sea level rise, flooding, and any other disproportionate adverse effects on a specific geographical area. Id.

The Act also expands the membership of the Siting Board to include new expertise, with the addition of the Commissioners, or their designees, of the Department of Fish and Game and Department of Public Health, and new public members from the Massachusetts Association of Regional Planning Agencies, a representative of the Massachusetts Municipal Association, Inc.

⁶ A Local Government is a municipal or regional authority, board, commission, office, or other entity, as defined in G.L. c. 25A, § 21, that would have had jurisdiction to issue at least one permit for an LCEIF or SCEIF absent a Consolidated Permit.

with expertise in municipal permitting matters, a public member with experience in environmental justice issues or Indigenous Sovereignty, and a continuing seat for a public member with experience in labor issues. Id. The 2024 Climate Act transfers certain siting authority from the Department of Public Utilities (“Department”), including authority to grant zoning exemptions and to grant the right to exercise the power of eminent domain, consolidating that authority in the Siting Board. Id., at §§ 72, 73, 75, 76, 83. Additionally, the 2024 Climate Act mandates that prior to filing an Application with the Siting Board, Applicants consult with state, regional, and local agencies regarding their project, and engage with community members and organizations in the area where a project is proposed. Id. at § 74. The Act also includes a cumulative impacts analysis (“CIA”) provision, which requires Applicants to determine whether (1) their project is to be sited in an area that “is subject to an existing unfair or inequitable environmental burden or related health consequence,” and if so, (2) whether the environmental and public health impact from the proposed project would likely result in a disproportionate adverse effect on the area or would increase or reduce the effects of climate change the area, and proposed mitigation of those impacts. These two requirements apply to CEIF and legacy (*i.e.*, fossil fuel) facilities. Id. at § 53. Further, the Siting Board is required to promulgate regulations that apply site suitability criteria established by the Executive Office of Energy and Environmental Affairs (“EEA”).^{7,8} Id. at § 74.

The 2024 Climate Act requires the Siting Board to promulgate the regulations no later than March 1, 2026, for jurisdictional projects submitted to the Siting Board on and after July 1, 2026. Id. at § 132. Concurrent with the Siting Board’s development of these regulations, other agencies are also drafting related regulations to implement the 2024 Climate Act. DOER will promulgate regulations and guidance documents to establish a process for Local Governments to issue Consolidated Local Permits. 225 CMR 29.00. The Department will promulgate regulations to

⁷ EEA is responsible for developing Site Suitability Criteria (“SSC”) guidance; the EEA Office of Environmental Justice and Equity (“OEJE”) is responsible for developing guidance on CIA, and the Siting Board is responsible for promulgating regulations which incorporate the CIA and SSC guidance. The Siting Board will issue regulations, 980 CMR 15.00, incorporating CIA and SSC guidance at a later date.

⁸ OEJE is also developing Standards and Guidelines for Community Benefits Plans and Agreements.

implement the Intervenor Support Grant Program. 220 CMR 34.00. In addition, the Department will promulgate regulations setting revised filing fees for Applications filed with the Siting Board and some Department matters as well. 220 CMR 32.00.

III. PROCEDURAL HISTORY

Governor Healey established the Commission on Energy Infrastructure Siting and Permitting (“Commission”) on September 26, 2023, with the intention to remove barriers to expeditious and responsible CEIF development to meet greenhouse gas emissions limits outlined in the Commonwealth’s Clean Energy and Climate Plans. The mandate of the Commission was to advise the Governor on: (1) accelerating the responsible deployment of clean energy infrastructure through siting and permitting reform in a manner consistent with applicable legal requirements and the Clean Energy and Climate Plan; (2) facilitating community input into the siting and permitting of clean energy infrastructure; and (3) ensuring that the benefits of the clean energy transition are shared equitably among all residents of the Commonwealth. Executive Order 620. The Commission was composed of a robust and diverse group of leaders including members representing labor, environmental justice, economic development, housing and real estate, environmental protection and land use, agriculture, local government, electric utilities, and the clean energy industry. The Commission was supported by the Interagency Task Force, comprising representatives from 18 state agencies, and the Siting Practitioner Advisory Group, comprising attorneys with expertise in siting matters. The Commission met thirteen times, conducted two public listening sessions, and received over 1,500 public comments. The Commission issued a final report in March 2024. Many of the recommendations from the Commission’s report were enacted in legislation in November 2024.

The Siting Board has conducted extensive outreach during the development of the Proposed Regulations. The Siting Board, OEJE, others at EEA, and DOER started with an informal stakeholder process. In April 2025, the Siting Board staff issued straw proposals on key topics from the 2024 Climate Act (i.e., common conditions, procedural regulations, new

applications, and pre-filing engagement).⁹ All straw proposals were made available on a dedicated webpage titled “2024 Climate Act Stakeholder Sessions”.¹⁰ The Siting Board, along with EEA and the Department, then hosted a series of virtual and hybrid meetings in April and May 2025 around the state to brief stakeholders and provide a forum for oral comments. Each stakeholder session included interpretation from English into the top eleven languages spoken in the Commonwealth, and American Sign Language; the straw proposals and stakeholder sessions slides were also translated from English into the top ten languages spoken and posted online. The Siting Board also requested written comments on the straw proposals.

The Siting Board received extensive oral comments during these sessions and at least 274 written comments; written comments were posted on the 2024 Climate Act Stakeholder Sessions webpage. The Siting Board also conducted a meeting with the Commission to present the straw proposals. As required by the 2024 Climate Act, Siting Board staff also conducted multiple interagency consultations, including with the Department, DOER, the Department of Environmental Protection (“MassDEP”), the Department of Fish and Game, the Department of Conservation and Recreation, the Massachusetts Department of Transportation, the Executive Office of Public Safety and Security, and the Massachusetts Environmental Policy Act Office (“MEPA”). Siting Board staff attended informal stakeholder meetings with EEA, OEJE, and DOER. Siting Board staff continue to meet with a variety of agencies and stakeholders affected by the new Consolidated Permit process.

The Siting Board considered the comments received on its straw proposals in guiding the development of the draft Proposed Regulations, which were released for informal public comment in July 2025. The draft Proposed Regulations were posted on the Siting Board’s webpage “2024 Climate Act Regulations Meetings.”¹¹ On July 21, 2025, the Siting Board conducted a hybrid

⁹ The Department, EEA, and OEJE also issued straw proposals for requirements for a new intervenor support grant program, SSC, and community benefits plans, respectively. The Siting Board staff and OEJE presented a slide deck regarding CIA. The Siting Board staff also issued a request for comments for a new Siting Board permitting dashboard.

¹⁰ <https://www.mass.gov/info-details/2024-climate-act-stakeholder-sessions>.

¹¹ <https://www.mass.gov/info-details/2024-climate-act-regulations-meetings>.

Siting Board meeting to hear comments and discuss the draft Proposed Regulations, with interpretation into the top five languages spoken in the Commonwealth plus American Sign Language. The Siting Board heard staff presentations on the draft Proposed Regulations, and invited members of the public to provide oral comments at the Board meeting, as well as written comments. The Siting Board received comments from utilities, developers, interested individuals, and organizations. The written comments were posted on the “2024 Climate Act Regulations Meetings” webpage. As a result of the input from the Siting Board members and comments from agencies and the public, Siting Board staff further refined the draft Proposed Regulations.

The Siting Board is now issuing those Proposed Regulations for a formal public comment process. The Siting Board issued the Tentative Decision and Proposed Regulations on September 4, 2025. The Siting Board conducted a hybrid Board meeting on September 8, 2025. Interpretation was provided in Spanish, Portuguese, Chinese, Haitian Creole, Vietnamese, and American Sign Language. At the Board meeting, the Siting Board heard presentations from Siting Board Staff, accepted public comment, deliberated on the Tentative Decision. The Siting Board voted to [approve] the Tentative Decision Opening Rulemaking, and to issue the Proposed Regulations for comment.

IV. PROPOSED REGULATIONS

A. Introduction

The Siting Board’s Proposed Regulations implement a comprehensive program to accelerate the siting of clean energy infrastructure while emphasizing participation by key stakeholders and community members in the development and review process. The 2024 Climate Act created new categories of facilities, new roles for state, regional, and local agencies and various stakeholders, and established new procedural mechanisms to enhance the efficiency and effectiveness of CEIF siting and permitting in the Commonwealth.

The 2024 Climate Act provides the Siting Board with authority to issue all individual state, regional, and/or local permits, approvals or authorizations that would otherwise be necessary for the construction and operation of CEIFs under its jurisdiction. In performing this function, the 2024 Climate Act directs the Board to adhere to mandatory review timeframes of no more than

12 or 15 months following a determination of application completeness, and to develop administrative procedures to achieve this outcome. The Siting Board has drafted regulations and a guidance document to help Applicants prepare a well-organized, informative, clear, and consistent Application submission to assist the Siting Board, other state, regional, and local permitting agencies (“Permit Enforcement Agencies” or “PEA”), and community stakeholders in their review of the Applicant’s proposed Project. Importantly, this approach will also help an Applicant obtain a “Notice of Completeness” from the Siting Board, commencing a mandatory timeline for adjudication and issuance of a final decision and Consolidated Permit.

The Siting Board’s recommended approach to meet these goals is to require Applicants to consult with state, regional, and local permitting agencies to ensure that the Applicant is fully aware of the permitting requirements applicable to the proposed Project. The Proposed Regulations require each Applicant to provide a draft application and draft permit for each permitting program with its Application to the Siting Board. The Siting Board notes that the 2024 Climate Act does not supersede the substantive laws governing various permitting programs, such as the Massachusetts Wetlands Protection Act or Massachusetts Endangered Species Act.¹² However, the procedural requirements associated with other State PEA regulations may be superseded by the Siting Board’s procedures, as defined by the 2024 Climate Act and the Siting Board’s implementing regulations and guidance. The Siting Board considers that requiring Applicants to provide information in a form that is familiar to PEAs leads to more efficient review of permit Applications and more effective enforcement of permit conditions by the PEAs. To the extent that Applicants identify duplicative information requirements across different state and local permit programs and applications, the Applicant may cross-reference information in its Application submission to avoid such duplication.

A Consolidated Permit includes the longstanding Siting Board Approval to Construct (or “EFSB Construction Permit”) and all other state, regional, and local permits and approvals necessary for construction and operation of a CEIF. A Consolidated State Permit would include

¹² Massachusetts Wetlands Protection Act is at G.L. c. 131, § 40. Massachusetts Endangered Species Act is at G.L. c. 131A.

all necessary state permits. The Siting Board proposes a guidance document with additional information for Applicants and the public (“Application Guidance”), which focuses on informational requirements that are unique to the EFSB Construction Permit, while relying substantially on the content of DOER’s forthcoming SCEIF Application Form(s) for Consolidated Local Permits, and other state agency permit applications for the corresponding state permits. See 225 CMR 29.00. Applicants seeking zoning exemptions for their projects must file a separate zoning petition with the Siting Board, pursuant to G.L. c. 40A, § 3 or St. 1956, c. 665, § 6. The Presiding Officer will consolidate the zoning petition with the Application for a Consolidated Permit and conduct one proceeding. See 980 CMR 1.09(2).

The Siting Board’s scope of review for an Application is broad and includes topics unique to the Siting Board’s review, and other topics largely addressed in the other agencies’ permit programs, which would be folded into a Consolidated Permit. The 2024 Climate Act directs the Siting Board to establish criteria governing the siting and permitting of LCEIF and SCEIF that include “a uniform set of baseline health safety, environmental and other standards that apply to the issue of a consolidated permit.” G.L. c. 164, §§ 69T(b), 69U(b), 69V(b). This language mirrors the requirements in the 2024 Climate Act for DOER’s development of a program for siting and permitting of SCEIF (“Consolidated Local Permits”) by Local Governments. Given the similarities between the Siting Board’s and DOER’s responsibilities in establishing baseline standards, the overlapping scope, and the benefits of a consistent approach, Siting Board staff and DOER are collaborating on developing permitting standards that will be part of the Application Guidance. The Siting Board and DOER also have similar responsibilities in developing “common conditions” applicable to CEIF permits. For the same reasons described above, Siting Board staff and DOER are also collaborating on developing common conditions for CEIFs.

The 2024 Climate Act creates new roles for multiple entities. As described above, the Siting Board becomes the entity issuing Consolidated Permits for LCEIF and SCEIF (in certain circumstances), ensuring robust review of Applications and timely decisions. The Siting Board Director is responsible for a review of Consolidate Local Permit decisions, if the Applicant or parties that are substantially and specifically affected file a valid petition for a de novo adjudication. Appeals of Application-related decisions shall be filed with the Supreme Judicial

Court, instead of multiple state agency and court venues. DOER is charged with developing a uniform permitting program for SCEIFs in all 351 municipalities, and for regional entities, such as the Cape Cod Commission.

While they will no longer issue required permits for CEIFs, state and local agencies provide expertise and input in multiple phases of project development and review, and ultimately, enforcement of any permits issued by the Board. The role of these agencies is reflected in substantial pre-filing consultation requirements. In addition, the 2024 Climate Act includes PEAs in the formal adjudication of proposed projects, by creating special intervention rights for PEAs and the opportunity to provide statements of recommended conditions for each Project. The 2024 Climate Act returns enforcement of permit conditions, once determined by the Siting Board, to the agencies that would otherwise have jurisdiction over a Project absent the Consolidated Permit process. The 2024 Climate Act gives the MEPA Office an explicit role in pre-filing consultation, and the opportunity to provide recommended conditions to the Siting Board.¹³

The 2024 Climate Act highlights the important role of local communities and stakeholders. The Act requires that the Applicant engage with local communities to gather insight into conditions near the proposed project site, and to understand local priorities and concerns. The Proposed Regulations contemplate two-way communications between an Applicant and the local community, for the benefit of both. The Proposed Regulations establish that an Applicant is subject to the pre-filing requirements of the Siting Board or the program established by DOER for SCEIF, but not both programs. To assist with the pre-filing program, the 2024 Climate Act creates the Division of Public Participation (“DPP”) in the Department. The DPP also administers an Intervenor Support Grant Program designed to provide financial support for certain groups to participate in Siting Board and Department proceedings.

Ultimately, the 2024 Climate Act places the responsibility of providing timely and complete information regarding a proposed Project on the Applicant. The Siting Board anticipates

¹³ However, the 2024 Climate also provides that MEPA requirements beyond the pre-filing consultation do not apply to the Siting Board or Applicants of LCEIFs or SCEIF per G.L. c. 164, §§ 69T-69W, inclusive, or Applicants of Facilities pursuant to G.L. c. 164, §§ 69J-69J¼, inclusive. St. 2024, c. 239, § 63.

that in the next several years Applicants will file Applications for many CEIF projects.¹⁴ The Applicant plays a crucial role in ensuring that these projects are permitted and constructed, and thereby contribute to achieving the Commonwealth’s energy goals.

B. 980 CMR 1.00 – Rules for the Conduct of Adjudicatory Proceedings

The Siting Board proposes revisions to 980 CMR 1.00 to reflect the new consolidated permitting process, and revisions to make the Siting Board adjudicatory proceedings more efficient. As revised, 980 CMR 1.00 would apply to all Siting Board proceedings under G.L. c. 164, §§ 69H-69W, unless otherwise noted. The proposed revised 980 CMR 1.00 is included as Attachment 1. Revisions to 980 CMR 1.00 include:

- Amended definition subsection to reflect new definitions in the 2024 Climate Act. 980 CMR 1.01(4).
- Updated filing requirements based on improved practices, including electronic filings and a requirement that filings are in a searchable format. 980 CMR 1.03(2).
- Requirement that ex parte provisions prohibit the Department’s new DPP, which oversees Applicant pre-filing activities, from having any substantive input or communication with the Siting Board’s adjudicatory or decisional staff on pending matters. The proposed regulations also state that the director of the DPP may communicate with parties or individuals seeking to intervene in Siting Board proceedings about substantive matters before an application is filed and that such communication shall not be deemed ex parte communication. 980 CMR 1.03(7).
- Requirement that Applicants comply with the CIA requirements of the 2024 Climate Act. 980 CMR 1.04(1)(c).
- Requirement that Applicants provide evidence with their Application filing that they have completed pre-filing consultation and community engagement activities prior to filing the Application with the Siting Board. A separate set of regulations at 980 CMR 16.00 defines these requirements. 980 CMR 1.04(1)(c).
- Requirement that reflects the Siting Board’s existing mailed notice practices, including requiring mailed notice for specific distances from project boundaries, such as edges of rights-of-way. 980 CMR 1.04(3).
- Requirement that the Siting Board provide language access consistent with its most current Language Access Plan. 980 CMR 1.04(3)(h).

¹⁴ See Management Study Report by GreenerU, July 2025.
<https://www.mass.gov/doc/greeneru-management-study/download>.

- Requirement that the Siting Board conduct its public comment hearings in hybrid form, as long as it remains practicable to do so. 980 CMR 1.04(5).
- Requirements for Applicants governing authentication of documents submitted to the Siting Board in proceedings, and the continuing obligation of parties to update discovery and record request responses, as well as testimony, until the Siting Board issues a final decision. 980 CMR 1.06(5)(g).
- Recognition that the Siting Board may incorporate certain documents by reference into its evidentiary records. 980 CMR 1.06(5)(i).
- Authority for the Presiding Officer to conduct evidentiary hearings virtually. 980 CMR 1.06(6)(d).
- Clarification that comments submitted regarding a tentative decision, whether made at Board meetings or in writing, do not constitute evidence and are not part of the evidentiary record in a proceeding. 980 CMR 1.08(2)(c).
- Authority for the Presiding Officer to determine whether to allow additional attendees on a site visit regarding a proposed project. 980 CMR 1.09(10).
- New subsections defining compliance filing and project change filing processes. 980 CMR 1.09(12), (13).
- Requirements for decommissioning and site restoration plans, which define what infrastructure must be removed, request a schedule for removal and an estimate of decommissioning and restoration costs, and request proposed financial instrument(s) to ensure the funding of decommissioning and restoration activities. 980 CMR 1.10.

C. 980 CMR 2.00 – General Information and Conduct of Board Business

The Siting Board proposes to revise its regulations governing Board business to reflect requirements from the 2024 Climate Act. These revisions also reflect updated statutory references and process updates. The proposed revised 980 CMR 2.00 is included as Attachment 2. Revisions proposed to 980 CMR 2.00 include:

- Expanding the primary functions of the Siting Board to include reviewing petitions for LCEIF and SCEIF. 980 CMR 2.02(2).
- Subsection establishing the Siting Board’s authority to issue exemptions from local zoning bylaws. 980 CMR 2.02(2).
- A new subsection defining the Siting Board’s new scope of review consistent with the new statutory mandate from the 2024 Climate Act. 980 CMR 2.02(3).

- Incorporation of the statutory provisions that exempt any action of the Siting Board or any other person pursuant to G.L. c. 164, §§ 69J to 69J¼, inclusive, or G.L. c. 164, §§ 69T to 69W, inclusive, from MEPA review, G.L. c. 30, §§ 61 to 62L. 980 CMR 2.02(6).
- Revisions to the Siting Board’s membership from nine to eleven members and the quorum requirement from four to five members. 980 CMR 2.03(1).
- A new subsection to provide a disclosure mechanism where an ex officio Siting Board member’s agency is also a party to a proceeding. 980 CMR 2.03(7).
- Specifying that Siting Board members may attend a hybrid Board meeting virtually. 980 CMR 2.04(7).
- A new subsection on “Constructive Approval,” indicating when a Presiding Officer must issue a constructive approval as identified in 980 CMR 1.00 and described in 980 CMR 17.00 when the Siting Board is unable to vote within the statutory time frame. 980 CMR 2.06(3), (4).
- Requirement that final decisions must include required findings as defined in the 2024 Climate Act. 980 CMR 2.06(3).
- Incorporation of the statutory requirement that the Siting Board establish and maintain a new online permitting Dashboard that includes information on Siting Board proceedings, the number of applications deemed incomplete, the number of applications deemed constructively approved, the average duration of application review, and average staffing levels delineated by job classification. 980 CMR 2.10.

D. 980 CMR 13.00 – Consolidated Permits for Clean Energy Infrastructure Facilities

Proposed 980 CMR 13.00 creates a Consolidated Permit process by which the Siting Board will issue all necessary state, regional, and local approvals to construct and operate LCEIFs and, in certain circumstances, for SCEIFs. The new proposed regulations focus on Application requirements for a Consolidated Permit and the review and adjudication of a Consolidated Permit application. The proposed 980 CMR 13.00 is included as Attachment 3. Given the scope of application requirements, the Siting Board also developed an Application Guidance document to provide technical information that informs the requirements in the proposed regulations. The application guidance is included as Attachment 3-a. Features of 980 CMR 13.00 include:

- A standard application that identifies specific criteria and information that an Applicant is to provide to the Siting Board for a Consolidated Permit. The information required for the Application includes: (i) specific requirements based on previous precedent, statutory requirements, and stakeholder input; (ii) specific requirements for LCEIF or SCEIF that

require zoning exemptions for construction; and (iii) specific requirements for permits from state, regional, and local agencies. 980 CMR 13.03, 980 CMR 13.04.

- Review timeframes for the Siting Board to issue a final decision on Consolidated Permit applications. In accordance with the 2024 Climate Act, the review timeframe for a LCEIF application is 15 months; the review timeframe for SCEIF application is 12 months. 980 CMR 13.02(4)(a).
- Provisions for baseline health, environmental, safety, and other standards for the Consolidated Permit process. 980 CMR 13.07.
- Establishing common conditions for a Consolidated Permit to be applied to all CEIF projects, common conditions to be applied based on facility thresholds, and a process for applying supplemental conditions to mitigate project-specific LCEIF or SCEIF related impacts. 980 CMR 13.08.
- Establishing a process for a determination of Application completeness. The completeness determination ensures the Siting Board has sufficient information to make its statutory findings in G.L. c. 164 § 69H and provide transparency to stakeholders. A completeness determination begins the Siting Board’s review timeframe to meet statutory deadlines to render a final decision. The completeness determination provision also identifies the process for an Applicant if the Application is determined to be incomplete. 980 CMR 13.09.
- The content of the Siting Board’s final decision, including: a decision on Siting Board approval; issuance of zoning exemptions; issuance of all necessary permits; and identification of each condition and which agency will be responsible for enforcement of the condition. 980 CMR 13.10.

E. 980 CMR 14.00 – De Novo Adjudication of Consolidated Local Permits

Proposed 980 CMR 14.00 creates a process by which the Director may, upon request from the Local Government, project proponent, or person deemed substantially and specifically affected, conduct a “de novo adjudication” of a Consolidated Local Permit initially submitted to local permit officials. The proposed regulation also provides a process for the Director to adjudicate a Consolidated Local Permit Application in lieu of local review. The proposed 980 CMR 14.00 is included as Attachment 4. This proposed regulation defines the process for de novo adjudications of Consolidated Local Permit Applications for SCEIF; features of 980 CMR 14.00 include:

- Two pathways for initiating a de novo adjudication. First, an Applicant or other person substantially and specifically affected by an adverse final decision from a Local Government on a Consolidated Local Permit Application may petition the Director to

review such final decision. Second, a Local Government lacking sufficient resources to process an Application may ask the Director to adjudicate the Application in its stead. 980 CMR 14.02(1).

- The process by which an Applicant or other person may petition the Director to conduct a de novo adjudication. 980 CMR 14.02(2), (3), (4).
- The standards by which the Director determines whether to accept such Application for de novo adjudication. 980 CMR 14.02(5), (6).
- If the Director accepts a request for de novo adjudication, the process by which the Director conducts the de novo adjudication of the underlying Consolidated Local Permit Application. 980 CMR 14.03, 14.04.
- Time frames for the Director to issue a decision: six months for a request for a de novo adjudication of a local permitting decision; twelve months for a request for a de novo adjudication by a local government. 980 CMR 14.05(b).
- Provision that the Director's decision on de novo adjudication is appealable to the Supreme Judicial Court. 980 CMR 14.06.

F. 980 CMR 16.00 – Pre-filing Consultation and Engagement Requirements

Proposed 980 CMR 16.00 establishes processes and requirements for proponents of energy infrastructure projects jurisdictional¹⁵ to the Siting Board to (1) consult with state, regional, and local agencies, and (2) engage with potentially affected communities and specifically identified key stakeholders prior to filing an application with the Siting Board. The pre-filing consultation and engagement process will help project proponents identify potentially contentious issues sooner and establish collaborative relationships with key project stakeholders. The pre-filing consultation and engagement process will also give community members who may be impacted by a project early information on the project, and an opportunity to provide input in the project development process. The proposed 980 CMR 16.00 is included as Attachment 5. The Siting Board also developed a completion checklist and self-attestation form to accompany the section of regulation; the checklist and self-attestation form are included as Attachment 5-a. Features of 980 CMR 16.00 include:

¹⁵ The pre-filing consultation and engagement regulations apply to non-CEIF (G.L. c. 164, §§ 69J, 69J¼), but do not apply to de novo adjudications pursuant to 980 CMR 14.00 (G.L. c. 164, § 69W).

- Provisions for the DPP (established under G.L. c. 25, § 12T) to administer the pre-filing requirements. 980 CMR 16.02.
- Requirements for the Applicant to disclose information regarding proposed energy infrastructure projects to the public including key stakeholders and conduct public meetings with the affected community. 980 CMR 16.04.
- Mandated meetings between state, regional, and local agencies and proposed energy infrastructure Applicants. 980 CMR 16.05, 16.06.
- Prescribed project materials and information required for conducting individual and public meetings with stakeholders. 980 CMR 16.07, 16.08.
- Guidelines for conducting outreach including the use of multiple media channels, requirements for the conduct of public meetings, and for the creation of a project webpage accessible to the public with informational postings regarding a proposed project including contact information. 980 CMR 16.04(1)(a)(6), (7).
- Requirement that project proponents offer an email signup mechanism for interested persons to receive updated information throughout the pre-filing outreach and the permitting process. 980 CMR 16.04(1)(c).
- Requirement that Applicants complete a self-attestation form and checklist to certify that they have completed each step of the pre-filing consultation and community engagement process. 980 CMR 16.04(1)(i).
- Requirement that an Applicant provide notice of its intent to file an Application with the Siting Board. 980 CMR 16.10.

G. 980 CMR 17.00 – Constructive Approval

Proposed 980 CMR 17.00 establishes the processes and requirements pertaining to a constructive approval, i.e., automatic approval of a Consolidated Permit application, which the Presiding Officer shall issue if the Siting Board has not timely issued a Consolidated Permit or Consolidated State Permit under 980 CMR 13.00. The constructive approval process applies to all Applications submitted to the Siting Board for a CEIF.¹⁶ The proposed 980 CMR 17.00 is included as Attachment 6. Features of 980 CMR 17.00 include:

- Provision that approval of a Consolidated Permit Application is automatic if the Siting Board has not issued a final decision within its review timeframe (review timeframes are

¹⁶ The constructive approval provision does not apply to de novo adjudications pursuant to 980 CMR 14.00, or to petitions to construct non-CEIF Facilities pursuant to G.L. c. 164, §§ 69J, 69J½.

established in 980 CMR 13.00 and cross-referenced in 980 CMR 17.00). 980 CMR 17.01(1), 17.04(1).

- Provision that the Presiding Officer shall assess the progress of a proceeding and, if the Presiding Officer finds “no reasonable assurance” of meeting the applicable review timeframe, then the Presiding Officer issues a “notice of likelihood of constructive approval.” 980 CMR 17.02(1).
- Requirement that the Presiding Officer issue a draft Constructive Approval Permit within two weeks of the notice of likelihood of constructive approval and commence a comment period for the draft Constructive Approval Permit. 980 CMR 17.02(3).
- Required contents of a Constructive Approval Permit, including the state, regional, and local permits to be issued through the constructively approved Consolidated Permit, including requested zoning exemptions and common conditions to be included in the Constructive Approval Permit. 980 CMR 17.03(1).
- The process for the Presiding Officer to distribute a Constructive Approval Permit. 980 CMR 17.04.
- Provision that states that a Constructive Approval Permit distributed by the Presiding Officer is deemed a final decision and is appealable to the Supreme Judicial Court. 980 CMR 17.05(2).

V. PUBLIC COMMENT PERIOD AND REQUEST FOR COMMENTS

The Siting Board issues a notice of public comment period concurrently with the Siting Board’s Decision to Open Rulemaking. See [Attachment XX]. In that notice, the Siting Board welcomes comment on the Proposed Regulations and related guidance documents. The Siting Board will conduct hybrid public comment hearings in various locations around the Commonwealth, and in addition requests written comments. The Siting Board will consider oral and written comments received and revise its Proposed Regulations accordingly. The Siting Board intends to complete this rulemaking and promulgate final regulations by March 1, 2026, as provided in the 2024 Climate Act.

The Siting Board seeks initial written comments on the Proposed Regulations no later than 5:00 p.m. on October 17, 2025. All documents must be submitted to the Siting Board by e-mail attachment to dpu.efiling@mass.gov and sitingboard.filing@mass.gov. The text of the email must specify: (1) the docket number of the proceeding (EFSB 25-10); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic

filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Documents submitted in electronic format will be posted on the Siting Board’s webpage at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets/docket/12678>.

All documents, pleadings, or filings submitted to or issued by the Siting Board will be available on the Siting Board’s website as referenced above as soon as practicable. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Siting Board’s ADA coordinator at eeadiversity@mass.gov or (617) 626-1282.

To provide further opportunity for comment, the Siting Board will conduct hybrid public comment hearings, in person and on Zoom, to receive comments on the Proposed Regulations. Interested persons may present oral arguments relating to the Proposed Regulations at the public comment hearing. Interpretation will be provided in Spanish, Portuguese, Chinese, Haitian Creole, Vietnamese, and American Sign Language. Translation and interpretation in additional languages is available upon request. To request translation or interpretation in an additional language, please contact Yonathan Mengesha at yonathan.mengesha@mass.gov no later than (date). The Siting Board will conduct the hybrid public comment hearings at the following dates and locations: [to be completed prior to final decision]

<u>Public Comment Hearing 1:</u> Monday, October 27, 6:00 p.m. Greater New Bedford Regional Vocational Technical High School, 1121 Ashley Blvd, New Bedford, MA 02745, Auditorium.	<u>Public Comment Hearing 2:</u> Wednesday, October 29, 6:00 p.m. Berkshire Innovation Center, 45 Woodlawn Ave, Pittsfield, MA 01201
<u>Public Comment Hearing 3:</u> Monday, November 3, 6:00 p.m. Massachusetts Department of Public Utilities, One South Station, 3 rd Floor, Boston, MA 02110	<u>Public Comment Hearing 4:</u> Wednesday, November 5, 6:00 p.m. North Shore Community College, 300 Broad St, Lynn, MA 01901, Cafeteria.

Remote attendees can join by entering the link, [Zoom link], from a computer, smartphone, or tablet. For audio-only access to the hearings, attendees can dial in at **1 (312) 626-6799** (not toll free) and then enter ID# [meeting id]. If you anticipate providing comments during the public

hearing, please send an email by **DAY, MONTH XX, 2025**, to ERG at meetings@erg.com with your name, and email address.

VI. VOTE

The Siting Board hereby votes to open a rulemaking to implement to provisions of the 2024 Climate Act, St. 2024, c. 239. The Siting Board issues the following Proposed Regulations: revisions to 980 CMR 1.00, Rules for the Conduct of Adjudicatory Proceedings and 980 CMR 2.00, General Information and Conduct of Board Business; new regulations 980 CMR 13.00, Consolidated Permits for Clean Energy Infrastructure Facilities; 980 CMR 14.00, De Novo Adjudications of Consolidated Local Permit Applications; 980 CMR 16.00, Pre-Filing Consultation and Engagement Requirements; and 980 CMR 17.00, Constructive Approvals. The Siting Board also proposes to repeal existing regulations at 980 CMR 4.00, Freedom of Information; Protection of Trade Secrets; 980 CMR 5.00, Environmental Assessment and Environmental Impact; 980 CMR 7.00, Long-Range Forecasts and Supplements; 980 CMR 8.00, Notices of Intention to Construct an Oil Facility; 980 CMR 9.00, Coastal Zone Facility Site Selection, Evaluation, and Assessment; and 980 CMR 11.00, Licensing of Hydropower Generating Facilities.

