



2024 Climate Act:

Comments and Proposed Revisions to Proposed EFSB Regulations 980 CMR 15.00 and Constructive Approval Updates for 980 CMR 17.00

Energy Facilities Siting Board

February 26, 2026



Agenda

- 10:40 MassEnviroScreen, Site Suitability, and Draft 980 CMR 15.00 Regulations, Board Comments
- 12:00 Lunch Break
- 1:00 Continued Board Comments
- 1:30 980 CMR 17.00 and other Regulations Updates, and Board Comments
- 2:30 Afternoon Break
- 2:40 Public Comments
- 5:00 Close



Goals of Board Meeting

- Provide a high-level summary of comments on EF SB Cumulative Impact Analysis and Site Suitability Regulations issued in December and Staff's recommended revisions to the proposed regulations
- Board will discuss proposed revisions and provide direction to Staff regarding revisions
- Respond to further comments, questions, and suggestions



Chapters of Proposed Final Regulations

Chapter of Draft Regulation	Title Summary	Status
980 CMR 1.00 – EFSB revised	Adjudicatory Proceedings	To be published in Mass. Register on 2/27/26
980 CMR 2.00 – EFSB revised	Board Business	To be published in Mass. Register on 2/27/26
980 CMR 13.00 – EFSB new	Consolidated Permits	To be published in Mass. Register on 2/27/26
980 CMR 14.00 – EFSB new	De Novo Adjudication	To be published in Mass. Register on 2/27/26
980 CMR 15.00 – EFSB new	Cumulative Impact Analysis and Standards for Applying Site Suitability Report Criteria	Staff revising and seeking Board input
980 CMR 16.00 – EFSB new	Pre-filing Consultation and Engagement	To be published in Mass. Register on 2/27/26
980 CMR 17.00 – EFSB new	Constructive Approval	Staff revising and seeking Board input
980 CMR 4.00, 5.00, 7.00, 8.00, 11.00	Repeal of Unused Regulations * In response to comments from the Office of Coastal Zone Management, the Siting Board will no longer repeal 980 CMR 9.00.	To be published in Mass. Register on 2/27/26
220 CMR 32.00 – DPU new	EFSB Application Fees (proposed regulations)	Comments due 3/25 (initial), 4/8 (reply), public comment hearing 4/1/26
220 CMR 34.00 – DPU new	Intervenor Support Grant Program, D.P.U 25-75-A	To be published in Mass. Register on 2/27/26
225 CMR 29.00 – DOER new	Consolidated Local Permit	To be published in Mass. Register on 2/27/26



Schedule for Finalizing 980 CMR 15.00

Milestone	Dates
Staff draft regulation redlines, incorporating feedback from Board meeting	Early March
Public comment on redlined regulation – written comments from public	Mid-March
Send proposed Final Regulation for Interagency Review	End-March
Board Meeting	Week of 4/21
Issue Final Decision: Deadline to File final regulation with the Sec. of State	4/24



Commonwealth of Massachusetts
Executive Office of
Energy and Environmental Affairs

OEJE Responses to Public Comment

February 26, 2026





Cumulative Impact Analysis (CIA) Guidance

Comment Theme	CIA Guidance Update or OEJE Response
Definition and application of "elevated indicators" in CIAs using a 50% threshold is inconsistent with the statutory language of the Climate Act. (Eversource/National Grid)	Change “≥ 50th Percentile” (greater than or equal to 50 th percentile) to “>50th Percentile” (greater than 50 th percentile) to ensure that effect is disproportionate (more than the median). In Burdened Areas, even incremental increases to indicators above the median can compound existing stressors and reinforce high cumulative burden over time.
Alter the definition of Disproportionate Adverse Effect to only apply when project impacts raise an Elevated Indicator above regulatory thresholds (RENEW)	No change recommended. Regulatory thresholds are developed by evaluating single chemicals one at a time, but real-world exposures combine many chemicals and stressors simultaneously. Consequently, relying solely on regulatory thresholds may overlook cumulative impacts that matter for community health.
The petition process must be subject to the strictest scrutiny and granted only in cases where the data outlined in 980 CMR 15.04 is factually incorrect, materially outdated, or demonstrably misleading. (RENEW)	OEJE guidance will provide concrete examples of what would and would not qualify as extraordinary circumstances that would warrant the approval of a petition.
The MassEnviroScreen tool, does not accurately reflect all burdened areas, particularly in more rural communities. The MassEnviroScreen tool should expand to include additional “Burdened Areas” that are identified via community input.	No change recommended. The petition process was created to make a pathway for non-Burdened Areas to request a CIA. There are other tools outside of the CIA process that evaluate potential project impacts on communities.