A handwritten signature in black ink, appearing to read "Joan Foster Evans".

Joan Foster Evans, Esq.

Dated this fourth day of September 2025

[APPROVED] by unanimous vote of the Energy Facilities Siting Board at its meeting of September 8, 2025, by the members and designees present and voting. Voting for approval of the Final Decision: Rebecca L. Tepper, Secretary of Energy and Environmental Affairs and Chair, Energy Facilities Siting Board; James M. Van Nostrand, Chair, Department of Public Utilities; Staci Rubin, Commissioner, Department of Public Utilities; Elizabeth Mahony, Commissioner, Department of Energy Resources; Bonnie Heiple, Commissioner, Department of Environmental Protection; Douglas Gutro, Director of the Permit Regulatory Office and designee for Interim Secretary Ashley Stolba, of the Executive Office of Economic Development; and Joseph C. Bonfiglio, Public Member.

Rebecca L. Tepper, Chair
Energy Facilities Siting Board

ATTACHMENT 1

Draft Regulations

980 CMR 1.00 – Adjudicatory Proceedings

980 CMR 1.00: ENERGY FACILITIES SITING BOARD

980 CMR 1.00: RULES FOR THE CONDUCT OF ADJUDICATORY PROCEEDINGS

Section

- 1.01: Scope and Construction of Rules
- 1.02: Rules of General Applicability
- 1.03: General Procedures
- 1.04: Institution of an Adjudicatory Proceeding
- 1.05: Intervention
- 1.06: Conduct of Adjudication
- 1.07: Post-hearing
- 1.08: Rendering of Decisions in Adjudicatory Proceedings
- 1.09: Supplemental Procedures
- 1.10: Decommissioning and Site Restoration Plan

1.01: Scope and Construction of Rules

- (1) Scope. 980 CMR 1.00 shall govern the conduct of adjudicatory proceedings before the Energy Facilities Siting Board.
- (2) Application of 980 CMR 1.00. 980 CMR 1.00 shall apply to all adjudications conducted by the Board except when a specific provision of 980 CMR indicates otherwise.
- (3) Effective Date. 980 CMR 1.00 shall take effect on ~~February 19, 2010~~March 1, 2026, and shall apply to proceedings initiated ~~after that date~~July 1, 2026, and afterwards.
- (4) Definitions. For the purpose of 980 CMR, the following definitions shall apply unless the context or subject matter requires a different interpretation:

Anaerobic Digestion Facility means a facility that: (i) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; and (ii) has been determined by the department of energy resources, in coordination with the department of environmental protection, to qualify under the department of energy resources regulations as a Class I renewable energy generating source under M.G.L. c. 25A, § 11F.

Ancillary Structure means new or expanded equipment or structure which is an integral part of the operation of any CEIF or Facility.

Applicant means a ~~person~~Person who submits to the Board a petition to construct a Facility, an application or petition seeking determination of a matter within the Board's jurisdiction, or for a Consolidated Permit for a LCEIF or SCEIF, an application for a Consolidated State Permit for a SCEIF, or a petition for a certificate of environmental impact and public need. An Applicant also means a Person who, submits an application for a Consolidated Local Permit to a Local Government

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pursuant to ~~M.G.L. c. 25, § 4, has a matter referred to the Board by the Chairman of the Department of Public Utilities pursuant to M.G.L. c. 164, § 69H~~225 CMR 29.00.

Board means the Energy Facilities Siting Board established under M.G.L. c. 164, § 69H.

Board Member means any of the ~~nine persons~~eleven individuals set forth in 980 CMR 2.03(1) or any ~~person~~individual named to serve as a designee under the terms of 980 CMR 2.03(3).

~~Chairman~~ means the ~~Chairman~~Chair of the Energy Facilities Siting Board, ~~as described in 980 CMR 2.03(3).~~

Clean Energy Infrastructure Facility (CEIF) means an LCEGF, LCESEF, LCTDIF, SCEGF, SCSEF, or SCTDIF. A CEIF is not a Facility as defined in M.G.L. c. 164, § 69G.

Consolidated Permit means a permit issued by the Board for an LCEIF or a SCEIF that includes all municipal, regional and state permits that the LCEIF or SCEIF would otherwise need to obtain individually, with the exception of certain federal permits that are delegated to specific state agencies as determined by the Board.

Consolidated Local Permit means a permit issued by a Local Government for a SCEIF that includes all required local permits, approvals, or authorizations that the Applicant would otherwise need to obtain individually from the Local Government.

Consolidated State Permit means a permit issued by the Board for an SCSEF or an SCEGF that includes all state permits, approvals, or authorizations that the Applicant would otherwise need to obtain individually from state agencies, authorities, boards, commissions, offices or other entities, with the exception of certain federal permits that are delegated to specific state agencies as determined by the Board.

Constructive Approval means approval, pursuant to 980 CMR 17.00, of an Application for a CEIF where the Board fails to issue a final decision by the deadlines established in M.G.L. c. 164, §§ 69T, 69U, 69V, and 980 CMR 13.00.

Cumulative Impact Analysis Report means a written report as defined in 980 CMR 15.00.

Department means the Massachusetts Department of Public Utilities.

De Novo Adjudication means an adjudicatory proceeding where the Director will consider an application for a Consolidated Local Permit based on evidence submitted in the proceeding that may include but is not limited to the information submitted to the Local Government as part of the application for a proposed SCEIF.

Director means the individual appointed by the Chair of the Department of Public Utilities to direct the work of the siting division and to conduct the day-to-day

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business of the Board as well as to perform any other duty delegated by the ~~Chairman~~Chair. The Director may issue decisions in De Novo Adjudications of local permit applications pursuant to M.G.L. c. 164, § 69W.

Distribution means delivery of electricity as defined in M.G.L. c. 164, § 1.

DOER means the Massachusetts Department of Energy Resources.

EFSB Consolidated Permit means a Consolidated Permit or a Consolidated State Permit.

Facility means any “facility” described in M.G.L. c. 164, §69G including:

- (a) any generating unit designed for or capable of operating at a gross capacity of ~~100~~25 megawatts or more, including associated buildings, Ancillary Structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities;
- (b) a new electric transmission line having a design rating of 69 kilovolts or more and which is one mile or more in length on a new transmission corridor;
- (c) a new electric transmission line having a design rating of 115 kilovolts or more which is ten miles or more in length on an existing transmission corridor except reconductoring or rebuilding of transmission lines at the same voltage;
- (d) an Ancillary Structure which is an ~~integrated~~integral part of the operation of any transmission line which is a facility;
- (e) a unit, including multiple tanks and associated buildings and structures, designed for, or capable of, the manufacture or storage of gas, except: such units below a minimum threshold size as established by regulation;
 - 1. a unit with a total gas storage capacity of less than 25,000 gallons and also with a manufacturing capability of less than 2,000 MMBtu per day;
 - 2. a unit whose primary purpose is research, development, or demonstration of technology and whose sale of gas, if any, is incidental to that primary purpose; or
 - 3. a landfill or sewage treatment plant.
- (f) a new pipeline for the transmission of gas having a normal operating pressure in excess of 100 lbs. per square inch gauge, which is greater than one mile in length except restructuring, rebuilding, or relaying of existing pipelines of the same capacity; and
- (g) any new unit, including associated buildings and structures, designed for, or capable of, the refining, the storage of more than 500,000 barrels or the transshipment of oil or refined oil products and any new pipeline for the transportation of oil or refined oil products which is greater than one mile in length except restructuring, rebuilding, or relaying of existing pipelines of the same capacity.

Gas means an energy source which includes natural gas, propane air, synthetic natural gas, liquefied natural gas, renewable natural gas, and hydrogen.

Generating Facility means any generating unit designed for or capable of operating at a gross capacity of ~~100~~25 megawatts or more, that is not a LCEGF or SCEGF,

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including associated buildings, Ancillary Structures, transmission and pipeline interconnections that are not otherwise facilities; and fuel storage facilities.

Hand Delivery means delivery by methods other than pre-paid U.S. mail (e.g., Federal Express or paid courier service). ~~Hand delivery~~ Delivery shall not include delivery by electronic mediums such as facsimile or e-mail unless authorized by the Presiding Officer.

Language Access Plan means the Language Access Plan established by the Board pursuant to Executive Order No. 615.

Large Clean Energy Generation Facility (LCEGF) means energy generation infrastructure with a nameplate capacity of not less than 25 megawatts that is an Anaerobic Digestion Facility, Solar Facility or Wind Facility, including any Ancillary Structure that is an integral part of the operation of the LCEGF.

Large Clean Energy Infrastructure Facility (LCEIF) means an LCEGF, LCESF, or LCTDIF.

Large Clean Energy Storage Facility (LCESF) means an energy storage system as defined under M.G.L. c. 164, § 1, with a rated capacity of not less than 100 megawatt hours, including any Ancillary Structure that is an integral part of the operation of the LCESF.

Large Clean Transmission and Distribution Infrastructure Facility (LCTDIF) means electric transmission and distribution infrastructure and related ancillary infrastructure that is:

- (a) a new electric transmission line having a design rating of not less than 69 kilovolts and that is not less than 1 mile in length on a new transmission corridor, including any Ancillary Structure that is an integral part of the operation of the transmission line;
- (b) a new electric transmission line having a design rating of not less than 115 kilovolts that is not less than 10 miles in length on an existing transmission corridor except reconducted or rebuilt transmission lines at the same voltage, including any Ancillary Structure that is an integral part of the operation of the transmission line;
- (c) any other new electric transmission infrastructure requiring zoning exemptions, including standalone transmission substations and upgrades and any Ancillary Structure that is an integral part of the operation of the transmission line; and
- (d) facilities needed to interconnect offshore wind to the grid.

A LCTDIF shall be:

- (e) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of a CEIF to the electric grid;
- (f) approved by the regional transmission operator in relation to interconnecting a CEIF;
- (g) proposed to ensure electric grid reliability and stability; or

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(h) designed to help facilitate the electrification of the building and transportation sectors.

A LCTDIF shall not include new transmission and distribution infrastructure that solely interconnects new and existing energy generation powered by fossil fuels on or after January 1, 2026.

Limited Participant means any ~~person~~Person allowed to participate in an adjudicatory proceeding pursuant to M.G.L. c. 30A, § 10, and 980 CMR 1.05(2). A Limited Participant is not a Party.

Local Government means a municipal or regional authority, board, commission, office, or other entity, as defined in M.G.L. c. 25A, § 21, that would have had jurisdiction to issue at least one permit for an LCEIF or SCEIF absent a Consolidated Permit. Local Governments enforce the portions of a Consolidated Permit that relate to subject matter within their jurisdiction as if that portion of the Consolidated Permit had been directly granted by the Local Government.

Local Government Representative means a decision-making entity within a Local Government.

Party means an applicant, any ~~person~~Person allowed to intervene in an adjudicatory proceeding pursuant to M.G.L. c. 30A, § 1(3), and 980 CMR 1.05(1), or any ~~person~~Person who intervenes in an adjudicatory proceeding by right.

Person means a natural person, partnership, corporation, association, society, authority, agency-~~or~~, department, or division of the Commonwealth, or any body politic or political subdivision of the Commonwealth including municipal corporations.

Permit means a municipal, regional, or state permit, authorization, determination, or approval that would otherwise be individually required to construct and operate a CEIF Project, absent an EFSB Consolidated Permit.

Presiding Officer means Board staff assigned by the Director to conduct adjudicatory proceedings for matters within the jurisdiction of the Board.

Project means the structures, equipment, facilities, and land uses, and the construction and operation thereof, for which an applicant requires an approval, permits, or authorizations of the Board. The specific elements of a Project will be unique in each proceeding.

Small Clean Energy Generation Facility (SCEGF) means energy generation infrastructure with a nameplate capacity of less than 25 megawatts that is an Anaerobic Digestion Facility, Solar Facility or Wind Facility, including any Ancillary Structure that is an integral part of the operation of the SCEGF.

Small Clean Energy Infrastructure Facility (SCEIF) means an SCEGF, SCESF or SCTDIF.

Small Clean Energy Storage Facility (SCESF) means an energy storage system as defined in M.G.L. c. 164, § 1, with a rated capacity of less than 100 megawatt hours, including any Ancillary Structure that is an integral part of the operation of the SCESF.

Small Clean Transmission and Distribution Infrastructure Facility (SCTDIF) means electric transmission and distribution infrastructure and related ancillary infrastructure, including:

- (i) electric transmission line reconductoring or rebuilding projects;
- (j) new or substantially altered electric transmission lines located in an existing transmission corridor that are not more than 10 miles long, including any Ancillary Structure that is an integral part of the operation of the transmission line;
- (k) new or substantially altered electric transmission lines located in a new transmission corridor that are not more than 1 mile long, including any Ancillary Structure that is an integral part of the operation of the transmission line;
- (l) any other electric transmission infrastructure, including standalone transmission substations and upgrades and any Ancillary Structure that is an integral part of the operation of the transmission line and that does not require zoning exemptions; and
- (m) electric distribution-level projects that meet a certain threshold, as determined by the Department of Energy Resources.

A SCTDIF shall be:

- (a) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of a CEIF to the electric grid;
- (b) designed to ensure electric grid reliability and stability; or
- (c) designed to help facilitate the electrification of the building and transportation sectors. A SCTDIF shall not include new transmission and distribution infrastructure facilities that solely interconnect new or existing generation powered by fossil fuels to the electric grid on or after January 1, 2026.

Solar Facility means a ground-mounted facility that uses sunlight to generate electricity. The nameplate capacity for a Solar Facility shall be calculated in direct current.

Wind Facility means an onshore or offshore facility that uses wind to generate electricity.

(5) Adding Facility Type to the Definition of LCEGF. The Board may promulgate regulations to include additional facility types that do not emit greenhouse gases to the definition of a LCEGF. In promulgating the regulations, the Board shall consult with DOER.

1.02: Rules of General Applicability

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(1) Waiver of Rules. Where good cause appears, not contrary to statute, the Board and any Presiding Officer may permit deviation from any rules contained in 980 CMR.

(2) Severability. If any provision of 980 CMR is held to be invalid, such invalidity shall not affect the provisions or the applications thereof not specifically held invalid.

(3) Project Segmentation. In determining whether a CEIF or Facility is subject to Board jurisdiction or meets or exceeds any review threshold, the Board will consider the entirety of a CEIF or Facility, including any future expansion that is reasonably likely to occur in the next five years, and not be limited to review of separate phases or segments of a CEIF or Facility. The Board shall consider all circumstances as to whether various work or activities constitute one CEIF or Facility including, but not limited to, whether the work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one CEIF or Facility owner; any time interval between the work or activities; and whether the environmental and public health impacts caused by the work or activities are cumulative in nature and collectively would have a disproportionate adverse effect, as defined in 980 CMR 15.00. An Applicant may not segment a CEIF or Facility such that a CEIF or Facility is constructed in phases to evade, defer, or curtail Board review, or restrict the means by which potential environmental and public health impacts from any other phase of a CEIF or Facility may be avoided, minimized or mitigated.

1.03: General Procedures

(1) Docket. A numbered docket shall be maintained for all adjudicatory proceedings and shall contain all documents filed in a proceeding and other relevant material.

(2) Filing of Documents with the Board.

(a) Filing.

1. Any document ~~to be~~ filed with the Board pursuant to 980 CMR 1.00 shall be ~~hand delivered, or mailed first class, to~~ filed electronically with the ~~Energy Facilities Siting Board or to the Presiding Officer at the Energy Facilities Siting Board.~~ Documents containing confidential or critical energy infrastructure information must be filed separately consistent with 980 CMR 1.06(5)(f). The Presiding Officer may allow documents to be filed by other means.

2. A document shall be deemed to be timely filed ~~on the date stamped "Received" if received~~ by the Board ~~or its agent during usual business hours. Documents on or before 5:00 p.m. on the day it is due.~~ A document received after ~~usual business hours~~ 5:00 p.m. shall be deemed filed on the following business day.

(b) Filing Format.

1. Printing Format Requirements. All documents filed for possible inclusion in the record shall be clear and legible and shall be presented in

accordance with the standards established by the Presiding Officer. All documents electronically filed with the Board shall be in a searchable electronic file format.

2. Form. Every document filed shall contain a title which indicates the nature of the proceeding, the name of the applicant, and the docket number if available. The ~~Director or~~ Presiding Officer shall determine ~~the number of whether hard~~ copies ~~to be filed of documents are required.~~ The Board may provide forms to be used for specific purposes by any Person or Party; in such cases, use of forms provided shall be mandatory.

~~(3) —Electronic Filing. The Presiding Officer may require documents to be filed electronically. Where documents are required to be filed electronically, a separate paper copy must also be served in accordance with 980 CMR 1.03(4).~~

~~(4)~~(3) Service to Board, Parties and Participants.

(a) Service of a document upon the Board or the Presiding Officer shall be in accordance with 980 CMR 1.03(2).

(b) Any Person filing documents with the Board or Presiding Officer shall simultaneously serve ~~an~~ electronic copy on all Parties and Limited Participants required to be served in the proceeding, ~~by hand delivery or by first class mail postage prepaid~~ using the name(s) and email address(es) stated on the service list issued by the Presiding Officer. The Presiding Officer may ~~allow~~ require delivery of hard copies of any documents ~~to be served by other means.~~

(c) All documents filed with the Board or the Presiding Officer shall be accompanied by a statement certifying the date and means of service and the Persons to whom service was made. Failure to comply with these rules may be grounds for the Board or Presiding Officer to refuse to accept documents for filing.

(d) Electronic documents shall be deemed served on the date and time the email is received by the Board or Presiding Officer. If the email is received on or before 5:00 p.m., the document is deemed served on that date. If the email is received after 5:00 p.m., the document is deemed served on the next business day. Documents shall be deemed served on the day of ~~hand delivery~~ Hand Delivery or, if mailed, on the earlier of receipt or three days after mailing. The postmark shall be evidence of the date of mailing.

~~(5)~~(4) Signatures. Every document filed pursuant to 980 CMR 1.03(2) or served pursuant to 980 CMR 1.03(~~43~~) shall be signed by the Party making such filing or service or by the Party's authorized representative. Electronic signatures shall satisfy this requirement. Such signature shall constitute certification by the signatory or authorized representative that ~~he or she has~~ they have read the document, that, to the best of his or her knowledge, every statement contained in the document is true, and that the document is not being filed to delay the proceeding.

~~(6)~~(5) Computation of Time. Unless otherwise specifically provided by 980 CMR 1.00 or 2.00 or by other applicable law, computation of any time period referred to in 980 CMR 1.00 or 2.00 shall begin with the first day following the act

which initiates the running of the time period. The last day of the time period is included unless it is a Saturday, Sunday, or legal holiday or any other day on which the office of the Board is closed, in which case the period shall run until the end of the next following business day. When the time period is less than seven days, intervening days when the office of the Board is closed shall be excluded.

~~(7)~~(6) Extensions of Time. At the discretion of the Board or the Presiding Officer, for good cause shown, any time limit prescribed or allowed in 980 CMR may be extended. All requests for extensions of time must be made either by oral motion during a hearing or conference or by written motion served upon all Parties or as directed by the Presiding Officer. All requests for extensions of time must be made before the expiration of the original time period or before the expiration of any subsequent extension(s) granted. Provisions contained in 980 CMR 1.03(~~7~~6) shall not apply to any limitation of time prescribed by statute, unless extensions are permitted by the applicable statute.

~~(8)~~(7) Ex Parte Communications in Adjudicatory Proceedings.

(a) From the initial filing in an adjudicatory proceeding until the rendering of a final decision, no ~~party~~Party or ~~limited-participant~~Limited Participant may communicate *ex parte* with the Presiding Officer, any ~~board-member~~Board Member or the ~~Siting~~ Board staff involved in the decision process for the adjudicatory proceeding regarding the merits of such adjudicatory proceeding.

(b) Communications concerning scheduling and other procedural matters, as well as the receipt of information available in the public docket file are not prohibited by 980 CMR 1.00.

~~(c) The director of the Department's Division of Public Participation and staff of the Division of Public Participation shall not participate as adjudicatory staff, nor have any input or substantive communication with adjudicatory or decisional staff, in adjudicatory matters before the Department or Board, nor shall they serve as legal counsel to or otherwise represent any Party before the Department or the Board. The director of the Department's Division of Public Participation may communicate with Parties or Persons seeking to intervene in Board proceedings about substantive matters and such communication shall not be deemed an *ex parte* communication.~~

~~(e)~~(d) If a ~~party~~Party or ~~limited-participant~~Limited Participant makes or attempts to make an *ex parte* communication prohibited by 980 CMR 1.03(~~8~~7)(a), the Board Member, Presiding Officer, or staff member shall advise the ~~person~~Person that the communication is prohibited and shall immediately terminate the prohibited communication.

~~(d)~~(e) If a Board ~~member~~Member, Presiding Officer, or staff member violates the *ex parte* rule, ~~he or she~~they shall, no later than two business days after determining that the communication was prohibited, serve on each Party and place in the docket file associated with the adjudicatory proceeding the following:

1. A written statement including the substance and circumstances surrounding the communication; the identity of each Person who

participated in the communication; the time, date, and duration of the communication; and whether, in ~~his or her~~their opinion, the receipt of the *ex parte* communication disqualifies ~~him or her~~them from further participation in the adjudicatory proceeding; and

2. Any written or electronic documentation of the communication. — The above documents shall be placed in the docket file associated with the adjudicatory proceeding but shall not be made ~~a~~ part of the evidentiary record.

~~(e)~~(f) The Board may, upon the motion of any ~~party~~Party or on its own motion, accept or require the submission of additional evidence of the substance of a communication prohibited by 980 CMR 1.03(~~8~~7).

~~(f)~~(g) Where a ~~party~~Party or ~~limited participant~~Limited Participant has violated 980 CMR 1.03(~~8~~7), the Board or Presiding Officer may take such action as is deemed appropriate within the circumstances.

1.04: Institution of an Adjudicatory Proceeding

(1) Commencement of Proceeding.

(a) Proceedings may be initiated by a petition to construct, a petition for a certificate of environmental impact and public interest, an application for a Consolidated Permit or a De Novo Adjudication, a petition for other matters over which the Board has jurisdiction, or the Board's own motion.

Commencement of a proceeding does not begin the review time frame that is used to determine the deadline for issuance of a Constructive Approval as described in 980 CMR 13.02(3)(a): Review Time Frame or 980 CMR 17.00.

(b) In filing a petition to construct a Facility, a petition for a certificate of environmental impact and public interest, an application for a Consolidated Permit, or an application for a De Novo Adjudication, an Applicant shall follow the form required by the Board, as updated from time to time. A petition for a certificate of environmental impact and public interest shall be filed consistent with the requirements in 980 CMR 6.00. An application for a Consolidated Permit shall be filed consistent with the requirements in 980 CMR 13.00. A petition for a De Novo Adjudication of a Consolidated Local Permit application shall be filed consistent with the requirements in 980 CMR 14.00.

(c) An Applicant filing a petition to construct a Facility or an application for an EFSB Consolidated Permit shall demonstrate compliance with the cumulative impact analysis requirements in 980 CMR 15.00. An Applicant filing a petition to construct a Facility or an application for an EFSB Consolidated Permit shall demonstrate compliance with the pre-filing consultation and community engagement requirements in 980 CMR 16.00.

(2) Presiding Officer.

(a) A Presiding Officer shall be assigned by the Director to conduct each adjudicatory proceeding. The Presiding Officer shall have the authority to take all actions necessary to ensure a fair, orderly and efficient proceeding. Such actions may include, but are not limited to: conducting evidentiary and public comment hearings; conducting site visits; ruling on petitions to intervene or to

participate in a proceeding; establishing ground rules for a proceeding; holding procedural or other conferences; regulating the course and schedule of the hearing; prescribing the order in which evidence shall be presented; administering oaths and affirmations; examining witnesses and requiring them to produce evidence which will aid in the determination of any question of law or fact at issue; disposing of procedural requests or similar matters; hearing and ruling upon motions; issuing subpoenas; causing depositions to be taken; ruling upon offers of proof and receiving relevant material and probative evidence; fixing the time for filing briefs, motions and other documents in connection with hearing; and excluding any Person from a hearing for disrespectful, disorderly, or contumacious language or conduct.

(b) A Presiding Officer may at any time withdraw from a proceeding if the Presiding Officer deems himself or herself disqualified. Should a Presiding Officer withdraw, another Presiding Officer shall be appointed. Any ~~party~~ Party who becomes aware of grounds that may exist for the disqualification of a Presiding Officer ~~must~~ shall immediately file an affidavit which clearly sets forth the grounds for the disqualification.

(3) Notice of Adjudication.

(a) Notice shall be given at the beginning of any adjudicatory proceeding. The Presiding Officer shall give notice or shall require the Applicant to give notice of an adjudication.

(b) A notice shall set forth a summary statement of the matter to be adjudicated. The notice shall state:

1. the name and address of the Applicant;
2. the address of the Board and the statement that any Person desiring further information or wishing to participate in the proceeding may contact the Board; and
3. the date, time, and address of any scheduled public comment hearing.

(c) In cases where a proposed CEIF or Facility is the subject of the proceeding, notice shall be given by publication in at least two newspapers available in the vicinity of the proposed CEIF or Facility and as otherwise ordered by the Presiding Officer. In cases where a proposed CEIF or Facility is not the subject of the proceeding, notice by publication shall be given as ordered by the Presiding Officer. Notice shall further be given by first class mail or ~~hand delivery~~ Hand Delivery to any Person required by law or regulation to be so notified and to such other Persons as the Presiding Officer may direct. Additional notice or publication shall be made, if required by statute or regulation, in the manner prescribed therein. Unless otherwise directed by the Board or Presiding Officer, the Applicant is responsible for all costs related to the publication and distribution of notice.

(d) In cases where a proposed CEIF or Facility is the subject of the proceeding, the notice shall contain a deadline for the filing of petitions to intervene as a Party or participate as a Limited Participant. This deadline shall be no less than 14 days after the public comment hearing.

(e) In cases where a proposed CEIF or Facility is not the subject of the proceeding, the deadline for the filing of petitions to intervene as a Party or participate as a Limited Participant shall be as ordered by the Presiding Officer.

(f) The Presiding Officer shall require the Applicant to provide notice by U.S. Mail to all property owners and renters within the following distances from a proposed project:

1. 300 feet from the edge of the right-of-way for linear projects or linear project components such as transmission lines and Gas pipelines;
2. one-quarter mile from the property line for projects and project components for electrical switching stations, substations, pipeline meter stations, and Gas regulators; and
3. one-half mile from the property line for electric Generating Facilities, LCEGF or SCEGF, Gas storage Facilities, LCESF or SCESF, and Gas compressor stations.

Property owners and renters shall be determined by using publicly available data sources (such as MassGIS), to notify by first class mail or Hand Delivery any abutter who occupies, but does not own, the subject abutting real property. For Applicants seeking zoning exemptions, property owners shall be determined consistent with M.G.L. c. 40A, § 11. For purposes of satisfying this requirement, such notice shall be mailed (or hand delivered) to each known U.S. Mail address within the geographic areas prescribed above, and may be addressed without the occupant's name.

(g) Notice shall include notice of the availability of the Intervenor Support Grant Program as defined in 220 CMR 34.00.

(h) The Board shall provide language access services, including translation of documents and interpretation, consistent with its current Language Access Plan. The Board's notice requirements shall be consistent with the current Public Involvement Plan developed by the Board pursuant to Executive Order No. 552.

(4) Repository of Documents. The Presiding Officer may require an Applicant to place certain documents in one or more repositories to provide for public access to these documents. The Presiding Officer shall require the repository of documents consistent with the Board's current Language Access Plan. A repository of documents is a public library, public office, Applicant's office, or similar location where documents involved in a particular proceeding may be kept and made available to members of the public. If a repository is required, the Applicant shall be responsible for placing the documents therein and making adequate arrangements for convenient public access to the documents. The Presiding Officer may require the Applicant to post documents on its project website, and to ensure that the documents remain posted until the Board issues a final decision in the proceeding.

(5) Public Comment Hearing. When required by statute or otherwise determined appropriate by the Presiding Officer, the Board shall ~~hold~~conduct a public comment hearing in one or more of the affected cities or towns: in which a CEIF or Facility would be located. The Board shall conduct its public comment hearings in a mode that allows for both in-person and remote participation, where practicable. The Applicant shall be responsible for any costs relating to audio-video, and language

interpretation services required to conduct the public comment hearing in such manner. A public comment hearing shall be conducted to afford members of the ~~general~~ public an opportunity to comment on that matter. A public comment hearing shall be held as soon as practicable after the commencement of a proceeding. Comments made at a public comment hearing are not deemed to be evidence.

1.05: Intervention

(1) Parties.

(a) Any Person who desires to intervene as a Party in any proceeding shall file a written petition to intervene as a Party. A petition to intervene as a Party shall be deemed to constitute, in the alternative, a petition to participate as a Limited Participant under 980 CMR 1.05(2).

(b) If a petitioner desires to intervene pursuant to M.G.L. c. 30A, § 10, the petition shall state the name and address of the petitioner, the manner in which the petitioner is substantially and specifically affected by the proceeding, the representative capacity, if any, in which the petition is brought, and shall state the contention of the petitioner and the purpose for which intervention is requested.

(c) If ten or more Persons desire to intervene pursuant to M.G.L. c. 30A, § 10A, the petition shall state the names and addresses of the petitioners, the representative capacity, if any, in which the petition is brought, and the damage to the environment as defined in M.G.L. c. 214, § 7A that is or might be at issue. Intervention pursuant to M.G.L. c. 30A, § 10A shall be limited to the issue of damage to the environment and the elimination or reduction thereof in order that any decision in such proceeding shall include the disposition of such issue.

(d) Each petitioner under M.G.L. c. 30A, § 10A shall file an affidavit stating the intent to be part of the group and to be represented by its authorized representative.

(e) In accordance with M.G.L. c. 30A, § 10A, an intervenor pursuant to M.G.L. c. 30A, § 10A may introduce evidence, present witnesses and make written or oral argument, excepting that the Presiding Officer may exclude repetitive or irrelevant material.

(f) The Presiding Officer shall rule on the petitions to intervene as a Party under M.G.L. c. 30A, §§ 10 and 10A, and may condition any allowance of a petition on such reasonable terms as ~~he or she~~ the Presiding Officer may set or as otherwise required by law.

(g) Persons who are granted leave to intervene as a Party must comply with all requirements of 980 CMR 1.00 and with all directives of the Presiding Officer. In addition, Parties may be required to respond to discovery by the Presiding Officer and by other Parties if allowed by the Presiding Officer after motion.

(h) Generally, the rights of a ~~person~~ Person who is granted leave to intervene as a Party include the right to present witnesses, the right to cross-examine witnesses, the right to file a brief, the right to file comments on a tentative decision and the appellate status as a Party in interest who may be aggrieved by any final decision. In addition, Persons who are granted leave to intervene as a

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Party may also be afforded an opportunity to issue discovery and to present oral or written comments regarding a tentative decision under such conditions as the Board may provide.

(i) An individual appearing pro se, all parties or entity filing a petition to a proceeding shall intervene is not required to be represented by an attorney, with the exception of corporations, which must be represented by an attorney in good standing. The Presiding Officer may grant For entities appearing without an attorney, a waiver for good cause shown. A request for a waiver petition to intervene shall include:

1. an affidavit ~~stating the good cause and~~ naming a duly authorized representative; and
2. an affidavit by the duly authorized representative accepting the appointment and certifying that ~~he or she~~ they will abide by the procedural rules set forth in 980 CMR and the Presiding Officer's directives.

(2) Participation-Limited Participants.

~~(i)~~(a) Any Person who desires to participate as a Limited Participant in any proceeding shall make a written request for such status. Every request to participate as a Limited Participant shall describe the manner in which the petitioner is interested and his or her representative capacity, if any, and it shall state the contention of the petitioner and the purpose for which participation is requested.

~~(ii)~~(b) The Presiding Officer may grant leave to a Person to participate as a Limited Participant and may condition any grant on such reasonable terms as ~~he or she~~ the Presiding Officer may set.

~~(iii)~~(c) Unless otherwise provided for in 980 CMR 1.00 or directed by the Presiding Officer, a Limited Participant's rights shall be limited to filing a brief and to filing comments on a tentative decision pursuant to 980 CMR 1.08(2). A Limited Participant may be afforded an opportunity to present oral comments regarding a tentative decision under such conditions as the Board may provide.

~~(iv)~~(d) Limited Participants are not Parties. Therefore, a grant of leave to participate as a Limited Participant in a proceeding, unless so stated, does not confer status as a Party in interest who may be aggrieved by any final decision.

(3) Additional rules for intervention that may apply in CEIF proceedings are contained in 980 CMR 13.00.

1.06: Conduct of Adjudication

(1) Procedural Conferences.

(a) The Presiding Officer may schedule a procedural conference, either on his or her own initiative or upon written request by a Party.

(b) At a procedural conference the following matters may be considered:

1. the schedule for the proceeding;
2. simplification and limitation of issues; and
3. such other matters as will aid in the efficiency of the proceeding.

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(c) Unless the Presiding Officer has approved a stipulation to the contrary, statements made by any ~~person~~Person at a procedural conference shall not be evidence in the proceeding or in any subsequent proceeding.

(2) Evidentiary Record. For every adjudicatory proceeding, there shall be an evidentiary record which shall include testimony as well as exhibits properly entered into evidence. An Applicant shall prepare and update a draft exhibit list identifying all exhibits filed in the proceeding, including a brief description of each exhibit and the date on which it was filed. The Applicant shall prepare a final exhibit list upon request of the Presiding Officer.

(3) Motions.

(a) Any Party may request that the Presiding Officer take any action by filing a motion which clearly states the order or action sought and the grounds therefor. Such a motion may either be made during a hearing or timely filed in writing. The Presiding Officer may require any oral motion made to be reduced to writing. A copy of all motions made in writing or reduced to writing shall be served upon all Parties in accordance with 980 CMR 1.03(43).

(b) Unless the Presiding Officer directs otherwise, a Party may file a written response to a written motion with the Presiding Officer within seven days after such motion is filed. The moving Party may then file a written reply within seven days after such response is filed. Additional filings will be permitted at the discretion of the Presiding Officer only.

(c) A Party may request a hearing on the motion at the time the motion is filed or with a response or reply filed timely in accordance with 980 CMR 1.06(3)(b). It is within the Presiding Officer's discretion to determine whether a hearing on the motion is necessary.

(d) Motions, except motions seeking intervention, responses to motions and replies to motions may be filed only by Parties.

(4) Evidence; Privileges.

(a) All Parties shall have the right to introduce both oral and documentary evidence. ~~All~~ witnesses shall testify under an oath or affirmation administered by the Presiding Officer and shall be subject to cross-examination.

(b) Evidence shall be submitted in accordance with the schedule established by the Presiding Officer. ~~Generally,~~ Parties will be required to submit documentary evidence, including exhibits and written direct testimony, in advance of evidentiary hearing.

(c) The Presiding Officer shall be guided by, but need not observe, the rules of evidence observed by Massachusetts state courts.

(d) The Board shall observe the rules of privilege recognized by law.

(5) Discovery. Discovery is allowed at the discretion of the Presiding Officer.

(a) Purpose. The purpose of discovery is to facilitate the hearing process by permitting the Parties and the Board to gain access to all relevant information in an efficient and timely manner. Discovery is intended to reduce hearing time,

narrow the scope of issues, protect the rights of the Parties, and ensure that a complete and accurate record is compiled.

(b) Rules Governing Discovery. In exercising ~~his or her~~their discretion, the Presiding Officer may be guided by the principles and the procedures underlying the Massachusetts Rules of Civil Procedure, Rule 26 *et seq.* Massachusetts Rules of Civil Procedure, Rule 26 *et seq.*, however, shall be instructive, rather than controlling.

(c) Information Requests. After the commencement of an adjudicatory proceeding, a Party may serve written information requests, as permitted by the Presiding Officer, for the purpose of discovering relevant information. A Party may serve information requests only during the time specified by the Presiding Officer. The Presiding Officer may, at ~~his~~their discretion, serve written information requests on any Party to the proceeding.

(d) Responses to Information Requests. Each information request shall be separately and fully answered under the penalties of perjury by the witness(es) who can testify during hearings regarding the content of the response, unless an objection to the information request with supporting reason is stated in lieu of a response. A response shall be served within 14 days of service of the information request, or within such other time as the Presiding Officer may specify. Responses shall be filed in the form specified by the Presiding Officer.

(e) Motions to Compel Discovery. A Party may move for an order to compel compliance with its discovery request. Unless otherwise permitted by the Presiding Officer for good cause shown, such motion shall be made no later than seven days after the deadline for responding to the request. If the Presiding Officer finds that a Party has failed to comply in a reasonable manner with a legitimate discovery request without good cause, ~~he or she~~the Presiding Officer may, after issuance of an order compelling discovery, order whatever sanctions are deemed to be appropriate, including, but not limited to, suspending proceedings until the Party has complied with the order or other appropriate sanctions listed in the Massachusetts Rules of Civil Procedure, Rule 37. Massachusetts Rules of Civil Procedure, Rule 37, however, shall be instructive, rather than controlling. A Party's failure to file a motion to compel discovery in a timely manner, absent a showing of good cause, may result in a waiver of its right to compel the response.

(f) Protective Orders. A request for a protective order shall be made by motion and shall include (i) a redacted version of the document to be filed with the service list; and (ii) an unredacted version of the document filed separately with the Presiding Officer. Upon a request for protective treatment of documents and a showing that a protective order is necessary, the Presiding Officer may make an order to protect any such document(s). The Presiding Officer may be guided by the principles and the procedures underlying the Massachusetts Rules of Civil Procedure, Rule 26 *et seq.* Massachusetts Rules of Civil Procedure, Rule 26 *et seq.*, however, shall be instructive, rather than controlling.

(g) Authentication. Unless otherwise directed by the Presiding Officer, prepared written testimony and discovery responses shall be authenticated by an

affidavit of the witness at the time of filing. The Presiding Officer may allow prepared direct testimony or discovery responses of any witness to be offered as an exhibit and may omit oral presentation of the testimony. Copies of such proposed exhibit shall be served upon all Persons on the service list for the proceeding, at least seven days in advance of the session of the hearing at which such exhibit is to be offered.

(h) Continuing Obligation to Supplement Answers. Each Party has a continuing obligation to supplement its information request responses and record request responses during the course of the proceeding if the Party later receives or generates new material information that also is responsive to the request and shall file a supplemental response containing that information. This obligation continues until the Board issues a final decision in the proceeding.

(i) Incorporation by Reference. Any matter contained in any records, investigations, reports, and documents in the possession of the Board of which a Party or the Board desires to avail itself as evidence in making a decision, shall be offered and made a part of the record in the proceeding. Such records and other documents need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or other file containing the matter so offered.

(6) Evidentiary Hearings.

(a) Purpose. Evidentiary hearings will be held when required by law or at the discretion of the Presiding Officer in order to allow Board staff and Parties to examine witnesses with respect to the content of their pre-filed testimony and any responses to relevant information requests.

(b) Hearing Schedule. Prior to commencement of evidentiary hearings, the Presiding Officer shall notify all Parties and Limited Participants, and any Persons whose petitions to intervene or participate are pending, of the hearing schedule. The hearing schedule shall include the times, dates, place, and nature of the hearings. There may be multiple hearing dates and times during the course of a proceeding. Hearing dates and times may change. It is the responsibility of each Party and Limited Participant to keep abreast of all changes to the hearing schedule.

(c) Rescheduling. The Presiding Officer may grant a request to reschedule a hearing. A request for rescheduling should be made timely and in writing so as not to burden or delay the proceedings.

(d) Location. ~~At~~The Presiding Officer may establish that evidentiary hearings are conducted virtually. Evidentiary hearings conducted in person shall be held at the Boston offices of the Board, unless a different location is designated by the Board or the Presiding Officer or a different location is required by statute.

(e) Public Access. All evidentiary hearings of the Board shall be open to the public and the press to the extent required by law.

(f) Off the Record Discussions. The Presiding Officer may go off the transcribed record during the course of any hearing for consultation among the Parties if the Presiding Officer deems that such consultation would facilitate the conduct of the hearing. In the absence of a stipulation to the contrary,

statements made by any ~~person~~Person during such consultation shall not be considered as evidence in the proceeding or any subsequent proceeding.

(g) Record Requests. During the course of evidentiary hearings, the Presiding Officer or Parties may ask witnesses to provide documents or written responses to questions asked at the hearing. Responses to record requests are written substitutes to oral answers where fault of memory, complexity of subject or lack of immediate access to documentation precludes a responsive answer by the witness in the hearing. Upon proper filing, responses to record requests become part of the record and the evidence, unless challenged as unresponsive and expunged in whole or part. Record requests shall not be used as a substitute for discovery. The ordinary time for response will be seven calendar days following the day on which the request is made. Objections to record requests shall be made at the time the request is made, and in no event later than the end of the next business day. Objections to the response given to a record request shall be made within seven days unless otherwise allowed by the Presiding Officer.

(h) Transcript.

1. The Presiding Officer shall arrange for the hearing to be reported by a court reporter. The transcript shall be included in the evidentiary record of the proceeding. ~~Obtaining~~The Board will post a copy of the hearing transcript shall be on its website within a reasonable time after the responsibility of each person hearing. The Presiding Officer has discretion to order expedited preparation of transcripts as the needs of the case may warrant.

2. Any objections regarding the accuracy of the transcripts shall be brought to the attention of the Presiding Officer. Objections not raised within 30 days after the transcript is made available to the Parties shall be deemed to be waived. If the accuracy of the reporting of witness testimony is in question, the Presiding Officer may require an affidavit of the witness who gave such testimony or may require further inquiry. The cost of the transcript preparation shall be the responsibility of the Applicant, unless otherwise assumed by the Board. The cost of copies of the transcript shall be the responsibility of the Person requesting the copies.

(7) Matters for Official Notice.

(a) Official notice may be taken in such matters as might be judicially noticed by the courts of the United States or of Massachusetts. The Presiding Officer also may take notice of general, technical, or scientific facts within the Board's specialized knowledge, provided that Parties are afforded an opportunity to contest the matters of which official notice is to be taken.

(b) Official notice also may be taken of any facts found in any other Board proceeding. ~~In all circumstances where such notice is taken, the Parties shall be afforded an opportunity to contest the matter of which official notice is to be taken.~~

(c) Any Party requesting that any fact be officially noticed must supply every Party with a copy of the fact they are requesting to be noticed.

1.07: Post-hearing

- (1) Briefs. The Presiding Officer may set a schedule for the filing of briefs to be submitted by Parties and Limited Participants. The purpose of briefs is to allow Parties and Limited Participants to provide written argument based on the evidence properly entered into the record. Briefs also may be used to address specific briefing questions posed by the Presiding Officer. Briefs may not be used to submit new evidence.
- (2) Oral Arguments. Oral argument at the close of a hearing may, upon motion, be allowed at the discretion of the Presiding Officer.
- (3) Other Post Hearing Filings. No post-hearing filings other than those allowed for in 980 CMR 1.07(1) may be made without the permission of the Presiding Officer.

1.08: Rendering of Decisions in Adjudicatory Proceedings

- (1) Form of Decisions. Every tentative and final decision shall be in writing and shall contain a statement of the reasons therefor, including a determination of issues of fact or law necessary to the decision.
- (2) Tentative Decisions.
 - (a) A written tentative decision shall be issued on each matter adjudicated by the Board unless a quorum of the Board has heard the matter or has read the evidence.
 - (b) A copy of any tentative decision shall be sent to each Party and Limited Participant in the proceeding. The Presiding Officer shall designate a comment period, extending at least seven days from the issuance of the tentative decision, during which Parties and Limited Participants may file written comments regarding the tentative decision.
 - (c) Comments submitted regarding the tentative decision, whether made at Board meetings or in writing, do not constitute evidence and are not part of the evidentiary record in the proceeding.
- (3) Final Decisions.
 - (a) Every final decision of the Board in an adjudicatory proceeding shall be issued following a vote taken at a meeting of the Board conducted pursuant to 980 CMR 2.04.
 - (b) If a tentative decision was issued in a matter, the Board shall meet following the comment period to vote on the tentative decision. At such meeting, Parties and Limited Participants may be afforded an opportunity to present oral comments under such conditions as the Board may provide. The Board shall render a final decision after considering the tentative decision, all timely-filed written comments and any oral comments permitted. The Board need not consider written comments received after the close of the comment period.

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(c) If a quorum of the Board has heard a matter, the Board may at its discretion render a final decision without first issuing a tentative decision pursuant to 980 CMR 1.08(2).

(4) Judicial Review. By the terms of M.G.L. c. 25, § 5, as made applicable to the Board by M.G.L. c. 164, § 69P, a Party may seek judicial review of a final Board decision, or a final decision of the Director in a De Novo Adjudication.

1.09: Supplemental Procedures

(1) Re-opening Hearings. A party may, at any time before the Board renders a final decision, move that the hearing be reopened for the purpose of receiving new evidence. The motion should clearly show good cause for re-opening the hearing, state the nature and relevance of the evidence to be offered, and explain why the evidence was unavailable at the time of the hearing.

(2) Consolidation. The Presiding Officer may consolidate proceedings involving a common question of law or fact for hearing or decision on any or all of the matters at issue in such proceedings.

(3) Referral by the Department. Acting under the provisions of M.G.L. c. 25, § 4, in order to promote efficiency in administration, the ~~Chairman~~Chair of the Department of Public Utilities may refer matters to the ~~Siting~~ Board for review and approval or rejection of petitions pursuant to M.G.L. c. 164, § 69H(2).

(4) Stipulations. At the discretion of the Presiding Officer, the Parties may agree upon any fact or issue pertinent to the proceeding, either by filing a written stipulation at any point in the proceeding, or by making an oral stipulation at the hearing. In making findings, the Board need not be bound by any such stipulation.

(5) Technical Sessions. A technical session is a meeting during which experts may provide detailed oral or written information in order to facilitate understanding of complex technical issues. The Presiding Officer may convene a technical session if ~~he or she deems~~they deem that such session would facilitate the efficient conduct of the proceeding. The Presiding Officer shall permit representatives of the ~~applicant,~~Applicant, Parties and ~~limited participants~~Limited Participants to attend a technical session and shall make a reasonable effort to schedule and notice the time and place of any such session to permit attendance. Unless otherwise required by the Presiding Officer, technical sessions shall not be transcribed and statements made by any ~~person~~Person during a technical session shall not be referred to or considered as evidence in the proceeding or in any subsequent proceeding. Board ~~members~~Members, staff and ~~parties~~Parties may ask questions during a technical session.

(6) Subpoenas. The Presiding Officer may issue, vacate or modify subpoenas, in accordance with the provisions of M.G.L. c. 30A, § 12.

(7) Depositions. The Presiding Officer may at ~~his or her~~their discretion allow a deposition to be taken upon a showing that the ~~person~~Person to be deposed cannot make an appearance at the hearing without substantial hardship and that the testimony being sought is significant, not privileged, and not discoverable by an alternative means. If the Presiding Officer allows the taking of a deposition, ~~the Presiding Officer~~they shall specify the rules and procedures that will govern said deposition.

(8) Reconsideration. Any ~~party~~Party may file a written motion requesting the Presiding Officer reconsider a ruling as long as the motion is received within five days of the issuance of the ruling.

(9) Offers of Proof. Any offer of proof made in connection with an evidentiary ruling shall consist of a statement, which may be in writing, of the substance of the evidence the Party making the offer contends would be adduced by such testimony. If the offer of proof consists of documentary evidence, a copy of the document shall be marked for identification and shall constitute the offer of proof.

(10) Site Visit of a Proposed Facility. The Board and Board staff may visit a proposed ~~CEIF or~~ Facility site and any alternative ~~site~~site in order to facilitate an understanding of the pending matter. The Presiding Officer may determine whether to allow additional attendees on the site visit. A site visit is for informational purposes only and shall not be considered as evidence in the proceeding.

(11) Production or View of Objects. Of ~~his or her~~their own accord, or upon the motion of a Party, the Presiding Officer may order the production or view of any object which relates to the subject matter of a proceeding.

(12) Compliance Filing Procedures. The Applicant shall identify compliance with each condition in the final decision issued by the Board. Compliance filings shall be made with the Board and sent to the service list for the proceeding. Parties and Limited Participants on the service list may file any comments on the compliance filing within ten business days of the compliance filing. The Applicant may file a response to comments within five business days of the filing of the comments. The Presiding Officer shall promptly determine whether additional information or process required.

(13) Project Changes.

(a) Obligation. The Applicant shall construct and operate a CEIF or Facility in conformance with all aspects of its proposal as presented to the Board. The Applicant, or its successors in interest, shall notify the Board of any changes other than minor variations to the proposal so that the Board may decide whether to inquire further into a particular issue.

(b) Process. The Applicant shall file any notice of project change with the Board and the service list of the proceeding. Parties and Limited Participants on the service list may file any comments on the notice of project change within ten business days of the filing of the notice of project change. The Applicant may file a response to comments within five business days of the filing of the

comments. The Presiding Officer shall promptly determine whether additional information or process is required.

1.10: Decommissioning and Site Restoration Plan

An Applicant for a petition to construct or an application for a Consolidated Permit shall file with its application a decommissioning and site restoration plan for the Facility or CEIF, respectively. Prior to filing the plan with the Siting Board, the Applicant shall consult with the community in which the CEIF or Facility is proposed to be located, about the plan. The plan shall include: (i) identification of materials to be removed and how the Applicant plans to recycle or dispose of materials; (ii) a schedule for removal; (iii) an estimate of decommissioning and restoration costs; (iv) a description of any financial instrument to ensure decommissioning and restoration activities are funded; and (v) a description of site restoration activities. Additional requirements that may apply to an application for a Consolidated Permit are in 980 CMR 13.00. The application of this rule to LCTDIF and SCTDIF shall be determined on a case-by-case basis.

REGULATORY AUTHORITY

980 CMR 1.00: M.G.L. c. 30A and c. 164, §§ 69G, 69H.

ATTACHMENT 2

Draft Regulations

980 CMR 2.00 – Board Business

980 CMR 2.00: ENERGY FACILITIES SITING BOARD

980 CMR 2.00: GENERAL INFORMATION AND CONDUCT OF BOARD BUSINESS

Section

- 2.01: Purpose and Scope
- 2.02: Purpose and Functions of the Board
- 2.03: Board Membership
- 2.04: Meetings; Voting
- 2.05: Delegation of Duties; Board Staff
- 2.06: Board Decisions
- 2.07: Action by Consent
- 2.08: Advisory Rulings
- 2.09: Determination of Board Jurisdiction
- 2.10: Permitting Dashboard

2.01: Purpose and Scope.

- (1) Purpose. 980 CMR 2.00 describes the Energy Facilities Siting Board and establishes rules for the conduct of Board business.
- (2) Scope. 980 CMR 2.00 is of general applicability and applies, whenever appropriate, to all other sections of 980 CMR.
- (3) Effective Date. —980 CMR 2.00 shall take effect on ~~February 19, 2010~~March 1, 2026, and shall apply to proceedings initiated ~~after that date~~July 1, 2026, and afterwards.

2.02: Purpose and Functions of the Board.

- (1) Purpose of the Board. The Board has been established by M.G.L. c. 164, § 69H. ~~The Board is responsible for implementing the energy policies contained in its enabling legislation in order to provide a reliable energy supply for Massachusetts with a minimum impact on the environment at the lowest possible cost.~~—The powers and duties of the Board are enumerated in M.G.L. c. 164, § 69H. The Board shall implement the provisions contained in sections 69H to 69Q, inclusive, and sections 69S to 69W, inclusive, to:
 - (a) provide a reliable, resilient and clean supply of energy consistent with the commonwealth's climate change and greenhouse gas reduction policies and requirements;
 - (b) ensure that CEIFs, Facilities and oil Facilities avoid or minimize or, if impacts cannot be avoided or minimized, mitigate environmental impacts and negative health impacts to the extent practicable;
 - (c) ensure that CEIFs, Facilities and oil facilities are, to the extent practicable, in compliance with energy, environmental, land use, labor, economic justice, environmental justice and equity, and public health and safety policies of the commonwealth, its subdivisions and its municipalities; and

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(d) ensure CEIFs, Facilities and oil facilities are constructed in a manner that avoids or minimizes costs.

(2) Primary Functions of the Board. The Board reviews matters pursuant to M.G.L. c. 164, §§ 69G-69W, §§ 72, 72A, 75C, M.G.L. c. 166, § 28, M.G.L. c. 40A, § 3, and St. 1956, c. 665, § 6. Matters reviewed by the Board include petitions for:

- (a) electric transmission lines
- (b) electric ~~generating facilities~~ Generating Facilities
- (c) ~~gas~~ Gas pipelines and storage ~~facilities~~ Facilities
- (d) oil refining, storage, and transportation ~~facilities~~ Facilities
- (e) hydropower ~~generation facilities~~ Generation Facilities
- (f) CEIFs.

The Board also has the authority to issue certificates of environmental impact and public need, or public interest, exemptions from local zoning bylaws, to approve the promulgation, amendment or repeal of the Board's regulations at 980 CMR; and to issue civil penalties to any applicant, or successor in interest, who violates an order of the Board.

(3) Scope of Review. The Board shall review:

- (a) the need for, cost of and environmental and public health impacts of transmission lines, natural gas pipelines, Facilities for the manufacture and storage of Gas, oil Facilities, CEIFs; and
- (b) the environmental and public health impacts of Generating Facilities, LCEGFs, SCEGFs, LCESFs, and SCESFs.

The Board shall also consider the Applicant's reasonable efforts to engage in discussions with municipalities hosting such infrastructure and affected stakeholders regarding avoidance, minimization, and mitigation of impacts, including discussions regarding a community benefits plan or community benefits agreement, as defined in 980 CMR 16.00.

The Board review shall be conducted consistent with M.G.L. c. 164, § 69J¼ for Generating Facilities, M.G.L. c. 164, § 69T for LCEIFs, M.G.L. c. 164, §§ 69U to 69W, inclusive, for SCEIFs, M.G.L. c. 164, § 69J for all other types of Facilities, and M.G.L. c. 40A, § 3 and St. 1956, c. 665, § 6 for zoning exemption petitions.

~~(3)~~(4) Adjudicatory Proceedings. The Board reviews the following matters which shall be resolved through adjudicatory proceedings in accordance with M.G.L. c. 30A and 980 CMR 1.00: a hearing on a petition to construct a Facility ~~held~~ pursuant to M.G.L. c. 164, § 69J or § 69J¼; a hearing on an initial petition ~~filed~~ pursuant to M.G.L. c. 164, § 69K or ~~M.G.L. c. 164,~~ § 69K½; a hearing on an application for a certificate ~~filed~~ pursuant to M.G.L. c. 164, § 69L or ~~M.G.L. c. 164,~~ § 69L½; ~~and~~ a hearing on appeal ~~under~~ pursuant to M.G.L. c. 164, § 69H½, a hearing on an Application for a Consolidated Permit pursuant to M.G.L. c. 164, §§ 69T, 69U, and 69V; a De Novo Adjudication pursuant to M.G.L. c. 164, § 69W; an eminent domain proceeding pursuant to M.G.L. c. 164, §§ 69R, 69S, 72, 75C; a grant of location proceeding pursuant to M.G.L. c. 166, § 28; and a zoning exemption proceeding pursuant to M.G.L. c. 40A, § 3 or St. 1956, c. 665, § 6.

~~(4)~~(5) Mailing List. The Board shall maintain a mailing list, shall place upon the list the name and address of any ~~person~~Person or group so requesting, and shall give to such ~~persons~~Persons and groups ~~written~~electronic notice of activities of the Board for which notice may be appropriate. Failure to give notice to any ~~person~~Person or group on the list shall not, in itself, render any act of the Board invalid. The Board may from time to time remove from the list ~~persons~~Persons or groups no longer expressing interest in receiving notices.

(6) MEPA exemption. M.G.L. c. 30, §§ 62A-62L, inclusive, shall not apply to actions of the Board. Neither the Board nor any other Person shall, in taking any action pursuant to M.G.L. c. 164, §§ 69J to 69J¼, inclusive, or M.G.L. c. 164, §§ 69T to 69W, inclusive, be subject to M.G.L. c. 30, §§ 61 to 62L, inclusive. This section shall apply to any state agency issuing, in relation to an application or petition under said M.G.L. c. 164, §§ 69T to 69V inclusive, a federal permit that is delegated to that agency and determined by the Board to be excluded from the definition of Consolidated Permit.

Though the Board and the Applicant are not required to comply with M.G.L. c. 30, §§ 62A-62L, inclusive, an Applicant is required to consult with the MEPA Office during the pre-filing stage of a proceeding in accordance with 980 CMR 16.00.

2.03: Board Membership.

(1) Description of the Board. Pursuant to M.G.L. c. 164, § 69H, the Board shall be composed of ~~nine members: the Secretary of Energy and Environmental Affairs; the Secretary of Housing and Economic Development; the Commissioner of the Department of Environmental Protection; the Commissioner;~~ the Secretary of Energy and Environmental Affairs or a designee, who shall serve as Chair; the Secretary of ~~Housing and~~ Economic Development or a designee; the Commissioner of the Department of Environmental Protection or a designee; the Commissioner of the Department of Energy Resources or a designee; ~~two Commissioners of the Commonwealth Utilities Commission the chair~~ of the Department of Public Utilities or a designee; the Commissioner of Fish and Game or a designee; the Commissioner of Public Health or a designee; and four public members to be appointed by the ~~G~~governor for a term ~~eo terminus~~coterminous with that of the ~~G~~governor, one of whom shall be a representative of the Massachusetts Association of Regional Planning Agencies, one of whom shall be a representative of the Massachusetts Municipal Association, Inc. with expertise in municipal permitting matters, one of whom shall be experienced in environmental justice issues, or indigenous sovereignty, and one of whom shall be experienced in labor issues, and one of whom shall be experienced in energy issues.

(2) Chairman. In accordance with M.G.L. c. 164, § 69H, the Secretary of ~~the Executive Office of~~ Energy and Environmental Affairs, or the Secretary's designee, shall serve as Chairman of the Board. In the event of the absence, recusal, or disqualification of the Chairman, the Commissioner of the Department of

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Energy Resources shall appoint an acting ~~chairman~~chair from the remaining members of the Board.

(3) Designees. A Board member other than a public member may nominate a designee to serve in his or her stead. Nomination shall be made by a letter addressed to the ~~Chairman~~Chair and signed by the nominating official. The nominating letter shall state whether the nomination is general or limited. The nominating official may revoke a nomination at any time by letter to the ~~Chairman~~Chair.

Once nominated, a general designee shall assume all responsibilities of the nominating official ~~pursuant to M.G.L. c. 164, §§ 69G through 69S and 980 CMR-2.00: for matters over which the Board has jurisdiction.~~ The nominating official may temporarily suspend a general nomination by appearing personally at a Board meeting or proceeding and performing the responsibilities of a Board member.

A limited designee shall assume only those responsibilities set forth in the nominating letter. The nominating official may retain and perform or may further name another designee to perform all other responsibilities.

(4) Replacement of Public Members. —In the event of the resignation of a public member, the Board ~~Chairman~~Chair shall notify the Governor in writing within 15 days and shall request the appointment of a new public member.

(5) Compensation. Any public member appointed by the Governor shall receive compensation for his or her services in the amount allowable by law, and shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties.

(6) Effect of Board Actions. No action taken by the Board pursuant to 980 CMR 2.00 shall bind any member of the Board or any designee for the purposes of any responsibilities of such member or designee not solely related to the operation of the Board.

(7) Disclosure. Where an ex officio Board Member's agency is also a Party to a proceeding, the Board Member's participation in the decision on the matter within ten business days of the disclosure. The Chair of the Board will make a determination whether participation of the Board Member would likely compromise the integrity of the decision of the Board, or whether the Board Member may participate in the matter.

2.04: Meetings; Voting

(1) Public Meetings. All meetings of the Board shall be open to the public to the extent required by M.G.L. c. 30A, §§ ~~HA and HA½.18 through 25.~~ All meetings of the Board shall be open to the press to the extent required by law. The Board may establish specific policies regarding the use of video cameras and other recording devices as necessary. Each calendar year, the Board shall schedule a standing monthly meeting or meetings to ensure timely consideration of Applications.

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(2) Notice of Public Meetings. Except in an emergency as provided by 980 CMR 2.04(3), a notice of each meeting of the Board shall be filed with the Secretary of State, and a copy thereof posted in the public office of the Executive Office for Administration and Finance, at least 2448 hours, not including Saturdays, Sundays, or legal holidays, prior to the time of such meeting or session.

(3) Emergencies. The Board may conduct a public meeting or executive session without giving notice as required by 980 CMR 2.04(2), if it determines that an emergency exists and that immediate, undelayed action by the Board is imperative.

(4) Executive Sessions. The Board may in the course of a public meeting vote to go into executive session. An executive session may be held only as authorized by M.G.L. c. 30A, §§ ~~HA and HA 1/2~~ 18 through 25.

(5) Records of Meetings. The Board shall maintain accurate records of its meetings, setting forth the action taken at each meeting, including executive sessions. Either a full transcript of the meeting or a summary of all matters voted shall be made available with reasonable promptness after each meeting; provided, however, that votes taken in executive session may be withheld from public disclosure for so long as their publication would defeat the lawful purposes of the executive session, but no longer.

(6) Quorum; Voting.

(a) A quorum consisting of ~~four~~five Board members shall be required to conduct any meeting of the Board held for the purpose of considering and voting upon an adjudicatory decision, or a proposal to adopt, amend or rescind regulations, or any other matter requiring a vote of the Board. A majority of members in attendance at a meeting shall be sufficient to dispose of any question properly before the Board during the meeting at which the question is taken up.

(b) Each Board member or designee in attendance at a meeting shall be entitled to vote on any matter which is properly before the ~~Siting~~ Board at that meeting.

(7) Remote Participation. Board Members may attend meetings virtually in accordance with 940 CMR 29.10. At the start of any meeting during which a member of a public body will participate remotely, the Chair must announce the name of any member who is participating remotely; such information must also be recorded in the transcript. Members of a public body who participate remotely and all Persons present at the meeting location must be clearly audible to each other. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

2.05: Delegation of Duties; Board Staff.

(1) Delegation of Duties. The Board may delegate Board-specific responsibilities other than responsibility for the final decision in any matter to the Board

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~~Chairman~~Chair or to the Board staff. The staff of the Siting Division of the Department of Public Utilities shall serve as Board staff.

(2) Director. The Director of the Board shall be appointed by the ~~Chairman~~Chair of the Department of Public Utilities pursuant to M.G.L. c. 25, § 12N to direct the work of the Board staff and to conduct the day-to-day business of the Board. ~~The Board, the Chairman, or the Chairman of the Department of Public Utilities may delegate to the Director Board-specific responsibilities other than the responsibility for the final decision in any matter.~~ The Director shall have authority to issue decisions in De Novo Adjudications pursuant to 980 CMR 14.00.

(3) Board Staff. The ~~Chairman~~Chair of the Department of Public Utilities may appoint Board staff to assist the Board in performing its functions. Staff functions shall include, among others: conducting adjudicatory, rulemaking, or public comment hearings; rendering tentative decisions; and intervening in the proceedings of other agencies. ~~The Chairman of the Department of Public Utilities may authorize the Director to appoint a Presiding Officer for an adjudicatory or other proceeding conducted under 980 CMR.~~

2.06: Board Decisions

(1) Issuance by the Board of a final decision in an adjudicatory proceeding shall be governed by 980 CMR 1.08.

(2) Every final decision shall be in writing, and shall contain a statement of the reasons therefore, including a determination of the facts or law necessary to the decision. A signature page shall be attached to each final decision. The signature page shall be signed by the Board ~~Chairman~~Chair and shall indicate the vote of each Board member.