CIA Guidance (continued)

Comment Theme	CIA Guidance Update or OEJE Response
<p>Further consultation with tribes and indigenous stakeholders is needed to ensure that the draft cumulative impacts regulations and guidance respect tribal sovereignty and that MES accurately accounts for impacts on tribes and urban indigenous communities.(North American Indian Center of Boston, EJ Table, Union of Concerned Scientists)</p>	<p>OEJE recommends including tribal land as a contextual layer within MassEnviroScreen. Federally-recognized, state-recognized, and state-acknowledged tribes are incorporated within the definition of Key Stakeholders, which are to be engaged during the pre-filing process. OEJE will engage Tribes and Native-led organizations on ways the MassEnviroScreen can more accurately respond to and protect their communities.</p>



MassEnviroScreen Tool

Comment Theme	CIA Guidance Update or OEJE Response
MassEnviroScreen should be maintained and overseen by the Siting Board and sister agencies. (National Grid/Eversource)	OEJE will continue to oversee and maintain the MassEnviroScreen. OEJE will engage with stakeholders before and after launch, update data every two years with public notice of changes, and conduct a comprehensive review within five years to assess performance and consider improvements, which will include a robust stakeholder engagement process.
The MassEnviroScreen, and therefore the CIA process, does not adequately evaluate environmental burdens and impacts (Multiple Commenters)	No changes recommended. Consistent with its statutory mandate, the tool identifies areas experiencing unfair or inequitable environmental burdens. It focuses on harmful exposures and risk factors. The CIA report will require applicants to describe how environmental impacts (such as tree removal) may affect burden indicators.



MassEnviroScreen Tool (Indicator Specific)

Comment Theme	CIA Guidance Update or OEJE Response
<p>Low Birth Weight and Elevated Blood Lead Levels: Poor data coverage across the state confounds the ability to make meaningful comparisons for these particular indicators and biases the scores. (National Grid/Eversource)</p>	<p>OEJE recommends no change to the MassEnviroScreen. These indicators were chosen after consultation with DEP and DPH. These two indicators are vital sentinel health indicators for flagging environmental health problems and were specifically recommended by the US EPA in previous environmental health guidance. The scoring methodology accounts for missing data and the revised Technical Documentation will describe the policy in detail.</p>
<p>Drought: Calculated at county scale, resulting in little variation at block group scale (National Grid / Eversource)</p>	<p>The Drought indicator has been revised as a Drought Vulnerability index which replaces data from the U.S. Drought Monitor with Massachusetts drought declaration frequency and severity. The revised drought score also now uses the full 25 years of available data. Massachusetts has 7 drought regions. EEA does not report on drought on a smaller geographic scale.</p>
<p>Wildfire Risk: Use of classified values which are not linear and include values that contradict linear scale (National Grid / Eversource)</p>	<p>The Wildfire Risk indicator has been recalculated using continuous Wildfire Hazard Potential values. This revision significantly alters the geography of wildfire hazard and more accurately reflects the underlying data.</p>



MassEnviroScreen: Indicator Updates

As part of OEJE's ongoing refinement of the MassEnviroScreen, the following indicators have been revised due to updates in data or agency input:

- **PM2.5 and Ozone** –
 - Replaced EJScreen source with 2022 values from (EPA) Bayesian Space-time Downscaling Fusion Model (Downscaler)
- **Diesel PM** –
 - Replaced EJScreen source with 2020 values from EPA AirToxScreen
- **Drinking Water Non-Compliance Score** –
 - Replaced EJScreen source and recalculated using all Safe Drinking Water Act violations over last 5 years (not just those that had not yet returned to compliance as in EJScreen)
- **Wildfire Risk** –
 - Recalculated using Wildfire Hazard Potential continuous integer values to correct for misleading ordinal classification scheme in original dataset



MassEnviroScreen: Indicator Updates (*continued*)

As part of OEJE's ongoing refinement of the MassEnviroScreen, the following indicators have been revised due to updates in data or agency input:

- **Drought Vulnerability** –
 - Replaced USDA drought frequency with drought vulnerability using MA drought regions, frequency of MA-declared drought events weighted by severity
- **Flooding** –
 - Calculated percent of population within Special Flood Hazard Area based on dasymetric mapping approach (developed land use area of census blocks and presence of buildings), Used latest FEMA preliminary Digital Flood Insurance Rate Map in place of MassGIS Q3 data (except for Berkshire County), and 200' riverfront buffer in Mount Washington following Wetlands regs
- **Heat** –
 - Replaced 10-year count of 85F+ days with 30-year (1996-2025) count of heat events, 3+ days in a row of 85F+ temps
- **Socioeconomic indicators** –
 - Updated all American Community Survey-based indicators to 2020 – 2024;
 - Updated Department of Housing and Urban Development (HUD) data on low-income housing burdened households with data from 2018 - 2022



MassEnviroScreen: Opportunities for Feedback and Engagement

- **Pre-Finalization Engagement**
 - OEJE will host a technical session with stakeholders to discuss data quality, tool functionality
 - Opportunity to raise outstanding concerns before finalization
- **Post-Finalization Engagement**
 - Periodic Meetings with Applicants and External Stakeholders
 - Discuss procedural recommendations and usability feedback
 - Review CIA development and implementation
 - Iterative improvements based on real-world use
- **Data Updates**
 - OEJE will update the data every 2 years with the best available data
 - Maintain consistency in Burdened Area designations while keeping data current
 - Not all indicators update annually – 2-year timing allows for new data availability
- **Comprehensive Stakeholder Review**
 - Within 5 years – re-assess indicators, methodology, and cumulative burden calculation
 - Evaluate alternative data sources and potential refinements
 - Can occur sooner if needed



Site Suitability Updates

EEA



Site Suitability Guidance – Updates in Response to Public Comments

- **Changes to Guidance Document**

- Updated scoring rubric for climate change resilience to be from 0-3 instead of 0-5
- Reduced maximum social and environmental benefit score from -5 to -3
- Clarified that scores are calculated based on the data in use at the time an application is submitted to the EFSB or a Local Government
- Added clarifications and cross-references to DOER's Guideline on Avoidance, Minimization, and Mitigation
- Updated examples of benefits and minimization/mitigation measures in response to feedback from environmental organizations

- **Other Changes/Clarifications**

- EEA plans to post underlying data sources for stakeholders to use to determine scores
- EEA plans to develop Site Suitability Report Template in coordination with DOER and EFSB to be released this Spring
 - Will include a number of details and features requested in public comments
- Mapping Tool will continue to be posted in a draft form, but will not be fully functional (i.e., automatically calculate Criteria-specific Suitability Scores) until later this Spring



980 CMR 15.00 Updates

EFSB Staff



980 CMR 15.00 Requirements

- The 2024 Climate Act requires the EFSB to promulgate regulations for Cumulative Impact Analysis (CIA), as part of its review of all facilities, based on the OEJE's CIA standards and guidelines; and to develop standards for applying site suitability criteria established by EEA.
- Key elements of EFSB's proposed regulation 980 CMR 15.00:
 - Definitions
 - Identification of "Burdened Areas" using MassEnviroScreen and related data
 - Assessment of "Elevated Indicators" in Burdened Areas
 - Assessment of Project Impacts and any Disproportionate Adverse Effects
 - Remedial actions to avoid, minimize, or mitigate Disproportionate Adverse Effects
 - Contents of the required CIA Report (and CIA Report Template)
 - Standards for applying EEA's Site Suitability Criteria
- The Siting Board received written comments from over 30 entities, including a diverse range of stakeholders such as individual members of the public, local officials, utility representatives, clean energy developers, environmental groups, and community-based organizations.