(3) Required Findings. Any determination made by the Board shall describe the environmental and public health impacts, if any, of the CEIF, Facility or oil Facility and shall include findings, including, but not be limited to, findings that:

- (a) efforts have been made to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate environmental impacts;
- (b) due consideration has been given to the findings and recommendations of Local Governments;
- (c) in the case of LCTDIFs, SCTDIFs and natural Gas pipelines, due consideration has been given to advanced conductors, advanced transmission technologies, grid enhancement technologies, non-wires or non-pipeline alternatives, the repair or retirement of pipelines and other alternatives in an effort to avoid or minimize expenditures;
- (d) in the case of LCTDIFs and SCTDIFs, the infrastructure or Project will increase the capacity of the system to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation, clean energy storage, or other clean energy generation sources that qualify under 310 CMR

7.75 or will facilitate the electrification of the building and transportation sectors;

(e) due consideration has been given to any cumulative burdens on host communities and efforts that must be taken to avoid or minimize or, if impacts cannot be avoided or minimized, efforts to mitigate such burdens; and

(f) reasonably foreseeable climate change impacts, including additional greenhouse gas or other pollutant emissions known to have negative health impacts, predicted sea level rise, flooding, and any other disproportionate adverse effects on a specific geographical area.

(4) Constructive Approval. The Board shall issue a Constructive Approval as identified in 980 CMR 1.00 and described in 980 CMR 17.00. A Constructive Approval is deemed a final decision.

2.07: Action by Consent.

(1) Scope. Any decision of the Board, except the final decision in any adjudicatory proceeding, may be made by action by consent pursuant to the procedures of 980 CMR 2.07. These procedures shall be used only when the Board, in its discretion, determines that expeditious action is necessary.

(2) Procedure. The ~~Chairman~~Chair shall prepare a document entitled "Action by Consent" which sets forth the decision proposed to be taken by the Board. The document or copies thereof shall be presented to each member of the Board for review. A member may indicate consent by affixing his signature to the document or copy. The proposed action by consent shall be deemed to have been taken when the document and copies bearing the signatures of all Board members are returned to the ~~Chairman~~Chair. A proposed action by consent shall become void if it does not receive all required signatures before the beginning of any meeting of the Board held pursuant to 980 CMR 2.04.

(3) Notice.

(a) Except in an emergency, a notice of each proposed "Action by Consent" shall be filed with the Secretary of State, and a copy thereof posted in the public office of the Executive Office for Administration and Finance at least ~~24~~48 hours, not including Saturdays, Sundays and legal holidays, prior to the circulation of such proposed decision to Board members for signature.

(b) The notice shall state:

1. that the notice is for an action proposed to be taken by unanimous written consent of the Board rather than by meeting;
2. that the proposed action by consent shall become void if not signed by all Board members prior to the next meeting of the Board; and
3. the full and complete text of the proposed action by consent, or, if the proposed action by consent consists of more than 200 words, a summary of its terms and a statement that the full text may be obtained at the offices of the Board.

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(c) For the purpose of 980 CMR 2.06, "emergency" shall mean a situation in which immediate action without delay is deemed by the Board to be imperative.

(4) Records of Actions by Consent. The Board shall maintain accurate records of all proposed actions by consent. A record of the Board's action on a proposed action by consent shall be made available with reasonable promptness after its approval by all Board members or after it becomes void.

2.08: Advisory Rulings.

In accordance with M.G.L. c. 30A, § 8, any ~~person~~Person may at any time request, via written petition, an advisory ruling with respect to the applicability of any statute or regulation enforced or administered by the Board to any ~~person~~Person, property or factual situation. A petition shall be signed by the ~~applicant~~petitioner, contain the ~~applicant's~~petitioner's address, state clearly and concisely the substance or nature of the request, and contain an affidavit or attestation that all of the facts presented are true to the best of the ~~applicant's~~petitioner's knowledge. The petition shall be accompanied by any supporting data, views or arguments. Upon receipt of the petition, the Board shall consider it and shall, within 60 days after the receipt of the request, notify the ~~applicant~~petitioner either that the request is denied or that the Board will render an advisory ruling. In order to assist the Board in considering the request, the Director may require additional information as ~~he or she deems~~they deem appropriate. At any time before issuance of an advisory ruling, the Board may rescind a decision to render an advisory ruling. If the advisory ruling is rendered, a copy of the ruling shall be sent to the ~~applicant~~petitioner. A complete record of every advisory ruling shall be maintained by the Board. No advisory ruling shall bind or otherwise ~~estop~~ the Board in any pending or future matter. There shall be no obligation to render an advisory ruling. An advisory ruling proceeding is not an adjudicatory proceeding.

2.09: Determination of Board Jurisdiction.

(1) ~~An applicant~~A petitioner may at any time petition the Board for a determination of whether construction, expansion, or other modification of a proposed electric ~~generating unit~~Generating Facility, electric transmission line, ancillary structure, ~~natural gas~~Gas pipeline, ~~natural gas~~Gas storage facility, oil pipeline, oil refinery, oil storage facility, oil transshipment facility, or other facility is subject to Board jurisdiction, is not subject to Board jurisdiction, or may qualify for a ~~Certificate~~certificate pursuant to 980 CMR 6.00.

(2) The petition shall state the name of the ~~applicant~~petitioner and describe the nature of the facility for which a determination is being sought. The petition shall be accompanied by a draft legal notice for publication and such written legal argument or other information as the ~~applicant~~petitioner may consider appropriate. The Board may require that the ~~applicant~~petitioner provide additional information after the petition is filed.

(3) The ~~applicant~~petitioner shall give notice of the petition by publishing the legal notice approved by the Presiding Officer in at least one newspaper of general circulation and as otherwise ordered by the Presiding Officer. The notice shall specify that any ~~person~~Person may submit written legal argument or other information regarding the petition. The notice shall specify the deadline for such submissions, which shall be not less than 14 days after the initial date of publication.

(4) Within four months of the petition filing date, the Board shall issue a final ~~decision on~~determination of jurisdiction. The final ~~decision~~determination shall address only those issues necessary to decide the extent to which a proposed facility is within Board jurisdiction, is not subject to Board jurisdiction, or may qualify for a ~~Certificate~~certificate pursuant to 980 CMR 6.00. A determination of jurisdiction proceeding is not an adjudicatory proceeding. The Board's decision shall be final.

2.10: Permitting Dashboard.

The Board shall maintain a real-time, online, CEIF dashboard. The Board shall collect and report data in the aggregate on: the number of applications filed, decided or pending information, including, but not limited to: (i) the number of applications deemed incomplete; (ii) the number of applications constructively approved; (iii) the average duration of application review; and (iv) average staffing levels delineated by job classification. The Board shall ensure that comprehensive data and information are publicly available in a machine-readable format. The Board may add or remove additional data, metrics, or information to the dashboard at its discretion.

REGULATORY AUTHORITY

980 CMR 2.00: M.G.L. c. 30A and c. 164, § 69H.

ATTACHMENT 3

Draft Regulations

980 CMR 13.00 – Consolidated Permits

980 CMR 13.00: ENERGY FACILITIES SITING BOARD

980 CMR: 13.00: CONSOLIDATED PERMITS FOR CLEAN ENERGY INFRASTRUCTURE FACILITIES

Section

- 13.01: Scope and Purpose.
- 13.02: Overview of EFSB Consolidated Permit.
- 13.03: EFSB Consolidated Permit Application Requirements.
- 13.04: Zoning Exemptions.
- 13.05: Agency Permit Requirements.
- 13.06: EFSB Consolidated Permit Procedures.
- 13.07: Baseline Health, Environmental, Safety, and Other Standards.
- 13.08: Conditions for EFSB Consolidated Permit.
- 13.09: Completeness Determination.
- 13.10: EFSB Consolidated Permit Decisions.
- 13.11: Enforcement of EFSB Consolidated Permit Requirements.

13.01: Scope and Purpose.

(1) Purpose. 980 CMR 13.00 establishes the Board's rules for preparation and review of an Application for an EFSB Consolidated Permit for a request to construct CEIFs.

(2) Scope. 980 CMR 13.00 shall apply to an Application for an EFSB Consolidated Permit for requests to the Board to construct CEIFs, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V. The review of an Application for an EFSB Consolidated Permit for CEIFs described in 980 CMR 13.00 shall be subject to 980 CMR 1.00: *Rules for the Conduct of Adjudicatory Proceedings* and 980 CMR 2.00: *General Information and Conduct of Board Business*, unless otherwise noted.

(3) Effective Date. 980 CMR 13.00 shall take effect on March 1, 2026, and shall apply to each Application for an EFSB Consolidated Permit to construct CEIFs, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V, filed on or after July 1, 2026.

(4) Definitions. 980 CMR 13.00 shall be subject to the definitions of 980 CMR 1.01(4): Definitions. The following additional definitions shall also apply unless the context or subject matter requires a different interpretation:

Application means a submission to the Board, in such form and detail as prescribed by the Board, by an Applicant for an EFSB Consolidated Permit for the purpose of constructing, owning, or operating a CEIF Project.

Common Condition means a condition applied to a CEIF Project that is applied to each CEIF Project of the same type, which exceeds specified thresholds, or is subject to the same Permits.

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Completeness Determination means a written ruling made by the Presiding Officer indicating the Application has been reviewed for substantial and material compliance with the Board's requirements for an Application for an EFSB Consolidated Permit.

Consolidated Local Permit Application means a submission by an Applicant, in such form and detail as prescribed in 225 CMR 29.00, that would otherwise go to a Local Government for a Consolidated Local Permit, for the purpose of constructing, owning, or operating a CEIF Project. The Board will receive the Consolidated Local Permit Application and issue a Consolidated Local Permit as part of a Consolidated Permit, pursuant to M.G.L. c. 164 §§ 69T and 69U.

Construction means work performed by the Applicant or on behalf of the Applicant on the CEIF Project site or along the route, but shall not include contractual obligations to purchase such facilities or equipment, or preliminary work in furtherance of permitting (e.g., soil boring, surveys) that does not impose significant adverse impacts.

Criteria-specific Suitability Scores. The scores for each criterion examined in the Site Suitability Guidance, as assessed following the methods outlined in the Site Suitability Guidance, which represent the suitability of a site for a given CEIF.

Notice of Completeness means a determination made by the Presiding Officer that the Application is in substantial and material compliance with all Application requirements.

Permit Enforcement Agency (PEA) means a state agency, authority, board, commission, office, or other entity that would have had jurisdiction to issue at least one Permit for a CEIF Project that would otherwise be issued without an EFSB Consolidated Permit. PEAs enforce the portions of an EFSB Consolidated Permit that relates to subject matters within their jurisdiction as if such portion of an EFSB Consolidated Permit had been directly granted by the PEA.

Permit Advisory Agency (PAA) means a municipal, regional, or state agency, authority, board, commission, office, or other entity that would advise the Board through statements of recommended permit conditions on the issuance of at least one Permit for a CEIF Project that would otherwise be issued without an EFSB Consolidated Permit, but does not have jurisdiction for issuance of such Permit(s).

Site Suitability Guidance means guidance and criteria for the assessment of the suitability of the proposed siting of a CEIFs, as established by the Executive Office of Energy and Environmental Affairs, pursuant to M.G.L. c. 21A, § 30.

Site Suitability Score Modifier. Positive or negative adjustments to a CEIF's Total Site Suitability Score that are reflective of development potential or social and environmental benefits, as prescribed in the Site Suitability Guidance.

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Total Site Suitability Score. The sum of all Criteria-Specific Suitability Scores and any Site Suitability Score Modifiers, representing how suitable a site is for a CEIF, across all criteria measured in the Site Suitability Guidance.

13.02: Overview of EFSB Consolidated Permit Application and Approval Process.

(1) Application. The Applicant shall submit to the Board an Application that complies with requirements of 980 CMR 13.00: *Consolidated Permit Regulations*.

(a) An Applicant submitting a SCTDIF Application pursuant to M.G.L. c. 164, § 69U, shall include a showing of good cause for the petition, and a description of how the SCTDIF will serve public convenience and is consistent with the public interest.

(2) Completeness Determination. The Presiding Officer shall determine whether the Application satisfies each Application requirement. See 980 CMR 13.09: *Completeness Determination*. If the Presiding Officer provides Notice of Completeness, the Application may be adjudicated on the merits and the applicable statutory timeline commences.

(3) Adjudication of the Application. The Presiding Officer shall conduct the adjudicatory process on behalf of the Board for a CEIF Project, as described in 980 CMR 13.06: *EFSB Consolidated Permit Procedures*.

(4) Board Decision. The Board shall render a decision for an EFSB Consolidated Permit as described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*. The decision shall include conditions and permit requirements as described in 980 CMR 13.08: *Conditions for EFSB Consolidated Permit*.

(a) Review Time Frame. The Board shall issue a decision on each CEIF Project Application within the following deadlines following a Notice of Completeness:

1. 15 months for LCEIF Applications, pursuant to M.G.L. c. 164 § 69T(i);
2. 12 months for SCTDIF Applications, pursuant to M.G.L. c. 164 § 69U(c); and
3. 12 months for SCEGF and SCESF Applications, pursuant to M.G.L. c. 164 § 69V(c).

The Board may establish shorter time frames than the deadlines for reviewing different types of CEIFs based on the complexity of the CEIF Project and number of parties.

(b) Construction of a CEIF Project. No Applicant shall commence Construction of a CEIF Project at a site or along a route until an Application for an EFSB Consolidated Permit has been approved by the Board.

(5) Constructive Approval. Pursuant to M.G.L. c. 164 §§ 69T(i), 69U(c), 69V(c), a CEIF Project Application shall be deemed approved pursuant to 980 CMR 17.00: *Constructive Approval by Operation of Law*, if the Board does not issue a final decision described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*, within the applicable statutory review time frame, 980 CMR 13.02(4)(a): *Review Time Frame*.

13.03: EFSB Consolidated Permit Application Requirements.

(1) General Requirements. The following shall apply to an Application for an EFSB Consolidated Permit submitted to the Board, unless otherwise stated.

(a) Application Summary Form. The Applicant shall submit a completed Application summary form. The Application Summary Form shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(b) CEIF Project Overview Presentation. The Applicant may include visual media illustrating the CEIF Project, the site, and the surrounding area. Visual media shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(c) Description of the CEIF Project, Site, and Surrounding Area. The Applicant shall describe the CEIF Project, site, and surrounding area with relevant maps, figures, drawings, or other attachments. The description shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(d) Accessibility. The Applicant shall describe how the public can access CEIF Project information, how CEIF Project materials are consistent with the Board’s Language Access Plan, and provisions for meeting additional locality specific accessibility needs. Accessibility shall meet the Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(e) Consultation and Community Engagement.

1. Pre-filing Consultation and Community Engagement. The Applicant shall demonstrate compliance with 980 CMR 16.00: *Prefiling Consultation and Engagement Requirements*. The Applicant shall describe all pre-filing consultation and community engagement for the CEIF Project. Pre-filing Consultation and Community Engagement shall comply with requirements in 980 CMR 16.00 and shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.” This paragraph shall not apply to M.G.L. c. 164 §69V Applications for a Consolidated State Permit for SCEGF or SCESF.

2. Waiver. If the Applicant has not complied with Pre-filing Consultation and Community Engagement requirements in 980 CMR 16.00, the Applicant may request a waiver of applicable requirements. The Applicant shall include the Division of Public Participation decision rendered in the 980 CMR 16.03(1): *Waiver of Re-filing Rules* with the request for waiver. To obtain a waiver, the Applicant shall demonstrate good cause why such requirements could not be satisfied.

3. Continuing Consultation and Community Engagement. The Applicant shall describe continuing consultation and community engagement during Construction and after the CEIF Project is operational.

(f) Benefits of the CEIF Project. The Applicant shall describe the benefits of the CEIF Project, including, but not limited to, energy benefits, local benefits, and other benefits. Benefits of the CEIF Project shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(g) Climate Change Impacts. The Applicant shall describe consideration of reasonably foreseeable long-term climate change impacts related to the CEIF

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Project, as well as climate change impact related mitigation and resilience measures the Project will employ; impacts may include additional greenhouse gas or other air pollutant emissions known to have negative health impacts, predicted sea level rise, flooding, and any other disproportionate adverse effects of climate change on a specific geographical area. See M.G.L. c. 164, § 69H and instructions in “13.00: EFSB Consolidated Permit Application Guidance.”

(h) Cumulative Impact Analysis (CIA). The Applicant shall provide a CIA report specified in 980 CMR 15.05: *Applicant’s Preparation of Cumulative Impact Analysis Report* and as further specified in “13.00: EFSB Consolidated Permit Application Guidance.”

(i) Environmental Impacts. The Applicant shall describe environmental impacts of the proposed CEIF Project, including both environmental benefits, burdens, and a description of efforts to avoid, minimize, and mitigate burdens. The Applicant shall also include efforts to enhance benefits, such as shared use, recreational paths, or access to nature. The Application shall include, but is not limited to, a description of the following environmental impacts resulting from the CEIF Project: (i) land-based resources, including land use and land resources; (ii) water resources and aquatic ecology; (iii) transportation; (iv) air quality; (v) climate mitigation and resiliency; (vi) public health, safety, and security; (vii) solid waste and hazardous materials; (viii) radiation, including magnetic fields; (ix) noise and vibration; and (x) visual. The environmental impacts shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(j) CEIF Project Reliability. The Applicant shall provide an analysis of the reliability benefits of the CEIF Project as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(k) Policies of the Commonwealth. The Applicant shall describe, in summary form, relevant energy, environmental, land use, labor, economic justice, environmental justice and equity, and public health and safety policies of the Commonwealth, its subdivisions and its municipalities that apply to the proposed Project. The Applicant shall demonstrate how the CEIF Project complies with each applicable policy as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(l) Decommissioning and Site Restoration Plan. The Applicant shall file a decommissioning and site restoration plan as described in 980 CMR 1.10: *Decommissioning and Site Restoration Plan*. The Applicant shall indicate if the CEIF Project does not require decommissioning or site restoration with an explanation.

(2) LCTDIF and SCTDIF Requirements. The following shall apply only to M.G.L. c. 164 §§ 69T, 69U Applications for LCTDIF and SCTDIF.

(a) LCTDIF and SCTDIF Need. The Applicant shall provide analysis demonstrating the need for an LCTDIF and SCTDIF, in Massachusetts and outside Massachusetts, if applicable. The Applicant shall provide analysis based on reliability considerations, load projections, state policy, a combination of these, or another reason with explanation. LCTDIF and SCTDIF need shall

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meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(b) System Benefits. The Applicant shall describe how the LCTDIF and SCTDIF will increase the capacity of the system to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation, clean energy storage or other clean energy generation sources that qualify under 310 CMR 7.75, or will facilitate the electrification of the building and transportation sectors. System benefits shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(c) LCTDIF and SCTDIF Alternatives. The Applicant shall describe alternative methods of transmitting or storing energy; siting and LCTDIF and SCTDIF alternatives to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts; other sources of electrical power; or a reduction of requirements through load management. The Applicant shall describe consideration or implementation of advanced conductors, advanced transmission technologies, grid enhancement technologies, non-wire alternatives, and other alternatives to avoid or minimize expenditures. LCTDIF and SCTDIF alternatives shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(d) Route and Site Selection. The Applicant shall describe other site locations. The Applicant shall demonstrate: (i) the Applicant has considered a reasonable range of practical siting alternatives; (ii) the Applicant’s proposed LCTDIF and SCTDIF is sited in locations that avoid or minimize or, if impacts cannot be avoided or minimized, mitigate environmental impacts and negative health impacts to the extent practicable while ensuring a reliable, resilient, and clean supply of energy consistent with the commonwealth’s climate change and greenhouse gas reduction policies and requirements; (iii) the Criteria-specific Suitability Scores and Total Site Suitability Score for the Applicant's proposed LCTDIF and SCTDIF, if applicable; and (iv) the proposed LCTDIF and SCTDIF will be constructed in a manner that avoids or minimizes costs. Route and site selection shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(e) LCTDIF and SCTDIF Cost. The Applicant shall provide an analysis of cost estimates associated with the LCTDIF or SCTDIF, including net present value of an LCTDIF or SCTDIF cost and impacts on ratepayers. LCTDIF or SCTDIF cost shall be specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(3) LCEGF, LCESF, SCEGF, and SCESF Requirements. The following shall apply to M.G.L. c. 164 §§ 69T, 69V Applications for LCEGF, LCESF, SCEGF, and SCESF.

(a) Site Selection and Alternatives. The Applicant shall describe the LCEGF, LCESF, SCEGF, or SCESF site selection process and alternatives analysis used to choose the location of the LCEGF, LCESF, SCEGF, or SCESF to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts. The Applicant shall: (i) provide the Criteria-specific Suitability Scores and Total Site Suitability Score for the Applicant's proposed LCEGF,

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LCESF, SCEGF, or SCESF, if applicable; and (ii) demonstrate the Applicant's proposed LCEGF, LCESF, SCEGF, or SCESF Project is sited in a location which will provide a reliable, resilient, and clean supply of energy consistent with the commonwealth's climate change and greenhouse gas reduction policies and requirements. Site selection and alternatives shall meet Board specifications in "13.00: EFSB Consolidated Permit Application Guidance."

13.04: Zoning Exemption Requirements.

- (1) If an Applicant seeks zoning exemptions for a CEIF Project, the Applicant shall:
 - (a) File a companion zoning exemption petition, pursuant to M.G.L. c. 40A §3, or St. 1956, c. 665, § 6.
 - (b) Submit a copy of the companion zoning exemption petition with the Application.
 - (c) Describe each zoning exemption the CEIF Project needs to be constructed which shall include: (i) a copy of the applicable zoning bylaws or ordinances; (ii) the type of zoning exemption requested; and (iii) a reason the zoning exemption is necessary for the CEIF Project. Zoning exemption requirements shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance."
- (2) The Presiding Officer may consolidate a zoning exemption petition with an EFSB Consolidated Permit proceeding pursuant to 980 CMR 1.09(2): *Consolidation*. In the order consolidating the zoning exemption request with the EFSB Consolidated Permit proceeding, the Presiding Officer shall indicate that in the event of a constructive approval, the Constructive Approval would include the requested zoning exemption(s).
- (3) The Applicant shall state no zoning exemptions are required if the Applicant does not file a companion zoning exemption petition, pursuant to M.G.L. c. 40A §3, or Section 6 of Chapter 665 of the Acts of 1956.

13.05: Agency Permit Requirements.

- (1) The Applicant shall provide the following information for the requested Permits:
 - (a) State Permits. The Applicant shall provide the following for each state Permit required for the CEIF Project:
 1. A description of the state Permit, the related PEA, and the name of the agency permitting program.
 2. A description of why the state Permit is necessary for the CEIF Project.
 3. A completed Permit application form and required filing documents applicable to the CEIF Project, to the extent possible.
 4. The baseline state PEA environmental, health, safety, and other standards applicable to the CEIF Project, as specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance."
 5. A draft state Permit proposed for the CEIF Project, including but not limited to Board Common Conditions for each state Permit, Common

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Conditions on a state Permit approval form that would otherwise have been issued individually, and supplemental conditions proposed by the Applicant, to the extent possible.

(b) Local Government Permits. This section shall not apply to M.G.L. c. 164 § 69V, Applications for SCEGF and SCESF. The Applicant shall provide the following for each Local Government Permit required for LCEIF under M.G.L. c. 164 § 69T or SCTDIF under M.G.L. c. 164 § 69U:

1. A description of the Local Government Permit, the Local Government, and the name of the regulatory authority permitting program.
2. A description of why the Local Government Permit is necessary.
3. A completed Consolidated Local Permit Application and required filing documents.
4. The baseline Local PEA environmental, health, safety, and other standards applicable to the CEIF Project, as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”
5. A draft Local Government Permit proposed for the LCEIF or SCTDIF Project, including but not limited to Local Government Common Conditions, and supplemental conditions proposed by the Applicant.

(c) Federal Permits. For context and general informational purposes only, the Applicant shall provide a list of federal permits required for the CEIF; the list shall include the following for each federal permit:

1. The completed federal permit form.
2. A description of the federal permit.
3. The date the Applicant requested a federal permit and the date the Applicant received or anticipates receiving the federal permit.
4. The status of the federal permit when the Application is submitted.

(2) Additional Permit Procedures.

(a) The Applicant shall determine the applicability of Permits for the CEIF Project or pursuant to 980 CMR 16.00: *Prefiling Consultation and Engagement Requirements*, prior to the submission of an Application to the Board.

(b) The Applicant shall expressly identify duplicative information or conflicting requirements across Permits included in the Application. The Applicant shall provide a proposed resolution of such conflicting or duplicative requirements, with an explanation.

(c) The Applicant shall provide proof to the Board that each PEA, PAA, and Local Government received notice of each Permit, for which they would have had subject matter jurisdiction if the Applicant had sought Permits with that agency, to the Board.

13.06: EFSB Consolidated Permit Procedures.

(1) General.

(a) Filing. The Applicant shall file an Application in the manner specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

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- (b) Concurrent Filings. The Applicant shall submit a copy of each draft Permit filed with the Board pursuant to 980 CMR 13.05: *Agency Permit Requirements* to the PEA or Local Government to which that Permit may be enforced.
- (2) Intervention and Grant Rulings. The following shall apply to PEAs, PAAs, and Local Governments regarding requests for intervention:
- (a) Each PEA and Local Government is deemed to be substantially and specifically affected by the proceeding if the PEA or Local Government would have had subject matter jurisdiction of a Permit included in the Application and shall be granted intervenor status upon written request to the Board.
- (b) If a PAA seeks to intervene or participate in the EFSB Consolidated Permit proceeding, the PAA shall follow intervention rules pursuant to 980 CMR 1.05: *Intervention*.
- (3) Procedural Schedule. The Presiding Officer shall set a preliminary procedural schedule following Notice of Completeness. The procedural schedule shall be in substantial compliance with the form and timeline specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.” The procedural schedule shall include the following steps for an EFSB Consolidated Permit proceeding unless the Presiding Officer rules otherwise:
- (a) Public Comment Hearing(s). The Presiding Officer shall schedule a date for the public comment hearing(s) that is within 45 days of a Notice of Completeness.
- (b) Deadline for Public Comments. The Presiding Officer shall set the deadline for public comments not less than two weeks following the last date of public comment hearing(s).
- (c) Deadline for Petitions for Intervention and Limited Participant Status. The Presiding Officer shall set the deadline for petitions for intervention and Limited Participant status not less than two weeks after the last date of public comment hearing(s).
- (d) PEA and Local Government Representative Notification of Intention to Intervene. PEA and Local Government Representative shall notify the Presiding Officer at or before the deadline for petitions for intervention or intention to intervene in the CEIF Project proceeding.
- (e) Presiding Officer Rulings and Procedures. The Presiding Officer shall issue a ruling on petitions for intervention and Limited Participant status in a reasonable timeframe. The Presiding Officer shall issue the service list and procedural ground rules for the proceeding with the ruling for intervention and Limited Participant status.
- (f) Preliminary Procedural Conference and Procedural Order. The Presiding Officer shall schedule a preliminary procedural conference at their discretion after the ruling on intervention and Limited Participant status is issued.
- (g) Issuance of Information Requests and Responses. A Party shall not issue information requests prior to the issuance of procedural ground rules, except information requests issued by the Presiding Officer or the Board. The Presiding Officer shall issue the deadline for responses to information requests not less than

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two weeks from the issuance of information requests, unless good cause is shown for a different date.

(h) Deadline for Pre-Hearing Testimony to be Filed by Intervenor(s). The Presiding Officer shall set the deadline for pre-hearing testimony filed by Parties with intervenor status not less than two weeks prior to the initial evidentiary hearing.

(i) Deadline to Submit Statements of Recommended Permit Conditions. The Presiding Officer shall set the deadline for intervenors, PEAs, and Local Government Representatives to submit to the Board statements of recommended Permit conditions not less than three weeks before the initial evidentiary hearing.

(j) Conditions Conference. The Presiding Officer may schedule a conditions conference prior to the initial evidentiary hearing(s).

(k) Evidentiary Hearing(s). The Presiding Officer shall schedule the evidentiary hearing(s) at their discretion and in consultation with each Party.

(l) Record Requests and Responses. The Presiding Officer may set the deadline for responses to record requests at the evidentiary hearing in consultation with each Party but may not set the deadline more than two weeks from the date of the last evidentiary hearing, unless good cause is shown for a different date.

(m) Initial Brief(s). The Presiding Officer shall set the deadline for the Parties to file initial brief(s) within three weeks of the deadline for record request responses, unless good cause is shown for a specific delayed filing.

(n) Reply Brief(s). The Presiding Officer shall set the deadline for reply brief(s) to be filed not more than two weeks after the deadline for initial brief(s), unless good cause is shown for a different date.

(o) Tentative Decision. The Presiding Officer shall determine the timeline for a 980 CMR 1.08(2): *Tentative Decision* based upon a Board meeting within the applicable deadline for final decisions.

(p) Board Meeting. The Presiding Officer shall schedule a Board meeting within the applicable deadline for 980 CMR 1.08(3): *Final Decisions*.

(4) Preliminary Procedural Conference and Procedural Order. The Presiding Officer shall provide notice to each PEA and Local Government Representative of the opportunity to participate in the preliminary procedural conference, regardless of intervention status. The Presiding Officer may provide notice to a PAA, at the Presiding Officer's discretion, of the opportunity to participate in the preliminary procedural conference. At the preliminary procedural conference, the Presiding Officer shall establish the scope of an EFSB Consolidated Permit, including, but not limited to:

- (a) Topics which require discussion and analysis.
- (b) Topics each Party agree meet the requirements of the Board.
- (c) Topics each Party agrees do not necessitate extensive analysis or inquiry.
- (d) Possible conditions to be applied to the CEIF Project.

(5) Statement of Recommended Permit Conditions. Each PEA and Local Government Representative may submit a statement of recommended Permit conditions regarding the subject matter for which the PEA or Local Government would otherwise issue a Permit, regardless of intervention status. If a PEA or Local

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Government Representative has consulted with a PAA in the creation of their statement of recommended Permit conditions, the PAA shall be identified. Each intervenor may submit a statement of recommended Permit conditions for the CEIF Project. The Applicant may submit a statement of recommended Permit conditions for the CEIF Project to supplement the conditions previously submitted as part of the Application. Each statement of recommended Permit conditions shall comply with the form and requirements specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(6) Conditions Conference. The Presiding Officer shall provide each Party with a copy of proposed EFSB Consolidated Permit conditions, compiled by the Presiding Officer from Common Conditions, supplemental conditions submitted by the Applicant, and the statement of recommended Permit conditions submitted by the Parties, prior to the scheduled conditions conference. The conditions conference shall provide discussion on all conditions anticipated for the CEIF Project.

(a) Recommendation on Conditions. The Presiding Officer shall provide each Party with a recommendation stating each Board Common Condition, DOER Common Condition, PEA Common Condition, and supplemental condition to be applied to an EFSB Consolidated Permit, pending Board approval.

(7) Board Decision on EFSB Consolidated Permit.

(a) Consolidated Permit Decision. The Board shall issue an EFSB Consolidated Permit in the form of all individual Permits otherwise necessary for the construction and operation of the LCEIF or SCTDIF pursuant to M.G.L. c. 164 §§ 69T & 69U.

(b) Consolidated State Permit Decision. The Board shall issue a Consolidated State Permit in the form of all individual state Permits otherwise necessary for the construction and operation of the SCEGF or SCESF pursuant to M.G.L. c. 164 § 69V.

(c) Final Decision of the Board. Final decisions of the Board for consolidated permitting shall be as described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*.

(8) Unexcused Delay.

(a) Applicant Responses. The Applicant shall be responsible for responding to all inquiries and requests for information from the Board and Parties within a specified time.

1. Delay. An Applicant’s response to inquiries and requests for information from the Board and Parties shall be unexcused if provided after the specified time and no extension of time is granted by the Presiding Officer.