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p><u>Natural resources inadequately addressed</u> (DeChiara, Norman)</p>	<p>Board has a statutory mandate, separate from the CIA/SS regulation, to identify environmental impacts from a project and to ensure efforts have been made to avoid, minimize, and mitigate them. This mandate, taken together with the combination of analyses used by the Board - Site Suitability, CIA, and the environmental analysis (conducted as part of the Project Application review) - addresses natural resource issues. [No Action Recommended]</p>
<p><u>Specific Geographical Area Radial Distances:</u></p> <ul style="list-style-type: none">- Add Catch-All for New Energy Technology Project Types (Env. League of MA)- Increase ½ Mile SGA for natural gas pipelines to 1-mile radial distance (GreenRoots)- Decrease radial distance for SGA for BESS from 1 mile to ½ mile radial distance (GreenRoots)	<p>Other provisions already provide mechanisms to address this concern. [No Action Recommended.]</p> <p>Recommendation: Increase radial distance for SGA for gas pipelines from ½ mile to 1-mile radial distance</p> <p>Recommendation: Keep BESS SGA at 1 mile to address potential for impacts from “atypical events” involving safety incidents.</p>



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p><u>Burdened Area Petitions:</u></p> <ul style="list-style-type: none">- Allowing petitions for CIA for non-burdened areas is unnecessary and contrary to language and intent of 2024 Climate Act. (EDCs)- Concerned that the petitions for non-burdened areas can be used as a delay mechanism, and argues that there should be a high standard for granting a petition (RENEW)	<p>The petition provision is not contrary to the language or intent of the statute; it increases meaningful community engagement, one of the pillars of the 2024 Climate Act.</p> <p>[No Action Recommended]</p> <p>980 CMR 15.04(6) states that the Director will grant the petition only in extraordinary circumstances. Staff can emphasize in the final regulation Tentative Decision the high bar set by this standard. Furthermore, in approving a petition, the Director may require the Applicant to submit a supplemental exhibit without delaying the proceeding.</p> <p>[Recommendation: amend 15.04(6)(e) to the following: “If the Director grants the request, the Applicant shall conduct the CIA assessment and file its revised CIA Report <u>as a supplemental exhibit</u> within 60 calendar days. The Presiding Officer shall issue any Notice of Completeness Determination subject to receipt of the required supplemental exhibit, if any, with the Notice to remain effective as long as the supplemental exhibit is timely received (within 60 days).</p>



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p><u>Project Changes Requiring a CIA</u>: The language of 980 CMR 15.00 requiring CIAs for project change filings should be removed. (EDCs)</p>	<p>Recommended Regulation Edit: Clarify the triggering level of project change in the reg – e.g., standard could be tied to docketing, or the trigger could be when the Project Change is extensive enough that the change would qualify as a “Facility” or a “CEIF.”</p>
<p><u>Mitigation in Community Benefit Plans/Community Benefit Agreements (“CBPs/CBAs”)</u>:</p> <ul style="list-style-type: none">- Mitigation measures provided in CBPs/CBAs must have a direct nexus to project impacts. (EDCs) - EEA should explicitly clarify that social and environmental benefits are distinct from mitigation. (CLF)	<p>Board regulations do not mandate CBPs/CBAs, and the Board does not prescribe their content; CBPs/CBAs may, however, include useful mitigation. In the absence of a CBP/CBA, the Board may impose additional conditions necessary to avoid, minimize, or mitigate impacts. [No Action Recommended]</p> <p>Regulation’s definition of “Benefit” may be revised – for Board discussion.</p>



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p><u>Elevated Indicator Trigger</u>: Definition and application of "Elevated Indicators" in CIAs using a 50% threshold is inconsistent with the statutory language of the 2024 Climate Act. (EDCs)</p>	<p><i>Recommended Regulation Edit</i>: Change "\geq 50th Percentile" to "> 50th Percentile" to reflect that the effect is disproportionate (more than the median).</p>
<p><u>CIA Trigger</u>: 980 CMR 15.03(3) requires a full CIA whenever any portion of a project's SGA intersects a BA, without regard to the scale, duration, or functional relevance of that overlap, diverting time and resources away from projects and communities where cumulative impacts are "truly significant" (RENEW Northeast/American Clean Power)</p>	<p>In the CIA Report, the Applicant can explain the limited functional relevance of the CIA based on the scale or duration of the overlap. Language to that effect could be added to the final regulation Tentative Decision, but no changes are proposed for the regulation.</p> <p><i>[No Action Recommended]</i></p>