2. Remedies. The Presiding Officer may take one or more of the following actions in response to an unexcused delay:

a. Warning. Issue a written warning to the Applicant that any additional delay may result in additional penalties.

b. Incomplete Due to Delay. Deem the Application Incomplete, as described in 980 CMR 13.09(3): *Incomplete*

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Application, if the Applicant's responses to inquiries are beyond the time specified more than once and no extension is granted by the Presiding Officer.

(b) Delay Cure. After an Application is deemed incomplete due to delay, the Presiding Officer may issue a Notice of Completion if the Applicant provides the responses to the delayed inquiries, an explanation for the delay, and an explanation for how future delays will be avoided. The Presiding Officer shall set the review time frame, as described in 980 CMR 13.02(4)(a): *Review Time Frame*, using the updated Notice of Completion date.

(c) Penalties. The Board may issue penalties to an Applicant who violates an order of the Board pursuant to M.G.L. c. 164 § 69H(4).

13.07: Baseline Health, Environmental, Safety, and Other Standards.

(1) Baseline Standards. The Board may develop Baseline Health, Environmental, Safety, and Other Standards ("Baseline Standards") to be applied for CEIF. The Baseline Standards shall ensure a minimum uniform set of standards for all proposed CEIF reviewed by the Board. Baseline Standards shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance."

13.08: Conditions for EFSB Consolidated Permit.

(1) Board Common Conditions. The Board shall include the following Common Conditions in an EFSB Consolidated Permit:

(a) General Conditions. The Board shall apply each general condition to an EFSB Consolidated Permit or a Constructive Approval permit. These conditions shall ensure a minimum uniform standard for all proposed CEIF reviewed by the Board. General Conditions shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance, Attachment 1."

(b) Threshold-Specific Conditions. The Board may apply each threshold-specific condition based upon use of technology or other relevant thresholds. Thresholds shall be determined by the Board. Threshold-specific Conditions shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance, Attachment 1."

(2) PEA Common Conditions. The Board shall apply Common Conditions that would otherwise apply to a state Permit approval and are submitted with the Application pursuant to 980 CMR 13.05(1)(a): *State Permits*.

(3) DOER Common Conditions. The Board shall apply Common Conditions in the form established by DOER on a Local Government Permit pursuant to 225 CMR 29.00.

(4) Supplemental Conditions. The Board shall determine and apply supplemental conditions for an EFSB Consolidated Permit. The Presiding Officer shall provide recommendations to the Board for the inclusion of supplemental conditions in the recommendation on conditions as described in 980 CMR 13.07(6)(a): *Recommendation on Conditions*.

13.09: Completeness Determination.

(1) Completeness Review.

- (a) The Presiding Officer shall review an Application and make a Completeness Determination in writing within 30 days.
- (b) The Presiding Officer's Completeness Determination shall not be subject to appeal.
- (c) The Presiding Officer or staff may communicate with a PEA, PAA, Local Government Representative, or Local Government and such communications shall not be considered ex parte communication unless the communication is substantive and occurs after a Notice of Completeness.
- (d) The Presiding Officer may require the Applicant to provide supplemental evidence to the Application, where appropriate, for the Board to make the required findings for an EFSB Consolidated Permit. Supplemental evidence may include supporting documents, work papers, modeling, studies, authorities cited, and reference to any other evidence relied upon in the Application.

(2) Notice of Completeness. The Presiding Officer shall determine an Application is complete if the Application is in substantial and material compliance with the following:

- (a) Application requirements in 980 CMR 13.03: *EFSB Consolidated Permitting Application Requirements*.
- (b) Zoning exemption requirements in 980 CMR 13.04: *Zoning Exemption Requirements*, if applicable.
- (c) Permitting requirements in 980 CMR 13.05: *Agency Permit Requirements*.
- (d) Conditions in 980 CMR 13.08: *Conditions for EFSB Consolidated Permit*.
- (e) The Completeness Determination Checklist. The Completeness Determination Checklist shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance."

(3) Incomplete Application. The Applicant shall respond within 30 days from a notice of incomplete Application to cure each deficiency identified by the Presiding Officer. The Application may only be determined to be incomplete twice before the Application shall be rejected per 980 CMR 13.06(6): *Rejected Applications*.

- (a) Missing Permit. If the Presiding Officer, prior to the final decision, determines that a Permit was not included in the Application, the Presiding Officer may deem the Application incomplete. The Applicant shall file an amended Application with the Board and the omitted Permit with the PEA that would have subject matter jurisdiction. The Presiding Officer may extend the Board's review time frame when reasonable to ensure adequate participation by each PEA; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a Notice of Completeness.
- (b) Changes to a CEIF Project before Final Decision. If an Applicant identifies significant changes to a CEIF Project before the Board issues a final decision, the Presiding Officer may determine the Application incomplete and shall be subject to a Completeness Determination upon filing a supplemented Application. The Presiding Officer may extend the Board's review time frame when reasonable to

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ensure adequate review of the changes to a CEIF Project; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a Notice of Completeness.

(c) Agency Deficiencies. Each PEA, PAA, Local Government Representative, or Local Government may describe any deficiencies in the Permit documentation provided by the Applicant within 21 days of receipt of notice of a Permit for which they would have subject matter jurisdiction. The Presiding Officer shall determine if a deficiency is substantial and material. The Presiding Officer may deem the Application incomplete as described in 980 CMR 13.09(3): *Incomplete Application* if a deficiency is determined to be substantial and material.

(4) Deficiencies. The Applicant shall file the following within 30 days of notice of the deficiency if the Presiding Officer determines the Application does not substantially and materially comply:

- (a) Identify each deficiency in the Application, including the section or permit, and the page number or exhibit.
- (b) The complete cured section or Permit for each identified deficiency. If a section or Permit contains multiple deficiencies, provide the complete cured section or Permit for the group of deficiencies identified for that section or Permit.
- (c) Include proof of service of notice of the filing of the cured Permit to the PEA, PAA, Local Government Representative, or Local Government whose jurisdictional responsibilities are affected by the deficiency.

(5) Extensions of Time. The Presiding Officer may provide extensions of time to exceed 30 days to cure deficiencies if the Applicant demonstrates extenuating circumstances for the delay. The Applicant shall provide a request for an extension in writing within 30 days of filing the Application. The Presiding Officer shall state a reason for the extension and a new deadline in a ruling on an extension request.

(6) Rejected Applications.

- (a) Failure to Timely Cure. The Presiding Officer shall reject Applications if determined to be incomplete and the Applicant does not file a modified Application addressing each identified deficiency within the time permitted. If the Application is rejected for failure to timely cure, absent extenuating circumstances, the Applicant may not file an Application for the same CEIF Project within three months of rejection.
- (b) Failure to Cure. The Presiding Officer shall reject an Application determined to be incomplete three consecutive times. If the Application is rejected for Failure to Cure, absent extenuating circumstances, the Applicant may not file an Application for the same CEIF Project within six months of rejection.
- (c) Previously Rejected Applications. The Presiding Officer shall deem a rejected Application docket closed. The Presiding Officer shall review any subsequent Application for a CEIF Project independent of any prior Application submitted to the Board.

13.10: EFSB Consolidated Permit Decisions.

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- (1) Final Decision. The Board shall approve, approve with conditions, or reject each Application for an EFSB Consolidated Permit. The Board shall include findings described in 980 CMR 2.06(3): *Required Findings*.
- (2) Zoning Exemptions. Zoning exemptions, if granted by the Board, shall be issued as part of the final decision for an EFSB Consolidated Permit.
- (3) Permits. The Board's issuance of an EFSB Consolidated Permit shall be a composite of all individual Permits that would otherwise be necessary for the Construction and operation of a CEIF Project.
- (4) Conditions Applicable to the CEIF Project. The Board shall state each common condition and permitting requirement applicable to the CEIF Project. The Board shall identify the entity with jurisdiction to enforce each condition and Permitting requirement.

13.11: Enforcement of EFSB Consolidated Permit Requirements.

- (1) Jurisdiction.
 - (a) The PEA or Local Government shall enforce each condition and Permit requirement whose subject matter is within their jurisdiction as if an EFSB Consolidated Permit had been directly granted by said PEA or Local Government.
 - (b) The Board shall enforce each condition or Permit requirement whose subject matter is not within the jurisdiction of a PEA or Local Government.
- (2) Enforcement Procedure. An alleged violation of conditions or other permitting requirements may be reported to the Board. A copy of the alleged violation shall be provided to the Board and the affected PEA or Local Government.
 - (a) A violation of conditions or permitting requirement enforced by a PEA or Local Government shall follow enforcement procedures as prescribed by that PEA or Local Government.
 1. A PEA or Local Government may request clarification or guidance from the Board regarding a condition or Permitting requirement.
 2. The Director shall provide guidance or clarification if a request is made for clarification or guidance.
 - (b) A violation of the conditions or Permitting requirement enforced by the Board shall proceed as follows:
 1. The Board shall receive notice of the alleged violation in writing. The Board may develop a form for submitting a written alleged violation. The form for a written alleged violation shall be specified by the Board in "13.00: EFSB Consolidated Permit Application Guidance."
 2. The Director may request additional information on the alleged violation.
 3. The Director shall make a timely ruling on the alleged violation. The Director shall provide a copy of the draft ruling to the Person alleging the violation, and the Parties and Limited Participants in the proceeding where the Board granted the EFSB Consolidated Permit. The Director shall set a

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deadline for comment on the draft ruling, and consider such comments before issuing a final ruling.

4. The Director may take one or more of the following actions as part of their ruling:

- a. Dismiss the alleged violation;
- b. Provide time to remedy the alleged violation;
- c. Subject the CEIF Project to a probationary period during which the Director may apply additional conditions to maintain compliance with conditions or permitting requirements; or
- d. Impose a reasonable penalty pursuant to M.G.L. c. 164, § 69H(4).

REGULATORY AUTHORITY

980 CMR 13.00: M.G.L. c. 164 §§ 69G, 69H, 69P, 69T, 69U, 69V; M.G.L. c. 25A, §21; M.G.L. c. 40A, §3.

ATTACHMENT 3-A

Draft Appendix-1 To 980 CMR 13.00 Application Guidance

Energy Facilities Siting Board

APPENDIX-1 TO 980 CMR 13.00 APPLICATION GUIDANCE

Draft Guidance

September 4, 2025

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I. OVERVIEW AND GENERAL INSTRUCTIONS

A. Purpose and Scope

The purpose of this Guidance is to inform Applicants seeking consolidated siting and permit approvals from the Energy Facilities Siting Board (“Board” or “EFSB”) for Clean Energy Infrastructure Facilities (“CEIF”) as to what should be included in an Application. See 980 CMR 13.00. The Guidance is intended to help Applicants prepare a well-organized, informative, clear, and consistent Application submission to assist the Board, other state, regional, and local permitting agencies (“Permit Enforcement Agencies” or “PEA”), and community stakeholders in their review of the Applicant’s proposed Project. Importantly, this Guidance will also help an Applicant obtain a “Notice of Completeness” from the EFSB, commencing a mandatory timeline for EFSB adjudication and issuance of a final decision and Consolidated Permit. This Guidance will apply to Project Applications filed on or after July 1, 2026. This Guidance is intended to explain the Board’s regulations at 980 CMR 13.00.¹ This Guidance will be updated from time to time.

A Consolidated Permit includes the longstanding EFSB Approval to Construct (“EFSB Construction Permit”) and all other state, regional, and local permits and approvals necessary for construction and operation of a CEIF. A Consolidated State Permit would include all necessary state permits.² The Guidance focuses on informational requirements that are unique to the EFSB Construction Permit, while relying substantially on the content of Massachusetts Department of Energy Resources’ (“DOER”) forthcoming small CEIF (“SCEIF”) Application Form(s) for Consolidated Local Permits, and other state agency permit applications for the corresponding state permits.³ See 225 CMR 29.00. To the extent that zoning exemptions are sought by an Applicant, the Board encourages Applicants to prepare their Applications inclusive of the separately requested zoning exemptions.⁴ See 980 CMR 13.04.

The Board’s scope of review for an Application is broad and includes topics unique to the EFSB review, and other topics largely addressed in the other agencies’ permit programs which would be folded into an EFSB Consolidated Permit. The EFSB Construction Permit would address compliance with the wide-ranging statutory requirements applicable to EFSB. See M.G.L. c. 164 §§ 69G – 69W. To the extent that Applicants identify duplicative information requirements across different state and local permit programs and applications, the Applicant may cross-reference information in its Application submission to avoid such duplication.

The Board has endeavored to make the Guidance as useful as possible for Applicants. However, the Board is aware that it may not have anticipated and addressed all the informational needs that could be relevant to a particular Application. Therefore, prospective Applicants are strongly encouraged to consult with staff of the Board prior to submission of an Application to address any unique or Project-

¹ The definitions in 980 CMR apply to this Guidance.

² A Consolidated Permit pertains to CEIF Applications filed with the Board under M.G.L. c. 164, §§ 69T and 69U; a Consolidated State Permit would pertain to M.G.L. c. 164, § 69V Applications. When referring to them jointly, “**EFSB Consolidated Permit.**”

³ DOER is developing its Application Form to support Consolidated Local Permitting.

⁴ A separate zoning exemption petition would be submitted to the Board, if requested by an Applicant. The zoning exemption petition and EFSB Consolidated Permit would be consolidated in a single EFSB proceeding to be issued together in an EFSB Consolidated Permit. See 980 CMR 13.04(2).

specific informational considerations. In the event of a conflict between this Guidance and applicable statutes, regulations, or decisions of the Board, said statutes, regulations, and decisions shall govern.⁵

Current Status: The 2024 Climate Act directs the Board to establish criteria governing the siting and permitting of LCEIF and SCEIF that include “a uniform set of baseline health safety, environmental and other standards that apply to the issue of a consolidated permit.” M.G.L. c. 164, §§ 69T(b), 69U(b), 69V(b). This language mirrors the requirements in the 2024 Climate Act for DOER’s development of a program for siting and permitting of SCEIF by Local Governments. Given the similarities between the EFSB’s and DOER’s responsibilities in establishing baseline standards, the overlapping scope, and the benefits of a consistent approach, EFSB and DOER are collaborating on developing permitting standards. The intention of this joint undertaking is to compile a comprehensive database of existing permitting standards, by energy facility type, seen in general use by state and local PEAs. Using this database, and with substantial input from state and local permit agencies and other stakeholders, EFSB and DOER will endeavor to develop a uniform set of baseline health safety, environmental and other standards, as each agency is required to do by the 2024 Climate Act.

EFSB and DOER also have similar responsibilities in developing “common conditions” applicable to CEIF permits. For the same reasons described above, EFSB and DOER also see considerable benefit in collaborating on developing common conditions for CEIFs. Again, this effort will involve compiling information from other state and local PEAs in a database, and working jointly to develop common conditions, by energy facility type, with agency and stakeholder input.

B. Application Filing Process

1. Filing Instructions

- a. The Applicant should use clear, concise, and plain language that presents relevant and material facts regarding the Project. The Application should specifically address each required finding, determination, and consideration that the Board will need to make in its decision, as well as the basis for the Applicant’s request that the state and local permits should be granted by the Board.
- b. Applicants should provide all data, assumptions, and calculations relied upon and provide the source of, and basis for, all data and assumptions employed.
 - i. Include all studies, reports, and planning documents from which data, estimates, or assumptions were drawn, and support for how the data or assumptions were used in developing the projections or estimates.
 - ii. Provide and explain each supporting work paper.
- c. For state Permits and approvals, Applicants should use the application forms, procedures, and required content specified by the relevant PEAs whose permits are being sought in an EFSB Consolidated Permit. See 980 CMR 13.05(a). For local and regional permits included in DOER’s Consolidated Local Permit program, Applicants should use the appropriate DOER SCEIF Application Form(s), with modifications described in this Guidance.

⁵ To the extent that any requirements in this Guidance request information that is confidential, the Applicant may provide that information consistent with the procedures in 980 CMR 1.06(5)(f).

- d. In the event an Applicant identifies conflicting requirements between different permitting programs, or where relief from zoning ordinances is being sought under a separate petition filed with the Board, and the Applicant cannot resolve any such conflicting requirements through pre-filing Agency Consultation (as defined in 980 CMR 16.02), then the Applicant may propose a resolution in its Application. Such proposed resolutions to conflicting requirements must be identified and explained in the Application with the Board. See Section III.D: Application Conflicting Requirement Summary.
 - e. If the same information is required for more than one permit application or exhibit, it may be supplied in a single permit application or exhibit and cross-referenced (and hyperlinked) in the other permit applications or exhibit(s) where it is also required. See 980 CMR 13.05
 - f. For all maps, include a map title, a north arrow, an accurate scale, a detailed legend, the source of the data, and the date the map was published, if applicable. Project overview maps should typically include:
 - i. The outline and centroid of every major Project component;
 - ii. The Project area as defined by the Applicant; and
 - iii. Boundaries of lots/parcels associated with the Project.
 - g. Geospatial data should be filed in common file formats such as GIS shapefiles (.shp), and in the projection and datum (e.g., NAD 1983 State Plane Massachusetts Mainland FIPS 2001 Feet) appropriate for Board review of the Project.
 - h. Submit each document in a searchable PDF file format, unless prior permission to submit in another form is obtained from the Presiding Officer. Other file types may be submitted, if appropriate (e.g., Excel, Word, PowerPoint files). However, a searchable PDF of such files is also required.
 - i. File names must include the exhibit number (which provides a recognizable abbreviation for the Applicant) and a brief descriptive phrase. For example, “Exh. GET-1 Initial Petition” (“GET” for “Grid-Enhancing Tech Company”).
 - j. For each file consisting of ten or more pages, add a table of contents (hyperlinked to the specific page) citing the related sections by page and section number.
2. Electronic and Hard Copy Filing
- a. Pre-filing requirements in 980 CMR 16.00 for projects under M.G.L. c. 164, §§ 69T and 69U require prospective Applicants to notify the Board no less than 45 days and no more than 90 days prior to filing an Application with the EFSB.⁶ Upon

⁶ Pre-filing requirements for Consolidated State Permits (under M.G.L. c. 164, § 69V) will follow the pre-filing requirements established by DOER for Consolidated Local Permits. See 980 CMR 16.00; 225 CMR 29.00.

notification, Board staff will create a docket number(s) for the Application and enable posting for pre-filing materials.

- b. Submit each document electronically to the Board through the Board's electronic filing system (e.g., the Department of Public Utilities' ("DPU") Electronic Fileroom). Each document submitted will be posted on the electronic filing system.⁷
- c. The Board requires a minimum of one hard copy of the complete Application filing for record and public viewing purposes. In addition, prior to submission of the Application, the Applicant must contact the Program Coordinator assigned to the proceeding to inquire if additional hard copies will be necessary, and, if so, how many.

II. REQUIRED COMPONENTS OF EFSB CONSOLIDATED PERMIT APPLICATION

The following sections provide an overview of the main components of an Application:

A. Completeness Determination Checklist

The Completeness Determination Checklist provides a means of confirming that the necessary components of an Application have been prepared and submitted. The Presiding Officer, with input from PEAs and Local Governments, will make a determination based on a review of the Application as to whether it satisfies the requirements for "Notice of Completeness." See 980 CMR 13.01(4) [See Attachment 3 TBD].

B. Draft Notice Templates

The Board requires the Applicant to distribute Notices of Public Comment Hearing and Adjudication by mail and other media to formally announce the submission of the Applicant's Project to the EFSB for review, and upcoming public comment opportunities. Such notices include information on how to participate in the public comment hearing and also in the proceeding, as well as an overview of the Project. Recent examples of notices, which generally conform to a standard form, can be found on Board's website: [EFSB/Siting Calendar | Mass.gov](#). (Click here for a direct link to a notice.) [The Board will provide a template to assist Applicants in preparing a standard draft Notice with the Application -- TBD.]

C. Other State, Regional, and Local Permits and Approvals

This section of the Application will contain the specific documents required for the Board, PEAs, permit advisory agencies ("PAAs"), Local Government(s), and other stakeholders to evaluate the Applicant's request for Permits that are within the Board's authority to issue in an EFSB Consolidated

⁷ The Board may create a new filing portal in coordination with DOER. The new portal would enable applicants to upload files directly, similar to existing Massachusetts Environmental Policy Act ("[MEPA](#)") and Massachusetts Department of Environmental Protection ("[MassDEP](#)") filing portals.

Permit.⁸

For state permits, the Guidance relies on existing Permit application forms and filing requirements by the PEAs whose permits and approvals will be included in an EFSB Consolidated Permit. For the local components of Applications, the Board intends to rely extensively (but not exclusively) on DOER's SCEIF Application Form(s).⁹ To the extent that zoning relief is sought by Applicants, Applicants should prepare their Applications inclusive of the separately requested zoning exemptions.

The Board intends to align EFSB Consolidated Permit Application requirements with DOER's Consolidated Local Permit regulations, to the greatest extent practicable. The EFSB will supplement and update this Guidance after DOER releases the details of its Consolidated Local Permit program and application(s).

D. Proposal and Analysis Sections ("P&A")

The purpose of the P&A Sections is to explain the type of information required for the Board to issue an EFSB Construction Permit, as well as context supporting other Permits and approvals. Existing Applications to the Board have largely relied on using Applications from previous years as a basis. This Guidance is intended to explain and standardize what has largely evolved over time through Board precedent and practice. The Guidance establishes the minimum filing requirements, which may need to be supplemented by the Applicant, as appropriate.

In appearance, the P&A should closely resemble the type of information that the Board has previously received in an Application or "Analysis" sections supporting petitions (filed under M.G.L. c. 164, §§ 69J, 69J¼) and Zoning Exemption requests (M.G.L. c. 40A, § 3 and St. 1956, c. 665, § 6). The P&A would also contain similar material to past MEPA filings for Energy Facilities, i.e., Expanded Environmental Notification Forms, Draft Environmental Impact Reports, and Final Environmental Impact Reports. As good practice, Applicants are encouraged to meet with EFSB Staff prior to filing to clarify the scope and type of information required.

E. Zoning Exemptions

If applicable, the Applicant will describe all zoning exemptions that the Applicant asserts the Project would need in order to be constructed and operated, as summarized in Exhibit **Y** below:

⁸ M.G.L. c. 164, § 69G recognizes that certain federal permits may be delegated to specific state agencies, and therefore, would not be included in an EFSB Consolidated Permit.

⁹ M.G.L. c. 25A, § 21 defines "Local Government" as a municipality or **regional agency**, [emphasis added] including, but not limited to, the Cape Cod Commission and the Martha's Vineyard Commission. See St. 2024, c. 239, § 23.

Exhibit Y**Zoning Exemption Table**

Zoning Provision from which Exemption is Requested	Local Zoning Exemption Required	Why Exemption is Required

F. Fee Worksheet [TBD]

[The EFSB and DPU will issue updated EFSB fee regulations for the EFSB Consolidated Permit process. See 220 CMR 32.00. The Board will issue a fee schedule based on the forthcoming Application fee regulations.]

G. Project Overview Presentation

Applicants are encouraged to supplement the written Application materials with a short (approximately 5-minute) visual presentation overview of the Project (e.g., a video). The Applicant should also link the video on its Project website. The Board will post a link to the presentation in the DPU/EFSB Fileroom and on the EFSB's website for the Project.

The presentation should provide factual information using neutral language and avoiding a tone of "marketing advocacy" for the proposed Project, with images of proposed Project sites/routes, and visual renderings that would aid the public in gaining an understanding of the Project. The presentation must be compatible with on-demand closed captioning, translated closed captioning, and other accessibility features.

III. STATE, REGIONAL AND LOCAL PERMITS REQUESTED

The following information and attachments shall be provided by Applicants for each Permit and approval which would otherwise be required, absent an EFSB Consolidated Permit:

- Permit name;
- Permit type: state/regional/local;
- PPEA, and the related permit program (e.g. "Wetlands Program");
- Application fee that would have otherwise applied to this type of facility, if submitted to the PEA;

- PAA¹⁰ (if required by law or regulation);
- PEA statutory and regulatory authorities for Permit;
- Website (URLs) for PEA's Permit rules, forms, and general requirements and guidance;
- Completed Permit application form, i.e., the application for the permit that would normally be submitted to the State PEA, or to a Local Government under the DOER Consolidated Local Permit application requirements at 225 CMR 29.00 (or the actual local agency PEA forms, if not covered by the DOER Consolidated Local Permit application); and
- A proposed draft Permit for the Project, including all applicable EFSB, DOER and State Agency Common Conditions, and any other site-specific conditions proposed by the Applicant. For State Permits, Applicants shall use the standard PEA permit format and include State Agency Common Conditions; for local permit(s) Applicants shall use DOER's Permit format and DOER's Common Conditions.¹¹ See Attachment 1: EFSB Standard Conditions.

The Applicant's proposed draft PEA permit(s) shall highlight all instances where established PEA program requirements are in conflict and the Applicant's proposed resolution(s) thereto. All such proposed resolutions must be identified in the Permit Application submission and summarized in the Draft Permit Conflicting Requirement Summary Table (see example below):

Exhibit X

Application and Draft Permit Conflicting Requirement Summary Table

Permit Name	Description of Conflicting Requirement(s) Between Different PEA Permit Programs	Proposed Resolution (Please cite (and hyperlink) to Application page where the proposed resolution occurs)

¹⁰ A PAA describes agencies that have a statutory or regulatory responsibility to advise a PEA during the usual review process for a particular permit. See 980 CMR 13.01(4).

¹¹ To facilitate the efficient review and adjudication of the Applicant's proposed permits, such forms must be submitted as editable text, in Microsoft Word, regardless of the PEA's normal permit issuance format (e.g., PDF, Excel, etc.).

IV. PROPOSAL & ANALYSIS: GENERAL SECTION

A. Executive Summary

Describe the proposed Project in a concise and clear narrative that uses plain English in an Executive Summary, which should include:

- Basic description of the Applicant's proposed Project, major components, locations, and surrounding community and land uses;
- Purpose of the proposed Project and intended energy/environmental benefits;
- Estimated Cost (for LCTDIF and SCTDIF only);
- Construction timing and key methods;
- Potential environmental, health, and safety impacts, and how the proposed Project avoids, minimizes, and mitigates them through Project design and the use of Common Conditions or Applicant-proposed site-specific conditions;
- Summary of Cumulative Impact Analysis ("CIA") (if applicable; See 9 80 CMR 15.00), Site Suitability Criteria scoring evaluation (if applicable), and other mitigation strategies; and
- Summary of pre-construction outreach plan and intended follow-on communication and engagement plan with community during construction and operational phases; sources of Project information (e.g., websites, hotlines, meetings, electronic filing systems.)

B. Application Overview

Provide the following listed information in the Application Overview:

1. Applicant Information

- Applicant's legal name;
- Applicant's mailing address, phone number, email address, Project webpage URL;
- A brief explanation of Applicant's type of business entity, including its date and location of formation and the name and address of any parent entities;
- Name of Applicant's representative, mailing address, phone number, email address (if different from Applicant company);
- Project owner(s) (if different from Applicant) and ownership percentages;
- If the Project is to be owned by a corporation, a copy of the charter of such corporation. If the Project is not to be owned by a corporation, a copy of the certificate or other documents of formation; and
- Project owner(s) mailing address, company webpage URL (if different from Applicant).

2. Application Information

- Project name;
- Municipalities where Project would be located;
- Assigned EFSB docket number(s) for the Application;
- Does the Application include a separate request for zoning exemptions? If so, provide the docket number;
- Project type (e.g., LCTDIF, SCTDIF, LCEGF, SCEGF, LCESF, SCESF);
- Status of Project design (percent completed);
- Proceeding Type (e.g., M.G.L. c. 164, §§ 69T, 69U, or 69V);
- Has the Project, or any portion of it, been filed with the Board or the DPU for siting/permitting approvals before;?
- Have any projects on this site been filed with the Board or DPU before for any type of siting/permitting or other regulatory approvals? If yes, list the projects' EFSB/DPU docket number(s);
- List any related EFSB/DPU docket(s) that explicitly address the Project, including but not limited to, the following areas of review: planning, ratemaking, safety, operations, contract review, and enforcement actions. If any such reviews have taken place as informal (non-docketed) matters, provide relevant summary details;
- List all federal permits and approvals required for the proposed Project. See 980 CMR 13.05. [Note: This question is for context only; the EFSB does not issue federal permits.] Provide the following for each such permit:
 - Permit name;
 - Permit Agency, and issuing program entity;
 - Statutory and regulatory authorities for permit issuance;
 - Status of the permit process;
 - Website URLs to permit agency's permit rules, forms, and general requirements and guidance; and
 - Website URLs for Project application(s) filed with federal agencies.

3. Project Description

Describe the Project in detail in the Project Description and include the following information:

- An overview of the proposed Project including a brief description of size, ratings, purpose, location, and expected use;
- General description of the community where the Project would be located (e.g., land use, population);
- The major components of the Project, which may include, but are not limited to: generating equipment, energy storage units, conductors, structures/towers/containers, insulators, splice

vaults, transition vaults, interconnection facilities, substations and switching stations, inverters, converter stations, collection lines, access roads, laydown areas, stormwater facilities, parking and vehicle access points, administrative, maintenance and control facilities, and any other related on-site facilities and equipment;

- Estimated Cost (only required for LCTDIF and SCTDIF -- other than generator interconnection lines);
- General Project construction methods, including the following:
 - Construction phases;
 - Construction methods;
 - Construction crews;
 - Staging areas and material delivery procedures; and
 - Any other details necessary for the Board review of Project construction, including a Construction Management Plan.
- A Gantt Chart showing the timing and duration of the entire Project and the stages of construction;
- Identification and discussion of any site-specific adverse environmental impacts of the proposed Project and the manner in which the Applicant has proposed these impacts would be avoided, minimized, or mitigated by Project design or the EFSB and DOER's Common Conditions, the Applicant's proposed site-specific mitigation, design improvements, Project and/or site alternatives, or community benefit plans or agreements;
- Append the following, or include as figures as appropriate:
 - Area Locus Map (or United States Geological Survey) Quadrangle Map with Project and Project Area delineated;
 - Map of the Project Area as defined by the Applicant;
 - Site plans, including general construction plans and elevation view drawings;
 - Design and technical drawings;
 - Transmission and distribution system diagrams/maps of the existing electric system in the Project Area, including other projects in development; and
 - Visual simulations, before and after construction, from key vantage points of greatest visibility.

4. Project Site

Describe all property (e.g., parcels, lots, easements) involved in the Project, including the following:

- The proposed location of the Project facility, including proposed electric collection and transmission lines and interconnections, as well as ancillary features located on the Project site such as roads, railroads, switchyards, energy storage or regulation facilities, substations and similar facilities;
- General dimensions of the Project site including area in acres or square feet;

- A description of the maximum height of transmission and distribution structures, substations, solar panels, wind turbines, storage tanks, energy storage facilities, and associated electrical equipment;
- The proposed limits of clearing and disturbance for construction of all Project components and ancillary features including laydown yards and temporary staging or storage areas;
- Existing land ownership, including whether ownership is private, public, tribal, conservation-based, and/or other;
- Proposed land ownership status (e.g., would the Applicant own the land);
- Identify any financial assistance or land transfer from an agency of the Commonwealth, including the agency name and the amount of funding or land area in acres;
- The location of noise-emitting facilities during operation, such as inverters and transformers, including the distance to occupied structures, property lines, and public rights-of-way;
- A map using satellite imagery (or aerial photograph) with depictions of planned facilities, fences, roads, occupied buildings, and planned screening, landscaping, and vegetative cover;
- The proposed location of any off-site utility interconnections, including all electric transmission lines, communications lines, stormwater drainage lines connecting to and servicing the site of the facility; and
- Output report from ResilientMass Action Team (“RMAT”) Climate Resilience Design Standards Tool.