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p><u>Streamlining CIA Report Template:</u></p> <ul style="list-style-type: none">- The EDCs suggest edits to make the CIA Report template more efficient, focusing on the combining of tables. Suggest adding a Project Benefits section to the CIA Report (EDCs)- The Environmental Defense Fund suggests modifying tables in the CIA report for clarity and efficiency. EDF suggests adding a 'Description of Reduced Indicators and/or Other Project Benefits' section to the report. EDF suggests affirmatively requiring documentation for proposed responsive actions for Disproportionate Adverse Effects (Environmental Defense Fund)	<p>Recommendation: modify CIA Report template to add a Project Benefits section and combine tables, where appropriate, to reduce redundant data entries.</p>



980 CMR 15.00 Major Comments

Comment Theme	Regulation Update or Response
<p>The EDCs recommend for the end of 980 C.M.R. 15.03(1): “There is no requirement that an Applicant conduct a CIA for every site or route that is under consideration for a Project.” (EDCs)</p>	<p>Recommendation: include the proposed sentence, which is consistent with the previously discussed policy, as incorporated into 15.00, that a CIA should be conducted for preferred and noticed routes only. At the same time, we recommend language in the TD that <i>encourages</i> Applicants to use MES to assess Indicators for every site or route under consideration to help the Applicant narrow its options and identify preferred and noticed routes.</p>
<p>The EDCs recommend changes to 16.00 to clarify that an Applicant is not required to consider CIA in its initial site or route selection process. (EDCs)</p>	<p>980 CMR 16.00 is already final. Moreover, staff do not believe the requested language is necessary [No Action Recommended]</p>



Questions & Comments



Board Meeting – February 26, 2026

Proposed/Draft Regulations

The meeting will resume at 1 p.m.

Technical Issues? Call or text 857-200-0065



Update on 980 CMR 17.00 (Constructive Approval)



Requirements of the 2024 Climate Act

Deadlines: G.L. c. 164, § 69T requires “in no instance shall the board take more than 15 months from the determination of application completeness to render a final decision on an application”

G.L. c. 164, § 69U requires “in no instance shall the board take more than 12 months from the determination of application completeness to render a final decision on an application”

Permit Conditions: G.L. c. 164, § 69T(b)(vi) requires the Board to establish:

standard permit conditions and requirements for a single permit consolidating all necessary local, regional and state approvals to be issued to different types of large clean energy infrastructure facilities in the event that constructive approval is triggered through the non-issuance of a permit by the board pursuant to subsection (i). (Emphasis added.)

Constructive Approval: Subsection (i) provides:

If no final decision is issued within the deadline established by the board for the type of large clean energy infrastructure facility, **the board shall issue a permit granting approval to construct that includes the common conditions and requirements established by the board through regulations** for the type of large clean energy infrastructure facility under review, which shall be deemed a final decision of the board. (Emphasis added.)



Major Comments Received

- Developers: Eversource and National Grid; Clean Energy Developers
 - constructive approval approves the *Application as filed plus common conditions* in existence at the time of the filing of the Application; the Act does not contemplate project-specific conditions

- Agencies
 - the permit enforcement agencies (“PEA”) advocate for the inclusion of project-specific conditions to ensure that their statutory mandates (and regulations) are fulfilled (e.g., NHESP, Wetlands Protection Act, etc.). Common Conditions are inherently generic, and unable to address legally mandated requirements that involve site-specific conditions.



Primary Issues to be Addressed

- **Which Project features are constructively approved?**

How to reflect any revisions to the Project that are announced during the course of the adjudicatory proceeding.

- **Which conditions apply to the Project as constructively approved?**

- How to tailor conditions to address project-specific impacts and legal requirements of each permit



Tools to Address Issues

- Pre-filing – Application will include some proposed conditions discussed during pre-filing consultation with agencies, and community engagement (980 CMR 16.00)
- Application at the Completeness Determination – Presiding Officer determination that Application “substantially and materially complies with the Board’s Application requirements” – Application to include all requirements for adjudication (980 CMR 13.00)
- Conditions Conference – Conducted after the evidentiary record is complete. Includes consideration of proposed conditions from Applicant, PEAs, and Parties. Results in a Presiding Officer Recommended Permit Conditions and Requirements (980 CMR 13.00)
- Common Conditions – Common Conditions are technology specific - May include performance-based standards, and include ongoing performance obligations where appropriate (Guidance referenced in 980 CMR 13.00)



Potential Approaches

Approach	Description	Pros	Cons
Board vote on conditions following Conditions Conference – Approach in Draft Final Regulations	<p>PO recommends conditions after conducting a Conditions Conference (near the end of the proceeding). Board would vote up or down on recommended conditions.</p> <p>PO recommended conditions may include: (1) Common Conditions; and (2) other conditions, including but not limited to, those recommended by Parties or PEAs</p>	<ul style="list-style-type: none"> • Allows for project-specific conditions • Incorporates Common Conditions in a “tailored” manner that includes party and PEA input from Conditions Conference and their written comments afterwards • PO recommended conditions list includes PO’s reasons to adopt • Board vote ensures conditions are not imposed only by PO 	<ul style="list-style-type: none"> • Developers strongly oppose, arguing that the Act does not envision a Board vote in a Constructive Approval situation • Board would have to vote on conditions without a Tentative Decision, and therefore have limited information on the Project • Board time and attention needed for an “up or down” vote on PO recommended conditions could detract from focus on getting a tentative decision and an adjudicated final decision



Potential Approaches

Approach	Description	Pros	Cons
Amended Application	Applicant amends Application to include PO recommended conditions and Project updates	<ul style="list-style-type: none"> • Possible inclusion of project-specific conditions • Possible inclusion of revisions to the Project during adjudication 	<ul style="list-style-type: none"> • Applicant's compliance is voluntary and, thus, uncertain • Applicant may be reluctant to risk that a revised Application could trigger additional procedural requirements
Amended Application - variation	Applicant amends Application with conditions unanimously supported by PEAs and Parties, as identified by the PO	<ul style="list-style-type: none"> • Possible inclusion of some project-specific conditions and revisions to Project 	<ul style="list-style-type: none"> • Unanimous consent may be difficult to obtain • Conditions are enforceable by the Board if conditions are part of the Application that is Constructively Approved



Potential Approaches

Approach	Description	Pros	Cons
Reconciliation List Approach	<p>As part of the Conditions Conference, the PO would develop and issue a “Common Conditions Reconciliation List” (“Reconciliation List”) for use in the event of Constructive Approval</p> <p>The Reconciliation List would clarify for each condition whether: (1) the Board’s “generic” Common Condition, or (2) the Applicant’s more-tailored version of the Common Condition, as included in its Complete Application, would apply to Constructive Approval</p>	<ul style="list-style-type: none"> • Reconciliation List resolves ambiguity about whether the Application or Common Conditions should govern the Constructive Approval • Reconciliation List could include project tailored conditions • Reconciliation List could also include revisions to the Project during the proceeding (PO would need to make a determination about which changes should be included) 	<ul style="list-style-type: none"> • The PO is making decisions regarding which conditions apply – (and possibly, what Project changes during the proceeding should be included for Constructive Approval). This approach may raise questions regarding PO authority • Not all Parties may agree with the way the Presiding Officer conducts the Reconciliation – including conditions to be applied and Project revisions to be included



Next Steps

- 3/19/26 After feedback, Staff issue proposed revisions to the regulations, and a request for comments
- 3/19/26 Staff issue the Baseline Standards and Common Conditions Guidance documents for comment
- 4/3/26 Comments due on proposed regulations, Baseline Standards and Common Conditions Guidance documents
- May 2026 Draft Final Regulations and Tentative Decision issued to the public
- Week of 5/18 Board Meeting – to vote on Final Constructive Approval Regulations
- 5/22/26 File Final Constructive Approval Regulations with the Secretary of State
- 6/5/26 Constructive Approval Regulations published in Mass. Register and go into effect



Questions & Comments



Board Meeting – February 26, 2026

Proposed/Draft Regulations

The meeting will begin/resume shortly

Technical Issues? Call or text 857-200-0065