5. Surrounding Area

Describe the general characteristics of the area surrounding the Project (within at least one-half mile of the proposed facilities) using maps and related geospatial data where appropriate. The Application description should include the following information:

- Geophysical, environmental, cultural resource, land use, and other constraints impacting facility design and layout within the Project area. Constraints shall include but are not limited to: state protected wetlands and waterbodies, lands used in agricultural production, prime agricultural soils, environmentally sensitive areas (e.g., threatened or endangered species locations, archaeologically sensitive areas), required setbacks;
- State, regional, and municipal boundaries;
- Adjacent neighborhoods and the populations residing therein;
- Recreation and conservation areas;
- Major institutions, landmarks, and facilities;
- Waterbodies and other notable topographical features; and
- Major overhead and underground energy facility infrastructure, including transmission lines, electrical stations, generation facilities, energy storage facilities, gas pipelines, telecommunications, and water/sewer facilities.

V. PROPOSAL & ANALYSIS: CONSULTATION AND COMMUNITY ENGAGEMENT

A. Community Demographic Information

Describe the following language and demographic information for the community or communities affected by the Project, including the following information:

- Pursuant to the Board’s current [Language Access Plan \(“LAP”\)](https://www.mass.gov/info-details/efsb-environmental-justice-information)¹²<https://www.mass.gov/info-details/efsb-environmental-justice-information>: Identify the presence of any Census Block Groups within designated geographic areas¹² of the Project’s boundaries in which five percent or more of the population reports speaking a specific non-English language and also indicate that they “speak English less than very well” (“Limited English Proficiency” or “LEP”); identify each Census Block Group that meets this population threshold, and the relevant languages in each Census Block Group;
- Presumptive translation and interpretation required by the Board LAP;
- Burdened Areas (“BA”) within the Specific Geographic Area of the Project for CIA purposes [The Board is in the process of drafting regulations for application of CIA for EFSB-jurisdictional CEIF under 980 CMR 15.00].

B. Pre-Filing Consultation and Community Engagement

Provide an affidavit and documentation of compliance pursuant to 980 CMR 16.00 and provide a summary of pre-filing consultation and community engagement conducted. Describe the Applicant’s past and ongoing efforts towards establishing a Community Benefits Plan or Community Benefits Agreement with stakeholders in the affected communities.

C. Community Outreach Plan

This section details how Applicants should develop communication and engagement plans (“Community Outreach Plan” or “COP”) for construction and operation phases of the Project, for inclusion in EFSB Consolidated Permit.

The COP should use plain language, and include:

1. Coordination Component

The Applicant is expected to coordinate with stakeholders, including abutters, municipal officials, community groups, and property owners regarding:

- Development of the COP; and

¹² The current designated geographic area varies according to project type, as follows: (a) one quarter mile from the boundaries (such as edges of rights-of-way) of linear projects or linear project components that are not site-specific and lack a single point address, such as transmission lines and gas pipelines; and (b) one mile from the boundary of projects and project components for electrical switching stations, substations, pipeline meter stations, gas regulators, electric generating facilities, gas storage facilities, energy storage systems, or gas compressor stations. The Applicant should ensure that it is using the designated geographic area from the current EFSB LAP.

- Discussion of upcoming construction activities prior to each major construction stage, including: (1) those that would create significant adverse impacts on or affect access to stakeholders' properties, including traffic lane and street closures and detours; and (2) planned or unplanned construction activities that would occur outside of regular work hours, including during nighttime, weekends, and public holidays.

2. Notification Component

- Notice sent via email, U.S. mail, or hand-delivered flyers or door hangers to abutters and other stakeholders regarding advance notice of scheduled construction activities in affected neighborhoods, including: (1) the scheduled start, duration, and hours of construction in particular areas; (2) the methods of construction that will be used in particular areas (including any use of nighttime construction); and (3) anticipated traffic lane and street closures and detours, as well as special deliveries such as involving outsized equipment or components;
- Translations into appropriate languages for the Project area, consistent with the EFSB current LAP provisions for presumptive language services;
- Outreach protocols to sensitive receptors of upcoming construction; and
- Work area signage.

3. Communication Component

- Project representative(s) contact information;
- Creation of webpages displaying Project information;
- Creation of a telephone hotline, email address, and point of contact for public inquiries and complaints and a protocol to respond to complaints in a timely manner;
- Regular email updates to municipal officials and email lists; and
- Opportunity to sign up for updates via the Applicant's Project website.

VI. PROPOSAL & ANALYSIS: PROJECT NEED (FOR LCTDIF AND SCTDIF)

A. Basis of Need

- Describe the basis of need for the Project and provide supporting documentation;
- Identify transmission and/or distribution system reliability issues (including due to system planning criteria from NERC, NPCC, ISO-NE, etc., or environmental risk to system infrastructure);
- Provide current Project area load projections by substation, over a 10-year (or longer) period;
- Describe asset condition improvement or modernization needs (e.g., damage to electric line structures, cable, obsolescence, outdated specifications);
- Describe performance improvement/economic benefit objectives of the Project supporting need;
- Describe interconnection need for generation or energy storage facilities; and
- Other state and federal policies that support Project need.

B. System Background Conditions

Describe system background conditions, including:

- The Project Area’s electric system topology, including: transmission and major distribution lines, generation/storage sources and expected retirements, substations, customer energy requirements served, and particular concerns regarding critical infrastructure or vulnerable populations;¹³
- If applicable, any electrical load pocket(s) in the electric system which require relief;
- Information about whether the Project facilities would be part of a regional transmission system (e.g., pool transmission facilities, “PTF”) or local transmission (non-PTF);
- The nameplate capacities and long-term emergency (“LTE”) ratings of transformers, the firm capacity for substations, and the N-1 and N-1-1 contingency scenarios and timelines for potential overloads; and
- If applicable, equipment performance concerns or recurring line outage history.

C. Load Forecast Studies

If the Project need is based on ISO New England (“ISO-NE”) system studies, or company-specific load forecast studies, provide said studies. Other relevant studies (such as Electric Sector Modernization Plans (ESMPs), or Long-Term System Planning Program studies) may also be provided (or referenced) to demonstrate Project need.

- If the Project need is based on existing or forecasted demand for interconnection of CEIF, describe the interconnecting facility and current interconnection queue related to the Project.
- If Project need is based on a load projection, provide a reviewable, appropriate, and reliable load forecast or forecasts. Such forecasts:
 - Are based on accurate historical information and reasonable statistical projection methods, which should include an adequate consideration of conservation and load management;
 - Include a full description of the load forecast methodology, including the relevant standards, and expected accuracy levels; and
 - Address significant trends including: energy efficiency, clean energy generation, energy storage, major known step-load additions or expected load retirements, and electrification of buildings and transportation uses, and provide relevant breakdowns of these sub-categories of demand.

¹³

Applicants shall file confidential system information pursuant to 980 CMR 1.06(5)(f).

D. State Policies

If Project need is related to implementation of state policies, identify the policies (e.g., policy documents, statutes, regulations, rulings, orders and decisions) and describe how they influence Project need.

E. Consequences of “No Build”

Regardless of the asserted basis of Project need, describe the consequences of leaving the existing transmission and distribution system as is. Relevant considerations include:

- System failures (e.g., areas/number of customers affected, anticipated time to restore service, damage to the system, economic/public health/safety consequences of outages);
- Non-compliance with state policies, or established reliability standards; and
- Whether any stopgap improvements, and/or operational measures could defer the need, and if so, for how long and at what cost/impact.

VII. PROPOSAL & ANALYSIS: DESCRIPTION OF ENERGY BENEFITS

- For LCTDIF and SCTDIF Applications, describe any additional benefits the Project would provide in addition to the Project need identified in the section above and append any supporting studies or calculations.
- For LCEGF, LCESF, SCEGF and SCESF Applications, describe any energy benefits the Project would provide, in the following context:
 - In light of the Board’s goal to “provide a reliable, resilient and clean supply of energy,” energy benefits could include, but are not limited to:
 - Enhancing energy system reliability;
 - Meeting future energy load projections;
 - Achieving state policy goals such as Net Zero climate goals;
 - Offering financial savings or stability to customer or wholesale market energy costs; and
 - Expanding energy access or service quality to underserved communities.
 - Specify to whom the benefits would be provided (e.g., the ISO-NE region, the Commonwealth, the affected municipalities, specific ratepayers, Project partners, etc.).
 - Append any supporting studies or calculations.

VIII. PROPOSAL & ANALYSIS: PROJECT ALTERNATIVES (FOR LCTDIF AND SCTDIF)

For LCTDIF and SCTDIF Projects:

- Describe how the Applicant has considered or implemented alternative approaches to meet the identified Project need, including but not limited to the following:
 - Advanced transmission technologies;
 - Grid enhancement technologies;
 - Non-wires alternatives, such as energy storage, distributed energy resources, etc.

- Alternative methods of transmitting or storing energy, including distribution system solution alternatives;
 - Alternative sources of power;
 - A reduction of demand requirements through load management;
 - How the Project will increase the capacity of the system to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation, clean energy storage or other clean energy generation sources that qualify under any clean energy standard regulation established pursuant to M.G.L. c. 21N, § 3(d), or will facilitate the electrification of the building and transportation sectors; and
 - Other alternatives to avoid or minimize expenditures.
- Provide a comparison of the above Project alternatives with the Project in terms of ability to meet the identified Project need; cost (both capital and net present value (“NPV”) of capital and operating costs); energy benefits and other co-benefits; environmental impacts; reliability; feasibility; other state policy considerations, such as Environmental Justice or CIA; and Project management considerations;
 - Describe whether, on balance, the proposed Project is superior to the alternative approaches identified; and
 - Append any supporting studies or calculations.

IX. PROPOSAL & ANALYSIS: ROUTE SELECTION AND SITE SELECTION (FOR LCTDIF AND SCTDIF)

The Board’s statutes do not impose the same requirements on LCTDIF or SCTDIF as compared with clean generation/energy storage facilities for the Board’s evaluation of site and Project alternatives. For LCTDIF or SCTDIF (under both M.G.L. c. 164 §§ 69T and 69U)], the Applicant must provide “a description of the alternatives to the large [and small] clean transmission and distribution infrastructure facility, including siting and Project alternatives to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts.”

Regarding clean energy storage and clean generation facilities, the Applicant must provide “a description of the Project site selection process and alternatives analysis used in choosing the location of the proposed large [or small] clean energy generation facility or large clean energy storage facility to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts.” Unlike the requirements for LCTDIF or SCTDIF projects, the Board’s statute does not specifically mandate “siting and project alternatives” for clean energy storage and generation facilities.¹⁴

¹⁴ The statutory language for clean generation and energy storage facilities is similar to the language for legacy generation facilities contained in M.G.L. c. 164, § 69J¼ that imposes only a *descriptive* requirement on the applicant regarding its site selection. In contrast, the Site Suitability Criteria, established by EEA, are specifically intended to help guide the proponent’s selection of sites for clean generation and clean energy storage facilities, and not be limited to an after-the-fact “descriptive” use. The Board is required to develop standards for applying the Site Suitability Criteria.

A. Route/Site Selection

The route/site selection process involves the following steps in EFSB proceedings:

- T&D Project route/site selection often revolves around connecting existing, upgraded, or new substations or switching stations to other such substations (or switching stations) to address identified system needs. This is generally the starting point for analysis of transmission line routing options;
- Where new substations/switching station locations are required, Applicants shall identify relevant factors for consideration of potential sites, such as ownership status, local zoning, community input, engineering and planning considerations, constructability, environmental impacts, site security, and cost;
- The Applicant shall also identify the objectives for route selection for the LCTDIF or SCTDIF. Such factors may include environmental impact avoidance, minimization and mitigation to built and natural environments, constructability constraints, reliability, and cost, among others;
- The Applicant shall describe geographical diversity among the proposed routes/sites and the alternatives considered for the Project. The Applicant should evaluate geographical diversity as a function of land use, vegetation cover, population density, presence or proximity to sensitive receptors, archeological and historical resources, pollutant sources and regulated contaminated sites, water resource areas, existing public roads and utility corridors, cost, and reliability considerations. In general, the Applicant must establish that it identified at least two noticed sites or routes with some measure of geographic diversity.¹⁵
- Consideration of CIA – the Board is required to evaluate cumulative impacts for all jurisdictional energy facilities. The Board is proposing a route/site scoring system that integrates CIA factors into the evaluations; See 980 CMR 15.00; and
- EEA's Site Suitability Criteria apply to LCTDIF or SCTDIF where Applicants propose to construct them in newly established public rights of way.

B. Superior Route/Site Not Overlooked

The Applicant must establish that it developed and applied a reasonable set of criteria for identifying and evaluating alternative routes/sites in a manner that ensures that it has not overlooked or eliminated any routes/sites that, on balance, are clearly superior to the proposed route/site. The following steps describe a method, based on precedent, to achieve this objective:

- Identification of a Project Study Area: defines the geographic boundaries of where facilities could be located that would serve the identified Project need, and provides a wide range of siting options to consider;

¹⁵

Given that the designation of a noticed alternative route: (a) is not required by statute; (b) necessitates that a project proponent expend significant funds in both developing and supporting a noticed alternative route; and (c) has the potential to raise concern unnecessarily among potential abutters and others in the affected communities, the Board has indicated that a noticed alternative route may not be warranted in all cases. See e.g., Mid-Cape Main Replacement Project, EFSB 16-01, at 21 (2016).

- Development of a Universe of Routes: this step involves considering many possible routing options between two or more points (such as substations) that offer geographic diversity, and a wide variety of route characteristics such as distance, environmental impacts, construction challenges, community factors, cost, and reliability. In urban areas, the number of routing possibilities can be quite large, and various screening procedures can be used to down select to the more promising candidates;
- Identification of Candidate Routes: This step allows an Applicant to screen the Universe of Routes to reduce the number of options to a more manageable number of promising candidates. In this step, Applicants will typically consider early stakeholder input, and conduct pre-filing meetings with local and state regulatory agencies, and elected officials. Screening procedures include desktop and GIS analysis, document and plan review, site reconnaissance, general constructability assessments, cost considerations, deed research/property rights evaluations, evaluation of the presence of wetlands/waterways, traffic analyses, and a review of active and future planned developments;
- Route Scoring: Environmental, Constructability, and CIA [tbd];
- Cost Analysis: A more detailed comparison of estimated cost for the Candidate Routes;
- Reliability Analysis: A more detailed evaluation of any differences in reliability of the LCTDIF or SCTDIF infrastructure related to the routing characteristics;
- Selection of a Preferred Route and Noticed Alternative Route: This step results in two remaining route choices for final evaluation based on relevant factors such as environmental impacts, reliability, cost, and cumulative impact considerations. May also include “route variations,” which are short alternative segments of a route intended to address potential issues such as land acquisition/access constraints and construction impediments; and
- Pre-Filing Consultation and Engagement: As part of 980 CMR 16.00, the Applicant should provide ample information about the process and substance of communications between the Applicant and the host community, its stakeholders, elected officials, and state and local agency representatives. The Board has found that contemporaneous meeting minutes are of great value in its review process. Applicants should share these minutes with meeting participants to ensure their accuracy.

X. PROPOSAL & ANALYSIS: SITE SUITABILITY CRITERIA (CEIF)

A. General Requirements

In 980 CMR 15.00, the Board is establishing standards for applying Site Suitability Criteria developed by EEA. The Board was directed establish “standards for applying site suitability criteria developed [by EEA pursuant to M.G.L. c. 21A, § 30] to evaluate the social and environmental impacts of proposed clean energy infrastructure project sites include a mitigation hierarchy to be applied during the permitting process to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts of siting on the environment, people and goals and objectives of the commonwealth for climate mitigation, carbon storage and sequestration, resilience, biodiversity and protection of natural and working lands to the extent practicable.” M.G.L. c. 164, § 69T. With respect to LCTDIF and SCTDIF, the applicability of the Site Suitability Criteria is limited to LCTDIF or SCTDIF in “newly established public rights of way.” M.G.L. c. 21A, § 30.

B. Applicant Instructions

CEIF Applicants must:

- Use the Site Suitability Criteria established by EEA to evaluate proposed sites and routes, as applicable. In the case of proposed LCTDIF and SCTDIF that are not in “newly established public rights of way,” there is no required evaluation for such facilities using the Site Suitability Criteria in such locations; and
- Include a report summarizing an analysis of candidate routes and sites using the Site Suitability Criteria, and explain how, and to what degree, the Site Suitability Criteria influenced the Applicant’s selection of a preferred route/site versus alternative locations. Include a narrative on how the Site Suitability Criteria guided the Applicant’s Project development approach in terms of avoiding, minimizing, and mitigating impacts on the environment and people to the greatest extent possible.

XI. PROPOSAL & ANALYSIS: ENVIRONMENTAL IMPACTS

A. Land Use and Land-Based Resources

1. Project Site Locus

Provide a detailed description of the Project locus (reference above sections on [Project Description](#), [Project Site](#), and [Surrounding Area](#), as necessary), including:

- All zoning designations applicable to the Project site (e.g., districts, overlays) and corresponding compliance criteria (e.g., permitted uses; dimensional, setback, parking, open space requirements);
- The topography of the Project site(s) and surrounding area(s); and
- A qualitative description of the general character (e.g., urban, rural, industrial) of the surrounding land uses and describe any anticipated challenges with integrating the Project accordingly. Specify any anticipated physical alteration(s) to surrounding land uses from Project construction, operations, or decommissioning, and how such alterations would contribute to the above challenges, if applicable.

2. Terrestrial Ecology

- Describe the Project’s consistency with municipal or state land use planning documents and studies regarding: (1) economic development objectives; (2) adequacy of infrastructure; (3) open space impacts; and (4) compatibility with adjacent land uses;
- Provide maps specifying the location and extent of any ecologically significant resource areas, e.g., areas of critical environmental concern (ACECs). For such areas, specify the delineation methodology (e.g., field delineation, mapping records, use of MassGIS data layers);
- Describe the terrestrial ecology within and surrounding the Project site(s);
- Provide a description of vegetation cover, and how vegetation is integrated with other defining topographical features – built and natural;

- Describe any anticipated adverse ecological impacts of the Project (e.g., vegetation loss, soil destabilization, habitat (including rare species) destruction, and biodiversity loss);
- Describe the following features of the Project site and surrounding area, as applicable:
 - Agricultural uses at present or past five years;
 - Active forestry use;
 - Article 97 land; and
 - Conservation restrictions, preservation restrictions, agricultural preservation restrictions, or watershed preservation restrictions
- If applicable, describe any impervious surface increase and resultant impact(s) on urban heat island conditions, including (?) anticipated impacts on public shade trees;
- Describe mitigation, best practices, or regulatory requirements (e.g., public shade tree requirements, avoidance of sensitive areas, establishment or continuation of wildlife corridors, preservation, rehabilitation, or generation of vegetation or other ecological features); and
- Describe consultations to date and anticipated with the Massachusetts Historical Commission (“MHC”) and Natural Heritage and Endangered Species Program (“NHESP”), respectively.

B. Rare Species

- Discuss presence of both common and rare species (including migratory species); overall biodiversity; ecological stressors, e.g., human activity, threats to habitat connectivity, disease prevalence, and presence of invasive species; and recent ecological history;
- Describe whether the Project site includes Estimated and/or Priority Habitat of State-Listed Rare Species. If so, specify.
- Describe whether the Project site falls within mapped rare species habitat in the current Massachusetts Natural Heritage Atlas. If so, provide the relevant page(s); and
- Describe any past or intended future consultations with NHESP regarding the Project.

C. Historical/Archeological Resources

- Does the Project site include any structure, site or district listed in the State Register of Historic Places or the inventory of tribal, Historic and Archaeological Assets of the Commonwealth? If so, does the Project involve any demolition or destruction of any listed resources?
- Provide an unanticipated archaeological discoveries plan. The plan should outline procedures to be followed in the event of an unanticipated discovery of archaeological resources or human remains during construction activities for the Project.

D. Water Resources and Aquatic Ecology

1. Water Use and Wastewater

- Describe the Project's water use and wastewater generation. Describe the water source and disposal method of wastewater. Describe any designated classification to the water use (e.g., potable water, reclaimed water) and wastewater (e.g., sanitary, industrial); and
- If the water source is municipal or regional supply, and/or would discharge to a wastewater facility, describe the total capacity of such water supply and/or wastewater facility. Describe the impact of the Project's water use and wastewater generation on such water supply and/or wastewater facility. If the water source and/or disposal method are something else, describe the impact and mitigation in the appropriate sub-sections below.

2. Description of Wetland Resources Areas

- Using maps and tables, describe the occurrence, location, and acreage, of the following surface water resources within or near the Project. Describe the delineation methodology of the water resources in both lists, including, but not limited to, the use of MassGIS data layers, mapping records, and field delineations. Provide the total sum of these areas by type in a table.
 - Surface watercourses, including but not limited to streams, rivers, ponds, and lakes;
 - Public waterways or tidelands, and land under Chapter 91 jurisdiction;
 - Waters of the United States (per 40 CFR Part 120);
 - Outstanding Resource Water ("ORW");
 - Wild and Scenic River;
 - Jurisdictional federal, state, and locally regulated wetlands and adjacent areas (e.g., wetland buffers and setbacks);
 - Vernal pools;
 - Other local water resources, wetland resources, conservation and protection zoning districts or overlays;
 - Coastal resource areas;
 - Land Subject to Coastal Storm Flowage ("LSCSF") and Land Subject to Flooding ("LSF");
 - Currently impaired water, specify by pollutants; and
 - Any other jurisdictional waters and resource areas.
- Using maps and tables, describe the occurrence location of the following subsurface water resources within or near the Project. Describe the delineation methodology of the water resources in both lists, which could include, but is not limited to, the use of MassGIS data layers, mapping records, and field delineations. Provide the total sum of these areas by type in a table.
 - Notable underground aquifers, especially those used as public water sources;
 - Public water wellheads and protection areas;

- Major water discharge and drainage outfalls;
- Private water wells and protection areas; and
- Private septic systems including leech fields.

3. Water Discharges and Impacts on Water Quality

- For any water discharge not to a wastewater facility, describe the purpose, amount, and timing of the discharges, as well as any pollutants involved;
- Describe any proposed dewatering operations on the Project site (e.g., necessary for Project construction), associated impacts on water quality, and corresponding mitigation;
- Describe any changes that the Project would make to stormwater runoff and erosion at the Project site, and potential impacts on surrounding properties and waters based on the Massachusetts Stormwater Handbook; and
- Describe any proposed mitigation, including the stormwater infrastructure. These descriptions may be presented and discussed in the context of a Stormwater Management and Erosion Control Plan.

4. Water Withdrawal and Extraction

- Describe any proposed water withdrawal and extraction for the Project from surface water or groundwater, including the purpose, amount, and timing of the withdrawals; and
- Describe the impacts that the proposed water withdrawal and extraction would have on the source waters, including any impacts that would lead to depletion of water resources, and/or impairment of water quality and classified water use.

5. Wetlands and Waterbodies

- Provide the delineation of all wetland resource areas on and near the Project site. Include a description of the method(s) used to identify wetland presence and boundaries within the Project area and the credentials of the person who completed the delineation.
- Discuss the existing functional values of the wetlands present in the area of the Project site. Functional values include but are not limited to floristic diversity, fish and wildlife habitat, flood storage, protection of public and private water supply, groundwater discharge and recharge, public use, prevention of pollution, storm damage prevention, etc. Discuss how the Project may impact existing functional values of wetlands.
- Describe any direct impacts such as alterations and impediments, including dredging, that the Project would have on any waterbodies, including but not limited to watercourses, wetlands, and the ocean. Describe areas of waterbodies the Project would affect, as grouped in the following categories:
 - Wetlands and their resource areas and adjacent areas;
 - Surface watercourses, including but not limited to streams, rivers, ponds, and lakes;
 - Coastal areas including tidelands;

- Ocean including federal and state waters and the Outer Continental Shelf (“OCS”);
- Estimate the extent and type of impacts that the Project will have on wetland resources, and indicate whether the impacts are temporary or permanent. If proposing any offsite mitigation such as enhancement to existing wetlands, replication of wetlands, or a mitigation fund, provide the details including the mitigation location(s).
- Provide the methods to be used for avoiding, minimizing, and mitigating construction impacts in and near wetlands. This discussion should include, but is not limited to, how wetland impact was first avoided then minimized by Project design, shifting the Project boundary, relocating structures and/or fill outside of wetland, minimizing construction through wetlands, by installation methods (i.e., directional bore versus open-cut trenching, soil segregation during trenching, etc.), equipment crossing methods (i.e. use of construction matting, frozen ground conditions, etc.), sediment and erosion controls, invasive species protocols for equipment, etc.

6. Underwater Archeological Resources

For Projects that have components that are located underwater or offshore, provide the following:

- Describe underwater archaeological resources at or near the Project site, by type if applicable; and
- Provide a summary of and attach to the Application any relevant archeological surveys and studies.

7. Aquatic Ecology

- Describe the aquatic ecology within and near the Project, including the type of aquatic ecosystems, presence of both common and rare wildlife, overall biodiversity, recent ecological history if applicable, and ecological health (e.g., degradation from human activities, habitat connectivity, and invasive species);
- Provide maps and sums of these areas by types in a table:
 - Rare wetland wildlife habitat;
 - Wild and Scenic River;
 - Marine protected areas, including ocean sanctuaries, wildlife refuges, and estuarine research reserves; and
 - Waterbodies with the presence of fish runs and shell fishing, if not covered above.
- Describe impacts associated with the Project on the following, and corresponding mitigation:
 - General health and condition of the aquatic ecology;
 - Ecological health of resource areas such as tidelands;
 - Rare species and habitat including migratory species with a local presence, by species;
 - Habitat connectivity (e.g., fragmentation of habitats);
 - Fishery; and
 - Wildlife-based recreation.

E. Transportation

1. Disruption and Congestion of Road

- Describe transportation corridors in the Project area with maps and information gathered from MassGIS data layers, aerial photography, field reconnaissance, mapping records, traffic data collection etc.;
- Describe the MassDOT classification of roads (i.e., Limited Access Highway, Multi-Lane Highway, Major Road, and Minor Street), and any other characteristics pertinent to the analysis of impacts on transportation (e.g., road width, number, and direction of lanes); on-street parking; dedicated bike lanes; sidewalks;
- Include any traffic studies and traffic management plans as required by applicable permits;
- Provide a description of the pre-construction adjacent roadways' characteristics in the vicinity of the proposed Project site including:
 - Existing data on vehicle traffic and accidents on surrounding roads;
 - A review of non-rail transit facilities and routes, including areas of school bus service;
 - Access routes to and from the Project site for police, fire, ambulance and other emergency vehicles; and
 - Available load bearing and structural rating information for construction equipment to access the Project site (including bridges and culverts).
- Provide for each major phase of construction, and for the operation phase, an estimate of the number and frequency of vehicle trips, including an estimation of daily trips (identifying whether trips will occur during day or night) by size, weight and type of vehicle;
- Provide for major cut or fill activity (spoil removal or deposition at the Project site and affected interconnection areas) a separate estimate of the number and frequency of vehicle trips. Describe approach and departure routes, by size and type of vehicle;
- Identify approach and departure routes to and from the Project site for construction workers and employees of the facility;
- Specify expected road closures and timelines as well as alternative routes; and
- Describe overlap with other construction projects in proximity including but not limited to municipal public works departments and MassDOT.

2. Public Transportation

- Describe nearby public transportation operations and public access. Describe how entrances and exits will remain accessible for transit stations, including for bus routes and stops; and
- Discuss initiatives to encourage or provide shuttling, carpooling, or public transportation options for employees.

3. Cyclists and Pedestrians

- During construction, describe if the Project would result in restricted access to cyclists and pedestrians, and how the Applicant will manage these restrictions; and
- Highlight any co-benefits of the Project for pedestrian or bicycle infrastructure.

4. Parking

- Describe the Project's parking demand and supply, during Project construction and operation;
- Describe temporary parking to be used during Project construction and operation; and
- Describe disruption to both on-street and off-street parking during Project construction.

5. Marine Traffic and Navigation

- Provide any U.S. Coast Guard authorizations as necessary including proposed private aid to navigation (e.g., buoys);
- Describe any use of watercraft for the Project, including any expected bulk or large items to be delivered by barge or specialty vessel; and
- Provide for each major phase of construction, and for the operation phase, an estimate of the number and frequency of vessel trips (identifying whether trips will occur during day or night) by size, weight and type of vehicle.

6. Air Traffic

- Describe use of aircraft during the Project, such as construction helicopters;
- Describe any Federal Aviation Agency ("FAA") regulations or guidelines that must be adhered to such as a notice of proposed construction to the administrator of the FAA; and
- Include impacts on military training and operations in the national airspace system and special use airspace designated by the FAA.

F. Air Quality

1. General Requirements

- Describe air quality impacts of the Project and compliance with air quality requirements;
- Describe air quality impacts to sensitive receptors and Burdened Areas in the Project area;
- As part of a Construction Management Plan for the Project, provide
 - Baseline characterization of existing air quality with information on types of existing pollutants emitted, existing ambient concentrations of pollutants and their sources; and
 - Air Quality Modeling based on federal and state recommended modeling approaches, if required by MassDEP or other regulatory authorities;
- If a MassDEP air quality permit would otherwise be required, describe how Project emissions will conform with the National Ambient Air Quality Standards ("NAAQS"), as applicable;

- Describe whether the Project is required to perform a MassDEP CIA for air emissions (per 310 CMR 7.02(14)); and
- Describe fugitive dust level monitoring and mitigation including but not be limited to onsite dust control measures such as installing stabilized construction entrances/exits (using stone aprons, tracking pads, etc.) at road access points to reduce tracking of soil onto public roadways or adjacent properties, limiting the amount of bare soil exposed at one time, watering, surface roughening, wind barriers and covers to suppress dust generation during construction as well as precautions during transport/handling of construction materials, land infills and such that can cause fugitive dust impacts.

2. Standard Mitigation Measures

For onshore construction and operational impacts, wherever applicable:

- Describe how the Project meets applicable regulations and air quality operational requirements including but not limited to:
 - MassDEP Air Quality Regulations at 310 CMR 7.10 (1), Air Quality Approval Plan and 310 CMR 7.72, Sulfur Hexafluoride Emissions from Gas-Insulated Switchgear;
 - The state's anti-idling law, M.G.L. c. 90, §16A, during the construction and operational phases of the Project, including the installation of on-site anti-idling signage;
 - U.S. Environmental Protection Agency's ("EPA") Nonroad Diesel Rule aimed at reducing air emissions from diesel-powered construction equipment;
 - EPA Tier 4 emission requirements;
 - Use of electric-powered construction equipment and vehicles;
 - New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (NESHAPS); and
 - The Dust Control measures outlined in the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas: A Guide for Planners, Designers, and Municipal Officials for soil stockpile management.

For offshore construction and operational impacts, wherever applicable:

- Describe any Bureau of Ocean Energy Management ("BOEM") and Outer Continental Shelf ("OCS") air permit requirements that apply to the Project;
- For OCS sources, describe how the Project complies with the New Source Performance Standards and the National Emissions Standards for Hazardous Air;
- Describe the choice of emissions estimation method used that prioritizes the use of BOEM and US EPA recommended methods; and
- Describe how the Project would comply with requirements on Annex VI of the International Maritime Organization's International Convention for the Prevention of Pollution from Ships ("MARPOL") treaty requirements; and

- Use of shore-to-ship electric power for marine construction activities in lieu of diesel-powered construction equipment.

G. Climate Mitigation and Resiliency

1. Greenhouse Gas Emissions

- Provide a greenhouse gas inventory of the Project utilizing the MEPA Greenhouse Gas Policy and Protocol, and/or other analysis framework, including direct and indirect emissions sources where applicable based on technology;
- Describe any steps taken to minimize emissions sources compared to 1990 standards specific to the construction and operation of the Project. Describe any mitigation techniques through measures such as carbon offsetting or sequestration. The Applicant may describe and credit any greenhouse gas emissions mitigated against Project alternatives, including the no-built alternative, as mitigation; and
- Given the inventory and mitigation above, describe how the Applicant has considered foreseeable long-term climate change impacts, including additional greenhouse gas or other pollutant emissions known to have negative health impacts, predicted sea level rise, flooding and any other disproportionate adverse effects on communities in a specific geographical area/within or near the Project area.

2. Climate Resiliency

- Provide climate vulnerabilities of the Project, if applicable, including vulnerabilities from projected sea level rise, extreme temperature, humidity, flooding, severe weather events, wildfires, and other climate-related hazards in the Project area. Utilize state and federal geospatial data from the RMAAT Climate Resilience Design Standards Tool, the NOAA Climate Mapping for Resilience and Adaptation (“CMRA”) tool, or similar;
 - Consider high (RCP 8.5) and low (RCP 4.5) emissions climate change scenarios in the assessment of Project vulnerabilities if utilizing the CMRA tool; and
 - Include relevant figures, maps, and metrics outlining the site-specific risks extending to at least 2070;
- Provide a risk assessment for the Project as a whole and major components of the Project. Describe any proposed adaptation techniques to address these vulnerabilities, if relevant, and the timeline for implementation; and
- Describe how the Project has taken measures to adapt to climate change for all of the climate parameters analyzed in the RMAAT Climate Resilience Design Standards Tool (sea level rise/storm surge, extreme precipitation (urban or riverine flooding), extreme heat).

H. Public Health, Safety and Security

- Describe how the Project would comply with all applicable public health and safety regulations, standards and codes at the federal, state, regional, and local levels during the site development, design, construction, and operation phases of the Project;

- Describe all applicable performance testing standards, performance testing results, and risks associated with the energy transmission, generation, and storage technologies on a Project and how the choice of technologies minimizes performance risks, promotes and maintains public safety; and
- Provide a roadmap for engagement with the local planning department, fire department, advisory bodies, and first responders to inform them about the Project, understand their safety needs, and receive timely local input on the design and construction phases of the Project (e.g., as part of the COP). The COP must also describe public health and safety education as well as training opportunities the Applicant will provide to ensure safe construction and operations.

1. Design and Construction Safety

- Provide all building codes, technical performance and safety standards as well as structural design standards that apply to the Project site in the development, design, construction, and operation phases;
- Describe how the proposed Project would be in conformance with these codes, regulations, and standards to promote and maintain public safety; and
- Describe how the choice of construction sites/routes, staging areas, construction schedules/construction hours would avoid or minimize public inconvenience and ensure public safety during and outside construction hours.

2. Public Health

- Provide all applicable public health policies and programs at the federal, state, regional, and local levels and describe how the Project would conform to them; and
- Describe public health concerns that already exist in the Project area and describe how the Project will alleviate or at the least avoid further exacerbation of these concerns through the design, construction, operation, and decommissioning phases of the Project.

3. Site Safety and Security

- Identify all applicable daytime, nighttime, and emergency lighting standards that apply to the Project and describe how the proposed lighting would comply with these requirements;
- Describe how the Project considered Dark Sky standards;
- Describe the site safety and security arrangements in the case of unmanned and remotely monitored facilities, including but not limited to 24/7 security camera monitoring, automatic and manual system shutdowns, fire suppression system activation, and alarm/emergency notification to the local fire department in the case of Project emergencies;

- Describe how stormwater management systems convey and collect runoff from fire suppression activities such that any potential pollutants would not be discharged directly into the Project site, local stormwater system, or natural water bodies;
- Identify local codes and standards that apply to site access and fencing and describe how the Project would conform with these requirements;
- Describe the consultation process with the local planning authority, the fire department, advisory committees, and the public in designing the Project's perimeter fence, including the fencing material, fence façade treatments, dimensions, determining setbacks, and signage installations on and around the fence;
- Describe how electrical structures are clearly marked with warning signs to alert the public to potential hazards;
- Identify all cybersecurity requirements that apply to the Project and describe how the Project will conform with these requirements;
- Describe how access restrictions and identity verification mechanisms for personnel would provide protection against security risks;
- In the case of Project sites that have egress to public roadways including highways, provide all egress safety design standards, traffic safety permits, and regulations that apply to the Project and describe how the Project would meet these requirements. Describe how the design of such egress meets these requirements, supplementing such description with road safety audits, crash analysis reports, sight distance determinations, and other analyses that apply; and
- Provide all applicable height and clearance standards for Project components/structures and describe how the Project conforms with these requirements to ensure public safety during construction, operation, maintenance, and decommissioning.

4. Occupational Safety

Describe all occupational safety standards, programs, and regulations that apply to the Project at the federal, state, regional, and local levels, including the Occupational Safety and Health Administration ("OSHA") and Massachusetts Department of Labor standards, and how the Applicant proposes to comply with them.

5. Fire Safety

- Identify the following:
 - All international, national, and state level fire safety standards, codes, and best practices that apply to the Project;
 - All applicable technology and performance standards to promote and maintain fire safety, both to the public and on-site personnel;
 - Requirements of local permits, ordinances, and standards on the Project that promote and maintain fire safety; and

- All applicable codes, regulations, and standards that are being updated at the time of filing and describe the nature of updates or new provisions that the Applicant would incorporate into the Project;
- Wherever applicable, describe how the Project would be in conformance with these standards, local requirements, and local permits and codes to prevent, mitigate, and manage incidents of fire within the Project site or in the vicinity of the Project site; and
- Describe how fire safety considerations have been incorporated into determining site size and site design on the Project.

6. Hazard Mitigation and Disaster Preparedness

- Describe any proposed hazard mitigation and disaster preparedness measures, such as an Emergency Response Plan and Spill Prevention Control and Countermeasure Plan and provide such plans; and
- Describe post-incident emergency maintenance procedures as part of the Project's operation and maintenance plan to restore site conditions and safe facility operations following a fire event, hazard, or disaster.

I. Non-Hazardous Waste and Hazardous Materials

1. Non-Hazardous Waste

Detail any non-hazardous waste types that would be generated by the Project, and for each type specify anticipated protocols for handling, transport, processing, disposal, and recycling, including, if applicable:

- Protocols for ensuring that waste is not co-mingled with hazardous waste;
- All hazardous waste transport haulers licensed per MassDEP;
- Disposal or processing facilities for each waste stream (e.g., recycling, composting, municipal solid waste landfill, or transfer station);
- Documentation of compliance with 310 CMR 19.00;
- Recycling and waste diversion strategies, including estimated recycling/diversion rate(s); use of LEED or Envision construction waste tracking, if applicable; any plans to reuse materials onsite; and compliance with local waste diversion bylaws, if applicable; and
- Data maintenance protocols for audits.

2. Hazardous Materials and Waste

Provide a Hazardous Materials and Waste Management Plan detailing:

- Protocols and regulatory requirements for encountering hazardous materials and contaminated sites;
- Hazardous waste planned for use or storage onsite during each Project phase, e.g., battery chemistries, oils and coolants, transformer fluids, cleaning solvents, adhesives, antifreeze, diesel. For each material, provide quantities, storage methods, and safety data sheets, and

address compliance with the Massachusetts Toxics Use Reduction Act (“TURA”), if applicable;

- Hazardous material types that may be generated by the Project (e.g., spent batteries, electrolyte contaminated soil, fire-damaged equipment) and their respective classifications per the Federal Resource Conservation and Recovery Act (“RCRA”) regulations (40 CFR 261) and Massachusetts Hazardous Waste Regulations (310 CMR 30.000);
- Materials/waste storage locations and containment designs (e.g., secondary containment, berms, fire-rated rooms), maximum onsite storage durations and quantities, labeling and signage protocols, and security measures to prevent unauthorized access or tampering;
- Hazardous waste manifests and chain-of-custody and cradle-to-grave documentation, if applicable; and
- For problems/emergencies: emergency contact information, government agencies that would be informed, and a public engagement strategy.

J. Decommissioning and Site Restoration

1. Useful Life

Describe the designed and anticipated useful life of the Project and every major Project component, including the following:

- Thresholds for decommissioning (e.g., end of life, structural conditions, use hours, performance degradation);
- Planned major maintenance and overhaul events;
- Opportunities for extension of useful life; and
- Considerations for premature decommissioning.

2. Plan for Decommissioning and Site Restoration

Describe plans for Project decommissioning and subsequent site restoration, if any, including the following information:

- Decommission and deconstruction procedures;
- Disposal of post-decommissioned waste, including any hazardous waste and recycling;
- Site clean-up and remediation, if anticipated;
- Restoration of grade and top soil, including revegetation;
- Stormwater management and erosion control;
- Continued maintenance of visual screening and buffer, if applicable;
- Post-decommission land use and opportunities for redevelopment; and
- Contingency plan for premature decommissioning.

3. Cost and Financial Surety

Describe the anticipated cost of decommissioning and site restoration, including the following information:

- Total cost of decommissioning and site restoration;
- Breakdown of cost by major cost items;
- Calculations of the cost estimates;
- Methodologies of the above calculations; and
- A reasonable surety amount to guarantee proper decommissioning and site restoration. If the Applicant considers the surety amount unnecessary, provide an explanation.

K. Magnetic Fields

1. Baseline and Modeled Magnetic Fields Levels

- Describe the magnetic fields associated with the Project using maps, tables, and figures, including the following information:
 - Existing/baseline magnetic field levels;
 - Source(s) of new magnetic fields; and
 - Modeled average/sustained changes in magnetic field levels, including modeled maximum levels, during Project operation.
- Provide modeled magnetic field levels in the following contexts:
 - At a reasonable range of distances, heights, and depths away from the source;
 - At average loading or capacity and at maximum loading or capacity; and
 - At nearby residences, sensitive receptors, and at the edges of the Project site.
- Describe methodologies used, assumptions and data sources. Note any mitigation (e.g., configuration, shielding) incorporated in the modeling of magnetic field levels above.
- Append the following or include as figures;
 - Isoline diagrams of existing and modeled magnetic field levels across the Project site including the property line of adjacent properties and structures; and
 - For any proposed transmission lines, distribution lines, or other linear project components that could be a significant source of magnetic fields, cross-section profiles of magnetic field levels.
- In Applications that involve any other types of notable radiation (e.g., microwave, ionizing), describe the basic characteristics of such radiation and provide modeled radiation levels and other information similar to the requirements for magnetic fields above.

2. Impacts

- Describe the impacts of electric and magnetic fields, as well as of any other types of concerning radiation, associated with the Project on the following:

- Human health;
- Health of domestic animals and agricultural livestock;
- Health of wildlife, particularly any rare species identified within or near the Project site (e.g., Magnet-sensitive fish species, bats); and
- Plans for addressing public concerns during construction and operation of the Project.
- Discuss the above in reference to the following:
 - The most recent exposure limits and guidance on electric and magnetic fields published by authoritative subject-matter organizations such as the World Health Organization (“WHO”); International Commission on Non-Ionizing Radiation Protection (“ICNIRP”); International Committee on Electromagnetic Safety (“ICES”) – part of Institute of Electrical and Electronics Engineers (“IEEE”); and American Conference of Governmental and Industrial Hygienists (“ACGIH”), or any other relevant peer-reviewed research; and
 - Describe any available low-cost/no-cost measures that would minimize magnetic fields along transmission ROWs and elsewhere. Such measures may include, but are not limited to the following:
 - Increasing distance between the source and abutting properties;
 - Using higher voltage transmission lines;
 - Putting conductors close to each other and optimizing conductor arrangement to maximize magnetic field cancellation effects;
 - Installing ferromagnetic shielding; and
 - Inducing active or passive parallel currents.

L. Noise and Vibrations

1. Description of Noise

- Describe the sound producing sources during Project construction and operation. Include expected times when noise will be produced during construction work, also list sound producing equipment and associated sound levels in decibels A-Weighted (“dBA”);
- Include a study showing existing sound levels, as well as a model simulation estimating operational sound results. At a minimum, the sound study should include:
 - Maximum sound levels produced during different times of day and at different times of the year;
 - A map of the sound modeling study area showing the location of sensitive receptors within a one-mile radius in relation to the proposed locations of all noise sources;
 - Ambient pre-construction baseline sound conditions using L90 (i.e., A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours); and
 - Future sound levels after construction of the Project including predicted dBA sound levels using computer-modeled sound projections.
- In addition, the sound study should consider the following:

- Noise impacts during both “leaf on” and “leaf off” conditions;
- Exclude data collected during hours with rain or snow, as noted during data collection; and
- A seven day-long period of measurements.

2. Noise Impacts on Humans

- Include the following information:
 - The noisiest activities during construction and the sound levels of the major sound-generating pieces of equipment;
 - Equipment which could result in permanent noise impacts (e.g., exhaust fans, transformers, high voltage transmission lines);
 - Sound information from the manufacturers, if available, including transformers and any other relevant sound sources;
 - Compliance with the MassDEP noise policy for Project operation (i.e., maximum 10 dBA increase over baseline conditions and pure tone limits);
 - Sound mitigation strategies that the Applicant could use during noisy construction activities (e.g., sound barriers); and
 - Complaint procedures/construction activity notification protocols specific to noise.

3. Vibrations

- Describe any blasting, underground construction (e.g., Horizontal Directional Drilling), or other work which could cause intense vibrations that may impact the integrity of nearby structures; and
- Describe the use of critical grade silencers, enclosures, or other strategies where practicable, on continuously operating equipment such as compressors and generators for noise reduction.

4. Noise and Vibrations Impacts on Wildlife

- Describe impacts on wildlife during operations that include noise and vibrations, especially in areas of natural habitat. Consider:
 - Different Project technologies (i.e., wind, solar, battery) may require solutions to unique environmental concerns based on location and technology type and scenarios.

M. Visual

1. Visual Assessment

- Describe the visual impacts of the Project. Include representative front, side, and rear simulations, and describe current and anticipated visual conditions. Detail:
 - Visual character of the existing area;

- General nature and degree of visual change expected from Project construction and operations;
- Anticipated visibility of the Project, including effects from Project operations, e.g., shading, lighting, glare, shadow flicker; and
- Visibility of any proposed above-ground interconnections and roads.
- Provide viewshed maps depicting views of the Project by sensitive receptors, e.g., views from cultural, historic, scenic, and recreational sites/areas; transportation corridors; public and private vantage points; and areas of local, regional, or statewide concern. Develop the maps to:
 - Depict any sensitive views beyond the study area, as necessary;
 - Depict line-of-sight profiles for all sensitive receptor views;
 - Illustrate visual screening and permeability conditions integral to the profiles; and
 - Detail all quantitative and qualitative data sources and baselines used in profile development, e.g., topography and vegetation; elevation of Project structures; distance zone - foreground, midground, and background; consultation with local officials and community members;

2. Light Pollution

Describe any light emitted by the Project during operations. Detail lighting levels at the edges of the Project site(s); any lighting impacts on adjacent properties, including on wildlife; and any proposed mitigation (e.g., light shrouds, downward facing lighting).

N. Other Environmental Impacts

Describe any other environmental impacts associated with the Project not covered by any sections above, as well as corresponding mitigation.

XII. PROPOSAL & ANALYSIS: PROJECT COST FOR LCTDIF AND SCTDIF

For LCTDIF and SCTDIF Projects:

- Describe the Project cost including the following:
 - Capital cost of the Project, total cost and breakdown by Project components;
 - Annual operating and maintenance cost, total cost and breakdown by major cost item; and
 - Net Present Value cost estimate for the Project over its useful life.

- Describe cost escalation contingencies, or the lack thereof, in the estimated costs. Describe risks to the costs from foreseeable trends of inflation, economic conditions, materials costs and supply chain shortage, labor costs, etc., and mitigation to these;
- Identify costs that would be recovered regionally, and those costs that would be recovered locally;
- Describe the percentage of utility-proposed Project costs would be borne by ratepayers, if any. Describe how the Project would change the monthly utility bill for an average residential customer, with one example from a summer month and another from a winter month; and
- Describe sources of Project funding other than cost recovery from ratepayers, if applicable.

XIII. PROPOSAL & ANALYSIS: RELIABILITY

A. Grid Reliability

- Describe the reliability benefits or impacts on the Massachusetts and regional energy transmission system, as well as any applicable local energy transmission or distribution systems, from the Project.
- Describe any proposed mitigation that would enhance benefits or minimize impacts on such systems.

B. Project System Reliability

- Describe the designed and anticipated reliability of the Project as a whole, over its useful life.
- Describe any foreseeable reliability risks. Describe any proposed mitigation to such risks and major maintenance or overhaul efforts planned or anticipated.

C. Project Component Reliability

- Describe the designed and anticipated reliability of each major component of the Project, if applicable, over the component's useful life.
- Describe any foreseeable reliability risks. Describe any proposed mitigation to such risks and major maintenance or overhaul efforts planned or anticipated.

XIV. PROPOSAL & ANALYSIS: POLICIES OF THE COMMONWEALTH

M.G.L. c. 164, § 69H establishes a set of expanded policy requirements for consideration by the Board when reviewing CEIF. Specifically, the Board must: “ensure that large clean energy infrastructure facilities, small clean energy infrastructure facilities, facilities and oil facilities are, to the extent practicable, in compliance with energy, environmental, land use, labor, economic justice, environmental justice and equity and public health and safety policies of the commonwealth, its subdivisions and its municipalities.” See 980 CMR 13.03.

Describe how the Project would comply with the policies of the Commonwealth as identified in M.G.L. c. 164, § 69H.

XV. DEFINITIONS/ACRONYMS [TBD]

“Major Project Component” means a major sub-part of a proposed Project, which could be one facility in a Project that consists of multiple facilities (e.g., one of two proposed new substations), an ancillary facility (e.g., a new transmission line proposed between two new substations), a major work component involving a facility (e.g., proposed upgrade to an existing substation), or a major standalone component of the Project (e.g., an major off-site mitigation project).

“Sensitive Receptors” means, existing (or in active development) facilities that are particularly affected by noise, pollutants, and other environmental and construction-related impacts, including: (1) healthcare facilities; (2) elder care facilities including nursing homes; (3) education facilities; (4) licensed daycare facilities; (5) cemeteries; (6) places of worship; (7) district courts; (8) police stations; (9) fire stations; and (10) other locations which provide essential services to the public.

“Residences” means existing residential properties, or the location of such facilities that are in active development.

“Project” means the proposed Project as a whole, and includes all plant, property and equipment and related construction activities for which the Applicant seeks EFSB approval.

“Project-adjacent elements” include related facilities and construction activities that do not require EFSB approval but are undertaken by the Project Applicant and/or others in concert with the Project, whether prior to, concurrently with, or after Project Construction.

“Project Site” means the actual physical location(s) of all Project components.

“Project Fenceline Boundaries” means the outer boundaries of a Project site demarcated by the edge of a right of way or fenced areas.

A “Project Impact Area” means the geographic area(s) that are estimated to be directly affected by the Project, including its environmental impacts. At a minimum, Applicants must use the Specific Geographic Areas, defined in 980 CMR 15.00 (as applicable to the Project components), as the basis for the Project Impact Area.

See 980 CMR 13.01(4) for additional definitions.

XVI. ATTACHMENT 1: COMMON CONDITIONS [TBD]

The purpose of Attachment 1: Common Conditions is to define conditions that would attach to an EFSB Consolidated Permit through Board approval, 980 CMR 13.00, or Constructive Approval, 980 CMR 17.00.

Note: EFSB and DOER are collaborating on developing a comprehensive database of common conditions applicable to local, regional, and state PEAs, including the Board.

The conditions in the database will be retrieved by an automated sorting function by technology type (e.g. LCTDIF or SCTDIF, BESS, generation), the size of the Project (Large or Small) and the type of Consolidated Permit sought (Consolidated Permit, Consolidated State Permit, or Consolidated Local Permit). The Common Conditions will also specify the relevant PEA permit under which the conditions would be enforced, once issued by the Board, or Local Government.

XVII. ATTACHMENT 2: UNIFORM SET OF BASELINE HEALTH, SAFETY, ENVIRONMENTAL AND OTHER STANDARDS [TBD]

The purpose of Attachment 2: Uniform Set Of Baseline Health Safety, Environmental and Other Standards (“Uniform Standards”) is to define the permitting standards applicable to an EFSB Consolidated Permit through Board approval, 980 CMR 13.00, or Constructive Approval, 980 CMR 17.00. The Applicant would be required to consult the Uniform Standards in preparing its Application, based on type of CEIF Project, size, and the specific PEA permits requested as part of the Consolidated Permit.

Note: EFSB and DOER are collaborating on developing a comprehensive database of Uniform Standards applicable to local, regional, and state PEAs, including the Board.

The Uniform Standards in the database will be retrieved by an automated sorting function by technology type (e.g LCTDIF or SCTDIF, BESS, generation), the size of the Project (Large or Small) and the type of Consolidated Permit sought (Consolidated Permit, Consolidated State Permit, or Consolidated Local Permit). The Uniform Standards will also specify the relevant PEA permit(s) or under which the Uniform Standards would apply and be enforced, once a permit is issued by the Board, or Local Government.

XVIII. ATTACHMENT 3: APPLICATION COMPLETION CHECKLIST [TBD]

ATTACHMENT 4

Draft Regulations

980 CMR 14.00 – De Novo Adjudication

980 CMR 14.00: ENERGY FACILITIES SITING BOARD

980 CMR 14.00: DE NOVO ADJUDICATIONS OF CONSOLIDATED LOCAL PERMIT APPLICATIONS

Section

- 14.01: Scope and Construction of Rules
- 14.02: Initiation of a De Novo Adjudication
- 14.03: Notice and Parties
- 14.04: Procedure
- 14.05: Decision
- 14.06: Appeal of Director's Decision

14.01: Scope and Construction of Rules

- (1) Scope. 980 CMR 14.00 shall govern the conduct of De Novo Adjudications of Consolidated Local Permit Applications before the Board. De Novo Adjudications apply to Consolidated Local Permit Applications for SCEIF and shall be conducted by the Director.
- (2) Application of 980 CMR 14.00. 980 CMR 1.00: *Rules for the Conduct of Adjudicatory Proceedings* shall apply to De Novo Adjudications conducted pursuant to 980 CMR 14.00, except where 980 CMR 14.00 provides otherwise.
- (3) Effective date. 980 CMR 14.00 shall take effect on March 1, 2026, and shall apply to requests for De Novo Adjudications filed on or after July 1, 2026.
- (4) Delegation. The Director may delegate the authority to conduct the De Novo Adjudication, with the exception of the final decision, to a Board staff member.
- (5) Definitions. The definitions in 980 CMR 1.00 and 980 CMR 13.00 shall apply to 980 CMR 14.00. The following additional definitions shall also apply unless the context or subject matter requires a different interpretation:

Consolidated Local Permit Application means an application for Permits for a SCEIF filed with a Local Government.

DOER Opinion means an opinion from the Department of Energy Resources assessing a Local Government's compliance with 225 CMR 29.00 in its review of a Consolidated Local Permit Application.

Final Decision of Local Government means a Consolidated Local Permit issued by a Local Government, a denial by a Local Government of an application for a Consolidated Local Permit, or a Constructive Approval of a Consolidated Local Permit Application, pursuant to 225 CMR 29.00.

Local Request for Review Based on Lack of Resources means a notification filed by the Local Government that its resources, capacity, or staffing do not allow for review

980 CMR 14.00: ENERGY FACILITIES SITING BOARD

of a SCEIF's Consolidated Local Permit Application within the required maximum 12-month timeframe for Local Government review.

14.02: Initiation of a De Novo Adjudication.

(1) Entities that May Initiate a De Novo Adjudication. The following entities may petition the Director for a De Novo Adjudication:

- (a) An owner or proponent of a SCEIF that has received a final decision on, or a Constructive Approval of, a Consolidated Local Permit Application from a Local Government where the SCEIF at issue is proposed to be sited;
- (b) A Person substantially and specifically affected by a Final Decision of Local Government, as determined by the Director; or
- (c) A Local Government upon a showing that its resources, capacity, or staffing do not allow for review of a SCEIF's Consolidated Local Permit Application within the required maximum 12-month timeframe for Local Government review. The Director will make a determination whether the Local Government has made this showing.

The Director shall determine that at least one party, seeking a De Novo Adjudication is substantially and specifically affected for the De Novo Adjudication to proceed.

(2) Timing of Petition for a De Novo Adjudication.

- (a) A petition of an Applicant or Person pursuant to 980 CMR 14.02(1)(a) or (b) shall be filed within 30 days of the Final Decision of the Local Government.
- (b) A submission pursuant to 980 CMR 14.02(1)(c) shall be filed by a Local Government no later than 60 days after the Local Government's receipt "of such application or any later time with the Applicant's consent.

(3) Form of Petition for a De Novo Adjudication. For petitions pursuant to 980 CMR 14.02(1), the petition shall include:

- (a) For petitions from the Applicant or from an entity that may be substantially and specifically affected by a Final Decision of a Local Government, the petition shall include:
 - 1. the petitioner's name and address;
 - 2. identification of the proposed SCEIF;
 - 3. a copy of the Consolidated Local Permit Application and a link to the online portal containing that application;
 - 4. a copy of any action taken by the Local Government on the Consolidated Local Permit Application;
 - 5. a description of any objections to the Local Government action and the bases for the objections, including how the Local Government action was inconsistent with 225 CMR 29.00;
 - 6. for Persons other than the Applicant or Local Government, how the Person may be substantially and specifically affected by the action of the Local Government; and
 - 7. relief sought, including any recommended conditions.

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(b) For requests for a De Novo Adjudication from a Local Government, the Local Government shall provide a copy of the petition for adjudication to the Applicant for a Consolidated Local Permit. The Applicant shall provide to the Siting Board:

1. identification of the location of the proposed SCEIF project;
2. a copy of the Application for a Consolidated Local Permit;
3. any documents received by the Local Government to date concerning the Application for a Consolidated Local Permit;
4. any comments on the proposed SCEIF or recommended permit conditions; and
5. The Local Government shall provide a statement explaining why the Local Government lacks the resources, capacity, or staffing to review the SCEIF Consolidated Local Permit Application within twelve months.

(4) Filing Procedure for a Petition for a De Novo Adjudication.

(a) Filing. A petition for a De Novo Adjudication shall be filed with the Board.

(b) Copies. The petitioner shall provide a copy of the petition to the Local Government having taken action on the Application, and to the Applicant (if different from the petitioner).

(5) With respect to a petition from a Person submitted pursuant to 980 CMR 14.02(1)(b), the Director shall grant the petition if the Director determines that at least one such person is substantially and specifically affected by the action of the Local Government.

(6) With respect to a petition initiated by a Local Request for Review Based on Lack of Resources, the Director will grant the petition if the Director determines that the Local Government has made the showing required by 980 CMR 14.02(1)(c).

14.03: Notice; Parties; Completeness; Procedural Conference.

(1) Notice. The Director shall determine recipients for the Notice of the De Novo Adjudication. The Director shall allow for written comments on the petition for De Novo Adjudication. The Director may, in their discretion, provide for a public comment hearing on the petition, and such hearing may be conducted virtually. The Director may, in their discretion, schedule a site visit.

(2) Parties. The Applicant and the Local Government shall automatically be Parties to the De Novo Adjudication. Other Persons seeking intervention shall file a petition for intervention consistent with 980 CMR 1.05, demonstrating how they may be substantially and specifically affected in the De Novo Adjudication. Such petition must be filed consistent with the Notice issued by the Director. The Person petitioning for a De Novo Adjudication may file a response to petitions for intervention up to seven days from the filing of the petition.

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(3) Completeness Determination. For requests for a De Novo Adjudication filed by a Local Government pursuant to 980 CMR 14.02(1)(c), the Applicant shall provide the documents in 980 CMR 14.02(3)(b) to the Board within 14 days of the Director's determination that the Local Government has made the showing required by 980 CMR 14.01(1)(c). Within 30 days of the Applicant filing the documents required by 980 CMR 14.02(3)(b), the Director shall determine whether the Consolidated Local Permit Application is complete, pursuant to 225 CMR 29.00. If the Director determines that the application is not complete, the Director shall identify the additional required information or documents, and the Applicant shall have 30 days to complete the application. If the Applicant does not complete the application in 30 days, the application shall be rejected, without prejudice.

(4) Procedural Conference. The Director may schedule a procedural conference to inform the scope of the proceeding, or other procedural matters governing the De Novo Adjudication.

(5) Procedural Order. The Director shall issue a procedural order: (i) identifying additional Parties to the adjudication, (ii) establishing the scope of the adjudication, (iii) establishing a procedural schedule, and (iv) addressing any other procedural matters governing the De Novo Adjudication.

14.04: Adjudicatory Procedure.

(1) Evidence. The Local Government shall file all documents produced for the Consolidated Local Permit process with the Board. Board staff may request additional information. Parties may introduce additional evidence for consideration by the Director. All evidence introduced in the De Novo Adjudication shall be accompanied by an affidavit. Such an affidavit must comply with the requirements of 980 CMR 1.05, including a signature by an authorized representative attesting that the representative has read and reviewed the document and that all statements contained therein are true.

(2) Evidentiary Hearing. The Director may schedule an evidentiary hearing. The evidentiary hearing may be conducted virtually.

(3) DOER Opinion. The Director may request an opinion from the Department of Energy Resources whether the Local Government complied with 225 CMR 29.00 in its review of the Consolidated Local Permit Application.

(4) Briefs. The Director may allow for oral argument at the hearing or the filing of written briefs by Parties.

14.05: Decision.

(1) Decision by Director.

(a) Standard for Decision. For petitions submitted pursuant to 980 CMR 14.02(1)(a) or (b), the Director shall review the request and the Local Government's Final Decision for:

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1. consistency with the regulations at 225 CMR 29.00, established pursuant to M.G.L. c. 25A, § 21; and
2. consistency with M.G.L. c. 164, § 69H.

(b) Timing of Decision.

1. For petitions from an Applicant or a Person pursuant to 980 CMR 14.02(1)(a) or (b), the Director shall issue a decision on the De Novo Adjudication within six months of receipt of the petition for De Novo Adjudication, and such decision shall be final.
2. For petitions from a Local Government pursuant to 980 CMR 14.02(1)(c), the Director shall issue a decision on the De Novo Adjudication pursuant to M.G.L. c. 25A, § 21(g), within twelve months of a determination that the Consolidated Local Permit Application is complete, and such decision shall be final.

(2) If the Director finds that the Local Government's decision is inconsistent with (a) the regulatory standards established by the Department of Energy Resources at 225 CMR 29.00; or (b) M.G.L. c. 164, § 69H, the Director shall issue a final decision that may supersede the Local Government's prior decision and impose new permit conditions that are consistent with the laws of the Commonwealth.

(3) No work shall be undertaken by the Applicant until the Director has issued a final decision on the De Novo Adjudication request.

14.06: Appeal of Director's Decision.

(1) The decision of the Director on a De Novo Adjudication of a Consolidated Local Permit Application may be appealed within 20 days of the Director's decision to the Supreme Judicial Court. Such appeal shall be governed by M.G.L. c. 164, § 69P.

REGULATORY AUTHORITY

980 CMR 14.00: M.G.L. c. 30A and c. 164, §§ 69H, 69W.

ATTACHMENT 5

Draft Regulations

980 CMR 16.00 – Pre-filing Consultation and Engagement

980 CMR 16.00: ENERGY FACILITIES SITING BOARD

980 CMR 16.00: PRE-FILING CONSULTATION AND ENGAGEMENT REQUIREMENTS

Section

- 16.01: Purpose and Scope
- 16.02: Definitions
- 16.03: Rules of General Applicability
- 16.04: Pre-filing Consultation and Engagement Requirements
- 16.05: Pre-filing Requirements for Consultation with DPP and OEJE
- 16.06: Pre-filing Requirements for Consultation with MEPA Office and Agency Consultation
- 16.07: Pre-filing Engagement Requirements for Meetings with Key Stakeholders and Public Meetings with the Community
- 16.08: Pre-filing Outreach Requirements for Public Meetings with the Community
- 16.09: Pre-filing Requirements for Project Webpage(s)
- 16.10: Pre-filing Notice (Notification of Intent to File Application) Requirements
- 16.11: Pre-filing Consultation and Engagement Documents to be Submitted with Application and Petition to Construct to the Board

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 CEIFs seeking a Consolidated Permit under M.G.L. c. 164, §§ 69T and 69U, and 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 SCEIF 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 or Consolidated State Permit; those Projects are subject to outreach obligations pursuant to 225 CMR 29.00.
 - (a) 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 LCEIFs. 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.
 - (b) Exemption from Outreach Requirements for SCEGF and SCESF. For an Applicant proposing a SCEGF or SCESF submitting an Application with the Board for a Consolidated State Permit pursuant to M.G.L. c. 164, § 69V, and initiating the process for a Consolidated Local Permit, the Applicant is subject to the pre-filing engagement and outreach requirements in 225 CMR 29.00. The Applicant is not required comply with 980 CMR 16.00 pre-filing requirements.

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(3) 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

The definitions in 980 CMR 1.01 (4): *Definitions* shall apply to 980 CMR 16.00. For the purposes of 980 CMR 16.00, the additional definitions set forth in 980 CMR 16.02 shall apply, unless the context otherwise requires.

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

Community means members of the public and at a minimum people residing or working a distance of either (1) one mile from a LCEIF, SCEIF, or Facility site boundary or any Project component, or (2) in the instance of a linear LCEIF, SCEIF, or Facility, such as transmission lines or pipelines, ¼ mile from any part of the LCEIF or SCEIF or Facility.

Division of Public Participation (DPP) means the Division of Public Participation at the Department established under M.G.L. c. 25, § 12T to assist stakeholders with navigating the Department 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 as to whether the Applicant has completed the pre-filing consultation and engagement requirements in 980 CMR 16.00.

Key Stakeholders means, at a minimum, 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, representatives of labor groups and apprenticeship programs, and federally recognized, state-acknowledged, or state-recognized tribes.

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

OEJE means the Office of Environmental Justice and Equity within the Executive Office of Energy and Environmental Affairs, as established in M.G.L. c. 21A, § 29.

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Pre-filing Engagement Status Checklist means a 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 include an attestation by the Applicant that all statements contained therein are true.

Pre-filing Engagement Completion Checklist means a document that reflects completed pre-filing consultation and engagement requirements to be filed by an Applicant with DPP, the Board, and Local Government and state permitting agencies at the completion of the Pre-filing Outreach Period and together with the Pre-filing Notice. The Applicant shall submit supporting documentation identified in 980 CMR 16.00 to DPP at the completion of the Pre-filing Outreach Period. If certain outreach or agency consultation requirements cannot be completed, the Applicant shall attach a statement clarifying the reason or a waiver demonstrating good cause that was requested from and approved by DPP. The checklist shall include an attestation by the Applicant that all statements contained therein are true.

Pre-filing Notice means the Notification of Intent to File Application filed by an Applicant with DPP, the Board and Local Government and state permitting agencies no less than 45 days and no more than 90 days prior to filing an Application or a petition to construct with the Board.

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. For purposes of 980 CMR 16.00, the Pre-filing Outreach Period begins when the Applicant meets with DPP and OEJE. The Applicant may meet with the stakeholders prior to the beginning of the Pre-filing Outreach Period.

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 Applicant 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 with documentation supporting the Applicant's request and posted on the Applicant's project website. All such requests must be filed on a timely basis to meet the requirements of 980 CMR 16.04. The Director shall review a 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.

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(3) Ex Parte Communication. The Director and staff of DPP may communicate with parties or individuals and entities seeking to intervene in Board proceedings about substantive matters and such communication shall not be deemed an ex parte communication consistent with 980 CMR 1.03(7)(c). The Director and staff of DPP shall not participate as adjudicatory staff, nor have any input or substantive communication with adjudicatory or decisional staff in adjudicatory matters before the Department or Board, nor shall they serve as legal counsel to or otherwise represent any Party before the Department or Board.

16.04: Pre-filing Consultation and Engagement Requirements

(1) During the Pre-filing Outreach Period, the Applicant shall employ substantial, good faith efforts and 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) During the Pre-filing Outreach Period, the Applicant shall:

1. Review and implement applicable site suitability criteria, cumulative impact analysis requirements, and the cumulative impact analysis tool as described in 980 CMR 15.00. The Applicant shall consider input from Key Stakeholders, Agency Consultations, and public meetings with the Community to inform the selection of the preferred site/route;
2. Discuss during Agency Consultations, meetings with Key Stakeholders, and public meetings with the Community, how site and design options were or are being considered based on the applicable site suitability criteria, cumulative impact analysis requirements, and the cumulative impact analysis tool. Outreach shall include a discussion of how the preferred site/route option avoids, minimizes, or mitigates the potential for disproportionate adverse impacts. See 980 CMR 13.03(1)(e);
3. Document 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 that include date of the meeting, names of participants, key discussion points, and takeaways;
5. Summarize comments received and how they influenced Project design;
6. Publicize Project information using multiple outreach channels that have wide reach within the Community, including multi-lingual and multi-cultural media options; and
7. Create a Project webpage at the start of the Pre-filing Outreach Period and maintain up-to-date information as it becomes available 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), 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 maintain a Project email distribution list and add Key Stakeholders they meet and those who opt-into the Project email distribution list. The Applicant shall send quarterly updates to the Project email distribution list that include but are not limited to new Project developments, any changes to site or Project design, Project contact person(s), including email, phone number, and mailing address, and an estimated date to submit the Pre-filing Notice to the Board. Emails sent to the Project email distribution list shall be by blind copy and shall include a link or process for addressees to opt-out.
- (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 public meetings with the Community 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, as applicable, are informing Project design and planning;
 3. A summary of any related improvements proposed by Local Government or state agencies during Agency Consultation; and
 4. A table summarizing comments received at meetings with Key Stakeholders, Agency Consultation, and public meetings with the Community held to date, and any modifications in Project design made 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 the Applicant's compliance with regulatory requirements and other best practices to avoid or minimize impacts, as well as to receive recommendations on project-specific studies or analyses that may be needed to inform the agencies' review of the Application or a petition to construct once it is filed with the Board.
 2. The Applicant may 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, including necessary pre-filing studies and analyses (such as wetlands delineation, or endangered species surveys).
- (g) The Applicant shall publicize and conduct at least two public meetings for Key Stakeholders and the Community.

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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, as appropriate, 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. See 980 CMR 16.07.
4. The pre-filing comment period shall remain open from when the first public meeting is announced until the deadline to submit public comments after the second mandatory public meeting. The Applicant shall provide at least two weeks 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 90 days prior to filing an Application or a petition to construct 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 or a petition to construct with the Board within 90 days after filing the Pre-filing Notice, the Applicant shall resubmit a Pre-filing Notice. If more than 90 days pass after the second Pre-Filing Notice has been filed without the filing of an Application or a petition to construct, the Applicant shall submit to DPP written communication with the reason for the delay and an estimated timeline or date to resubmit the Pre-filing Notice. The Applicant may also meet with DPP staff to provide an update and discuss any additional outreach planned. DPP staff shall review documentation submitted by the Applicant with the Pre-filing Engagement Status Checklist and the Pre-filing Engagement Completion Checklist and provide a written assessment 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 with DPP, the Board, and relevant Local Government and state permitting agencies. The Applicant shall also submit the following supporting documentation related to its pre-filing consultation and engagement efforts with DPP:

1. An overview of all pre-filing consultation and engagement efforts that have occurred to date including:
 - 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; and
 - c. Notes from meetings with Key Stakeholders, Agency Consultation, and public meetings with the Community;

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2. A table summarizing all comments received throughout the Pre-filing Outreach Period, how the comments were considered, and any modifications in Project design made in response to the comments;
3. A description of how the site suitability criteria, cumulative impact analysis requirements, and cumulative impact analysis tool as described in 980 CMR 15.00, as applicable, were incorporated into the selection of the Applicant's preferred Project site;
4. A description of any partnerships developed with Key Stakeholders and/or Community, including any advisory bodies formed to provide ongoing input;
5. Any waiver demonstrating good cause that was requested and approved or not approved by DPP;
6. A copy of the Pre-filing Engagement Status Checklist; and
7. An update on any ongoing discussions regarding Community Benefits Plans and Community Benefits Agreements. See Standards and Guidelines for Community Benefits Plans and Agreements, Executive Office of Energy and Environment.

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

- (1) At least two weeks before the meeting(s) with DPP and OEJE at the start of the Pre-filing Outreach Period, the Applicant shall share a brief plain language description of the Project, the reason for the Project, location map, anticipated Project impacts and benefits, any alternative sites/routes under consideration, potential environmental impacts, a list of Key Stakeholders and Agency Consultations relevant to the Project, and a list of 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) The Applicant shall consult with the MEPA Office and all relevant Local Government and state permitting agencies identified by the Applicant to receive feedback on compliance with regulatory requirements and other best practices to avoid or minimize impacts, as well as receive recommendations for project-specific studies or analyses that may be needed to inform the permitting agencies' review of the project once it is filed with the Board. The MEPA Office may recommend additional state or federal agencies with which the Applicant shall consult. 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 and potential Project impacts on the Community;
 2. List all required Local Government, state, and federal Permits it anticipates either to be issued by or would have otherwise been issued by relevant Local Government, state, and federal permitting entity. See 980 CMR 13.05(1);

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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 Local Government, state, and federal permitting entity;
4. If available, present copies of relevant draft Permits that would otherwise be issued by each relevant Local Government, state, federal permitting entity;
5. Discuss with the MEPA Office the need for meetings with additional state or federal agencies;
6. For LCEGFs, SCEGFs, LCESFs, SCESFs and Generating Facilities, present a description of the site selection process used in selecting the Applicant's proposed option along with locus maps/lists showing any alternate Project designs considered and associated environmental resource constraints (e.g., Article 97 land, wetlands, M.G.L. c. 91 boundaries, rare species habitat, Areas of Critical Environmental Concern, etc.) as well as potential environmental, public health, public welfare, or public safety impacts from the Project as proposed;
7. For LCTDIFs, SCTDIFs, 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, Areas of Critical Environmental Concern, 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 proposed Project site in the case of LCEGFs, SCEGFs, LCESFs, SCESFs, and Generating Facilities, as applicable, and how it was incorporated during the route/site selection process for LCTDIFs, SCTDIFs, and transmission Facilities, as applicable;
9. Identify any Burdened Areas using the Burdened Areas Map referenced in 980 CMR 15.04. Include a map showing Project location and proximity of Burdened Areas;
10. Identify any 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 Burdened Areas Map;
11. Share preliminary information on environmental impacts and potential avoidance, minimization, and mitigation measures. Rare species information shall not be shared without written approval by MassWildlife's Natural Heritage and Endangered Species Program (M.G.L. c. 66, § 17D); and
12. Discuss decommissioning and site restoration plans developed pursuant to 980 CMR 1.10.

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(b) During any subsequent meetings with the MEPA Office and relevant Agency Consultation, the Applicant may discuss specific issues of interest to the agency and/or the Applicant. At these meetings the Applicant shall also present relevant:

1. Project design changes that have occurred since the previous meeting and describe how the Applicant has responded to feedback provided during Agency Consultation and by Key Stakeholders and the Community;
2. A status update and/or results of any project-specific scientific studies or analyses that are ongoing or have been completed; and
3. The Applicant shall communicate to the Local Government and state permitting agencies any design changes that affect that agency's Permit.

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

(1) Applicants shall meet the following requirements:

(a) For one-on-one or joint introductory meeting(s) with Key Stakeholders and public meetings, the Applicant shall:

1. Present a brief plain language description of the Project, the reason for the Project, potential Project benefits and impacts on the Community, and location map(s) that delineates project boundaries, identifies Project components, and includes key landmarks and natural features within one mile of the Project boundary;
2. Describe anticipated impacts from the Project and solicit input on minimization and mitigation of those impacts;
3. For LCTDIFs, SCTDIFs, and transmission Facilities, present potential route/site alternatives that were or are under active consideration, the Applicant's preferred alternative, a comparison of anticipated impacts of any alternatives, and proposed mitigation measures;
4. For LCEGFs, SCEGFs, LCESFs, SCESFs and Generating Facilities, present the site selection process used in selecting the proposed option, the anticipated health, environmental, and safety impacts of the proposed alternative, and proposed mitigation measures;
5. Discuss decommissioning and site restoration plans pursuant to 980 CMR 1.10 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 Project contact person(s) including email, phone, and mailing address;
8. Provide information on Project-specific issues or topics of interest to Key Stakeholders and the Community;
9. Share link to main Project webpage that will serve as repository of up-to-date Project information; and

10. Provide hard copies of Project materials to Key Stakeholders upon request.
- (b) For any subsequent meetings with Key Stakeholders and when using engagement channels like open houses, or workshops for Community meetings, the Applicant may tailor the agenda to respond to Project-specific issues or topics of interest to Key Stakeholders and the public. At these meetings, the Applicant shall present a brief update on any changes that have occurred since the previous meeting.
- (c) The Applicant shall provide translated meeting materials and interpretation upon request for meetings with Key Stakeholders. The Applicant shall provide translation and interpretation according to the current Board Language Access Plan for public meetings with the Community.

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

- (1) The Applicant shall make substantial good faith efforts to meet the following pre-filing outreach requirements for public meetings with the Community:
 - (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 within the Community.
 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 including multi-media and multi-cultural media options.
 2. Outreach materials shall note the availability of intervenor funding to eligible entities through the Department and the Board's Intervenor Support Grant Program and include a link to the program website.
 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) in which the proposed Project boundaries fall, and locations suggested by Key Stakeholders and members of the Community.
 - (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 flyers announcing the public meetings, the meeting agenda, presentation, and other materials and provide simultaneous interpretation according to the current Board Language Access Plan.
 3. Provide translation and interpretation in additional languages as requested.

4. 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).
5. Where possible, meeting locations shall be near public transit and/or have ample no-cost parking.
6. 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 information as it becomes available during the Pre-filing Outreach Period:
 - (a) Project webpage(s) shall be updated as new information becomes available and include the following information:
 1. Plain language Project summary that includes Project benefits and impacts and translated versions as per the current Board Language Access Plan;
 2. Project description including Project size, Project footprint, and plain language description of Project area and abutting properties, and translated versions as per the current Board Language Access Plan;
 3. Location map(s) that delineates project boundaries, identifies project components, and includes key landmarks and natural features within one mile of the Project boundary;
 4. A summary of how site suitability criteria and cumulative impacts analysis requirements, as applicable, have been incorporated into the selection of the preferred Project site/route and Project design;
 5. For all LCEGF, SCEGF, LCESF, SCESF and Generating Facilities, the Project webpage shall include a description of the process to select the proposed option, the anticipated health, environmental, and safety impacts of the proposed option, and any proposed mitigation measures;
 6. For LCTDIF, SCTDIF, 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 any alternatives under consideration, and any proposed mitigation measures;
 7. Relevant materials of general interest shared during meetings with Key Stakeholders;
 8. Relevant materials shared during Community meetings including but not limited to slide decks and printed project information;
 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 the Pre-filing Notice with the Board;

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11. Project contact person(s) including email, phone, and mailing address;
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 the Community 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 and timeframe to request translation and/or interpretation services;
16. Any waiver demonstrating good cause that was requested and approved or not approved by DPP;
17. Pre-filing Engagement Status Checklist and Pre-filing Engagement Completion Checklist submitted to DPP. The Applicant shall not post documents with personally identifiable information;
18. Prominent note that funding is available to eligible entities through the Department and the Board's Intervenor Support Grant Program and include a link to the program website; and
19. Pre-filing Notice along with any translated versions required as per the current Board Language Access Plan.

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

- (1) Pre-filing Notice requirements shall apply to all Applicants seeking permit approval by the Board. The Pre-filing Notice shall be emailed to DPP, the Board, and Local Government and state permitting agencies consulted. In addition to posting the Pre-filing Notice and any translated versions as per the current Board Language Access Plan on the Project webpage, the Applicant shall also email the Pre-filing Notice to Person(s) on the Project email distribution list and relevant Key Stakeholders
- (2) The Applicant shall also submit to relevant Local Government and state permitting agencies, copies of draft application and draft permit with recommended conditions for applicable state, regional and local permits and approvals that would otherwise be issued by each relevant state/regional/local permitting entity. Such draft applications and permits shall include technical and other materials required by the permitting agency's application and guidance materials, including mapping, jurisdictional delineations, evaluations, analyses and other requested information.
- (3) Pre-filing Notice shall include:
 - (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.

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- (4) DPP Opinion:
- (a) 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. At the same time the Applicant shall submit the Pre-filing Engagement Completion Checklist to the Board and relevant Local Government and state permitting agencies.
 - (b) Local Government and state permitting agencies may file their comments regarding the Applicant's pre-filing Agency Consultation and recommendations related to the draft permit application with DPP within 30 days.
 - (c) DPP shall review the documentation submitted by the Applicant and any comments received, 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. In preparing the DPP Opinion, DPP will incorporate feedback received from Local Government and state permitting agencies regarding their assessment of the Applicant's pre-filing consultation, and sufficiency of necessary preparatory studies and analyses. DPP shall copy the Applicant on the DPP Opinion sent to the Board.

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

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

REGULATORY AUTHORITY

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

ATTACHMENT 5-A

Draft Pre-Filing Engagement Completion Checklist

**DIVISION OF PUBLIC PARTICIPATION
PRE-FILING ENGAGEMENT COMPLETION CHECKLIST
980 CMR 16.00**

The Applicant shall submit the completed Pre-filing Engagement Completion Checklist and supporting documentation to the Division of Public Participation (DPP) and the Energy Facilities Siting Board (Board) together with the Pre-filing Notice. The Applicant shall also submit the Pre-filing Notice and completed Pre-filing Engagement Completion Checklist with Local Government and state permitting agencies. If a certain outreach requirement noted in the checklist cannot be completed, the Applicant shall attach a statement describing why it was not completed or attach a waiver demonstrating good cause that was requested from and approved by DPP.

PART 1: GENERAL INFORMATION

Applicant legal name:
Applicant representative:
Project type (e.g., large, small, clean etc.):
Project name:
Brief (1-2 sentence) plain language description of project:
Project location and alternative sites, if applicable:
Link to Main Project Webpage:
Anticipated Application filing date with the Board:
Start of Pre-filing Outreach Period (date):
Pre-filing Outreach Period Complete (date):

PART 2: STATUS OF PRE-FILING CONSULTATION AND ENGAGEMENT REQUIREMENTS

- ☐ Met with DPP & Executive Office of Energy and Environmental Affairs' (EEA) Office of Environmental Justice and Equity (OEJE) to share proposed engagement plan & clarify pre-filing consultation and engagement requirements.
- ☐ Consulted site suitability criteria, cumulative impacts analysis guidance and cumulative impact analysis tool as applicable and communicated during the Pre-filing Outreach Period how it informed the selection of the preferred site/route.
- ☐ Demonstrated efforts to inform, involve, and partner with Key Stakeholders and the Community during the Pre-filing Outreach Period.
- ☐ Publicized project information using multiple outreach channels and maintained up-to-date project webpage(s) as information became available.
- ☐ Met with Key Stakeholders and provided quarterly updates.
- ☐ Discussed Community Benefits Plan (CBP) with relevant Key Stakeholders, if applicable.
- ☐ Submitted the Pre-filing Engagement Status Checklist and supporting documentation to DPP.

- ☐ Completed consultation(s) with the Massachusetts Environmental Policy Act (MEPA) Office and all relevant Agency Consultations.
 - ☐ Held first public meeting for Key Stakeholders and Community.
 - ☐ Held second public meeting for Key Stakeholders and Community.
 - ☐ Translated written outreach materials and provided interpretation for public meetings as required by the current Board Language Access Plan (LAP).
- Please list all non-English languages used to conduct community engagement, if applicable:
-

- ☐ Submitted Pre-filing Notice to the Board.

PART 3: SUPPORTING DOCUMENTATION

The Applicant shall attach the following supporting documentation along with the Pre-filing Engagement Completion Checklist:

- ☐ Overview of all pre-filing consultation and engagement efforts that have occurred to date and any planned future outreach including:
 - ☐ Description of how project information was publicized including project webpage(s), outreach materials created, and outreach recipients including date and method(s) of contact;
 - ☐ Notes from meetings with Key Stakeholders, Agency Consultation and Community meetings;
- ☐ A table summarizing all comments received throughout the Pre-filing Outreach Period, how these comments were considered, and any modifications in project design in response to the comments;
- ☐ Description of how applicable 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;
- ☐ Description of any partnerships developed with Key Stakeholders and/or Community, including any advisory bodies formed to provide ongoing input;
- ☐ A copy of the Pre-filing Engagement Status Checklist; and
- ☐ An update on any discussions regarding Community Benefits Plans and Community Benefits Agreements, if applicable.

I have made best efforts to inform all stakeholders about the project, consider feedback, and negotiate regarding core aspects of the proposed project, including alternate sites/designs, project impact mitigations, public safety service or equipment standards.

I declare under penalty of perjury that all information provided is complete and accurate to the best of my knowledge. Upon request, I agree to provide DPP with additional information or documentation.

Name of signatory:

Title:

Date:

DIVISION OF PUBLIC PARTICIPATION
PRE-FILING ENGAGEMENT STATUS CHECKLIST
980 CMR 16.00

The Applicant shall submit the Pre-filing Engagement Status Checklist to the Division of Public Participation (DPP) approximately midway through the Pre-filing Outreach Period. The Applicant shall attach the supporting documentation listed in Part 3 as an appendix to this checklist.

PART 1: GENERAL INFORMATION

Applicant legal name:
Applicant representative:
Project type (e.g., large, small, clean etc.):
Project name:
Brief (1-2 sentence) plain language description of project:
Project location:
Link to Main Project Webpage:
Anticipated timeline to submit the Pre-filing Notice to the Board:
Start of Pre-filing Outreach Period (date):

PART 2: STATUS OF PRE-FILING CONSULTATION AND ENGAGEMENT REQUIREMENTS

Completed	In Progress or Ongoing	Not Started	Task
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Meeting with Division of Public Participation (DPP) & Executive Office of Energy and Environmental Affairs (EEA) Office of Environmental Justice and Equity (OEJE) (individually or jointly) to share proposed engagement plan & clarify pre-filing consultation and engagement requirements.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Consulted site suitability criteria, cumulative impacts analysis requirements and cumulative impact analysis tool as applicable to inform selection of the proposed option. Communicating during stakeholder outreach how site suitability criteria and cumulative impact analysis is informing project design and planning.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Inform, involve, and partner with Key Stakeholders and the Community.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Publicize project information using multiple outreach channels and maintain up-to-date project webpage(s).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Meetings with Key Stakeholders and quarterly project updates
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Discussions on Community Benefits Plan (CBP) with relevant Key Stakeholders, if applicable.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Consultation with the Massachusetts Environmental Protection Act (MEPA) Office and relevant Agency Consultations.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	First public meeting for Key Stakeholders and Community.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Second public meeting for Key Stakeholders and Community.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Translating outreach materials and providing interpretation as per current Board Language Access Plan (LAP). Please list all non-English languages used to conduct community engagement, if applicable: <hr/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pre-filing comment period has commenced.

PART 3: SUPPORTING DOCUMENTATION

- List of Key Stakeholder, Agency Consultation, and Community meetings held to date, including date/time and location;
- 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 to date; and
- A table summarizing comments received from meetings with Key Stakeholders, during Agency Consultation, and public meetings with Community held to date, and any modifications in project design in response to the comments.

I declare under penalty of perjury that all information provided is complete and accurate to the best of my knowledge. Upon request, I agree to provide DPP with additional information or documentation.

Name of signatory:

Title:

Date:

ATTACHMENT 6

Draft Regulations

980 CMR 17.00 – Constructive Approval

980 CMR 17.00: ENERGY FACILITIES SITING BOARD

980 CMR 17.00: CONSTRUCTIVE APPROVALS

Section

- 17.01: Purpose and Scope.
- 17.02: Preparations for Possibility of Constructive Approval.
- 17.03: Contents and Form of a Constructive Approval Permit.
- 17.04: Board Issuance of a Constructive Approval Permit.
- 17.05: Right to Appeal.

17.01: Purpose and Scope.

- (1) Purpose. 980 CMR 17.00 establishes the requirements pertaining to a Constructive Approval, which the Board shall issue if it has not timely issued a Consolidated Permit or Consolidated State Permit under 980 CMR 13.00.
- (2) Scope. 980 CMR 17.00 applies to every Application submitted to the Board for a CEIF. M.G.L. c. 164, §§ 69T, 69U, 69V. 980 CMR 17.00 does not apply to De Novo Adjudications pursuant to 980 CMR 14.00.
- (3) Applicability of Earlier Sections. 980 CMR 1.00, 2.00, 13.00, and 15.00 apply to 980 CMR 17.00, unless otherwise noted.
- (4) Definitions. The definitions in 980 CMR 1.00 and 13.00 shall apply to 980 CMR 17.00. For the purpose of 980 CMR 17.00, the following additional definition applies unless the context or subject matter requires a different interpretation:

Constructive Approval Permit means a Consolidated Permit or Consolidated State Permit that the Board issues in the event of Constructive Approval. Unlike a Consolidated Permit or Consolidated State Permit issued through the process defined in 980 CMR 13.00, a Constructive Approval Permit may include both zoning relief and necessary zoning exemptions, if the Applicant includes a Zoning Statement pursuant to 980 CMR 17.03(1)(b)(3). The contents and form of Constructive Approval Permits are defined in 980 CMR 17.03.

17.02: Preparations for Possibility of Constructive Approval.

- (1) Procedural Assessment. Between sixty and ninety days before the applicable deadline established by 980 CMR 13.02(4)(a), the Presiding Officer shall assess the progress of the proceeding to determine whether there is reasonable assurance that the Board will issue a Consolidated Permit or Consolidated State Permit by the applicable deadline.
- (2) Notice of Likelihood of Constructive Approval. If the Presiding Officer does not have reasonable assurance that the Board will meet its deadline to issue a Final Decision, the Presiding Officer shall prepare and issue to the Parties, Permit Enforcement Agencies, and the Board a Notice of Likelihood of Constructive Approval that references 980 CMR

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17.02: *Preparations for Possibility of Constructive Approval*, states that a Constructive Approval is likely, and describes the reasons for that assessment.

(3) Issuance of Draft Constructive Approval Permit. Within two weeks after the issuance of the Notice of Likelihood of Constructive Approval, the Presiding Officer shall prepare and issue to the Parties, Limited Participants, the Permit Enforcement Agencies, and the Board a draft Constructive Approval Permit. The Permit shall comply with the requirements of 980 CMR 17.03: *Contents and Form of a Constructive Approval Permit*, except that the document will be titled “draft Constructive Approval Permit” and will be marked “DRAFT” on all pages.

(4) Comment Period. The Presiding Officer shall designate a comment period, extending at least seven days from the issuance of the draft Constructive Approval Permit. During that time, the recipients of the draft Constructive Approval Permit may file written comments regarding the draft to ensure compliance with 980 CMR 17.03: *Contents and Form of a Constructive Approval Permit*.

(5) Continuing Right to Issue a Decision on a Consolidated Permit or Consolidated State Permit. Neither the Presiding Officer’s likelihood assessment pursuant to 980 CMR 17.02(2) nor its issuance of a draft Constructive Approval Permit pursuant to 980 CMR 17.02(3) shall prohibit the Board from issuing a decision on a Consolidated Permit or Consolidated State Permit pursuant to 980 CMR 13.00 prior to the issuance deadline.

17.03: Contents and Form of a Constructive Approval Permit.

(1) Contents. A Constructive Approval Permit shall be in writing and shall include the following contents:

(a) Identifying Information.

1. Name of the Applicant, docket number(s), and project name.
2. Name, address, telephone number, and email address of the Applicant Representative(s). See 980 CMR 13.01(4): *Definitions* and 13.03(3) *Application Summary Form*.
3. The Applicant’s Description of the Project, Site, and Surrounding Area pursuant to 980 CMR 13.03(4): *Description of the Project, Site, and Surrounding Area*, including any updates in the evidentiary record of the proceeding.

(b) Required Permits and Approvals.

1. List. A list of all state, regional, and local permits and approvals listed on the Application pursuant to 980 CMR 13.05: *Agency Permit Requirements*, as the Applicant may have validly updated that information.
2. Documents. All draft permits and approvals provided by the Applicant pursuant to 980 CMR 13.05(1)(a), (b), and (c), as the Applicant may have validly updated that documentation.
3. Zoning Statement. A statement of the zoning exemptions that the Applicant requests and that the Presiding Officer has consolidated with the

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Application for a Consolidated Permit or Consolidated State Permit pursuant to 980 CMR 1.09(2).

(c) Common Conditions, all pursuant to 980 CMR 13.08: *Conditions for EFSB Consolidated Permit*.

1. Board Common Conditions,
2. DOER Common Conditions, and
3. PEA Common Conditions.

(d) Abbreviated Procedural History (substantially complying with the following text, completed as indicated).

The Applicant(s), _____[name(s)], filed its/their Application in this proceeding on _____[date]. On _____[date], pursuant to 980 CMR 13.09: *Completeness Determination*, the Presiding Officer issued a Completeness Determination. The Determination confirmed that the Applicant had complied with all Application filing requirements. As a consequence of this determination date, the Board was required, pursuant to 980 CMR 13.02(4): *Review Time Frame*, to issue a Consolidated Permit or Consolidated State Permit by _____[date].

The Board did not issue a Consolidated Permit or Consolidated State Permit by _____[date]. Under these circumstances, M.G.L. c. 164, § 69T (for a large clean energy infrastructure facility), § 69U (for a small clean transmission and distribution infrastructure facility), or § 69V (for a small clean energy generation facility or small clean energy storage facility) requires the Board to issue a Constructive Approval Permit approving the Project. The Applicant is approved for all required state, regional, and local permits and approvals listed on part b(1) of this Constructive Approval Permit as if the accompanying draft permits had issued in final form. The Applicant is likewise granted all requested zoning exemptions as referenced in part b(3) of this Permit.

(e) Statement of Decision's Effect and Appeal Rights. The Constructive Approval Permit shall contain the text of 980 CMR 17.05(1): *Effect of Decision*; and 17.05(2): *Rights of Appeal*.

(f) Additional Information. Such additional information as the Board may deem necessary.

(2) Form. The Board may specify the form of the Constructive Approval Permit and may make available a template for that purpose.

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17.04: Constructive Approval and Issuance of a Constructive Approval Permit.

- (1) If the Board has not timely issued a Consolidated Permit or Consolidated State Permit, the Constructive Approval Permit will be deemed issued on the applicable deadline date as a final Constructive Approval Permit.
- (2) The Presiding Officer will distribute to the Parties the Constructive Approval Permit itself, in compliance with 980 CMR 17.03: *Contents and Form of a Constructive Approval Permit* within five business days of the applicable deadline date.
- (3) The evidentiary record closes upon the distribution of the Constructive Approval Permit.

17.05: Effect of Decision and Rights of Appeal.

- (1) Effect of Decision. In accordance with M.G.L. c. 164, §§69T(i), 69U(c), 69V(c), a Constructive Approval Permit acts as an approval of all relevant permits and approvals from all state, regional, and local agencies required to construct and operate the project.
 - (a) No state, regional, or local agency shall require any other approval, consent, permit, certificate or condition for the construction, operation, or maintenance of the project.
 - (b) No state, regional, or local agency shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action, other than reasonably enforcing the conditions and requirements of the Constructive Approval Permit, that would delay or prevent construction, operation, or maintenance of the Project.
- (2) Rights of Appeal. Under M.G.L. c. 164, § 69T, 69U, or 69V, a Constructive Approval Permit is deemed a final decision, and is subject to appeal under M.G.L. c. 164, § 69P. The appeal deadline will be calculated from the date the Presiding Officer distributed the Constructive Approval Permit pursuant to 980 CMR 17.04(2).
- (3) Scope of Review. The scope of such judicial review is governed by M.G.L. c. 164, § 69P. The scope of the appeal shall be limited to whether the Constructive Approval Permit: (i) is in conformity with the Constitution of the Commonwealth and the United States Constitution; (ii) was made in accordance with the procedures established in M.G.L. c. 164, §§ 69H to 69O, inclusive, and §§ 69T to 69W, inclusive, and the rules and regulations of the Board with respect to such provisions; (iii) was supported by substantial evidence of record in the board's proceedings; or (iv) was arbitrary, capricious or an abuse of the Board's discretion under M.G.L. c. 164, §§ 69H to 69O, inclusive, and said sections §§ 69T to 69W, inclusive.

REGULATORY AUTHORITY

980 CMR 17.00: M.G.L. c. 164, §§69T(i), 69U(c), 69V(c).