

**STANDARD CONDITIONS**  
**STAFF STRAW PROPOSAL**

**I. INTRODUCTION**

This straw proposal describes proposed categories for standard conditions to be included with Energy Facilities Siting Board (“Siting Board” or “EFSB”) approvals for clean energy infrastructure facilities under requirements of “An Act promoting a clean energy grid, advancing equity and protecting ratepayers” (“2024 Climate Act” or “Act”). The 2024 Climate Act charges the Siting Board with issuing a single consolidated permit that comprises all state, regional and local permits that a clean energy infrastructure facility would otherwise be required to obtain to commence construction and operation.

The 2024 Climate Act requires that the Siting Board establish permit conditions and requirements, through regulations, for different types and sizes<sup>1</sup> of clean energy infrastructure facilities *in the event of constructive approval*.<sup>2</sup> [2024 Climate Act, Section 74](#). Constructive approval means that a project is automatically granted a consolidated permit because the Siting Board failed to issue a decision by its statutory deadlines (i.e., 12 and 15 months). The 2024 Climate Act explicitly requires that, for constructive approval, the Siting Board issue a permit that includes these “common conditions.” [2024 Climate Act, Section 74](#).

During the course of a Siting Board proceeding, relevant state, regional and local permitting agencies will submit recommended permit conditions. After issuance, each state, regional and local permitting agency will enforce relevant portions (including conditions) of the EFSB consolidated permit that correspond to the permit authority otherwise administered by such agencies. [2024 Climate Act, Section 74](#).

The Siting Board staff prepared this straw proposal to elicit input from key stakeholders on the topic of standard conditions in preparation for developing proposed regulations. The straw proposal recommends three categories of standard conditions: (1) universal conditions applicable to all decisions and constructive approvals; (2) additional conditions applicable to constructive approvals; and (3) additional conditions applicable to particular technology.

**II. CONTEXT FOR STRAW PROPOSAL**

The Siting Board currently issues decisions that approve, approve with conditions, or deny proposed large-scale energy facilities. In practice, all Siting Board final decisions approving a facility are subject to conditions developed by the Siting Board in response to issues

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<sup>1</sup> Large clean energy infrastructure facilities and small clean energy infrastructure facilities are defined in the 2024 Climate Act and are mutually exclusive. [2024 Climate Act, Sections 57-58](#).

<sup>2</sup> The Department of Energy Resources (“DOER”) is responsible for establishing standard conditions for small clean energy infrastructure facilities in the event of constructive approval. 2024 Climate Act, Sections 17, 19, 23.

raised during the proceeding. To meet the Siting Board's existing statutory mandate (to ensure a reliable supply of energy, with a minimum environmental impact, at the lowest possible cost) and the revised statutory mandate under the 2024 Climate Act, the Siting Board's final decisions typically require compliance with various conditions. G.L. c. 164, § 69H. The 2024 Climate Act expands the Siting Board's statutory mandate and adds additional factors for consideration.<sup>3</sup> EFSB-imposed approval conditions often include requirements that the project proponent:

- Employ a process, equipment, or operations that comply with all relevant laws and proponent commitments;
- Perform confirmatory testing for specified environmental impacts, and achieve and maintain compliance;
- Work with stakeholders in the community (e.g., municipal officials) to establish and conduct adequate communications plans; and
- Consider future site conditions (e.g., sea level rise) and provide updates in writing to the Siting Board, as directed.

The Siting Board also issues Certificates of Environmental Impact and Public Interest ("Certificate"), which are consolidated permits for energy facilities. In a Certificate, the Siting Board often includes recommended permit conditions from the permitting agencies that would otherwise be issuing a permit, absent the Certificate.<sup>4</sup> The Siting Board's review of energy facilities also includes review of any related Massachusetts Environmental Policy Act ("MEPA")

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<sup>3</sup> The 2024 Climate Act modified the Siting Board's mandate to include additional factors to review and balance. Specifically, the Siting Board shall consider whether the energy facility will: "(i) provide a **reliable, resilient** and clean supply of energy consistent with the commonwealth's climate change and greenhouse gas reduction policies and requirements; (ii) ensure that large clean energy infrastructure facilities, small clean energy infrastructure facilities, 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; (iii) 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; and (iv) ensure large clean energy infrastructure facilities, small clean energy infrastructure facilities, facilities and oil facilities are constructed in a manner that **avoids or minimizes costs.**" 2024 Climate Act, Section 60 (emphasis added).

<sup>4</sup> The main difference between a Certificate process and the consolidated permit established by the 2024 Climate Act is that the Certificate is only available to a project proponent that has previously received an approval of a petition to construct from the Siting Board for the same project, while the new process would provide a consolidated permit in one proceeding.

documents, which typically include proposed “Mitigation and Draft Section 61<sup>5</sup> Findings” that the Secretary recommends for inclusion in state agency permitting. The Siting Board considers, and frequently uses, these proposed mitigation measures in the conditions included in its decisions.

In order to identify possible standard conditions, Siting Board staff have conducted a comprehensive review of past Siting Board final decisions and corresponding MEPA documents. Siting Board staff is also collaborating with permitting agencies and the MEPA Office to obtain standard conditions that could be applied to portions of future consolidated permits which are relevant to their programs and permits. Siting Board staff also reviewed relevant performance standards from some agencies, such as construction standards for solar facilities that qualify under the SMART program. 225 CMR 20.05(5)(e).

As referenced above, the 2024 Climate Act requires that DOER establish standard conditions for local consolidated permits for small clean energy infrastructure facilities. Therefore, the Siting Board expects to coordinate closely with DOER to ensure that there is appropriate consistency between the requirements developed by both agencies. The proposed standard conditions should include conditions that:

- Apply a minimum uniform standard to all proposed clean energy infrastructure facilities<sup>6</sup> during the post-decision phase of a Siting Board proceeding, which would be informed by recommendations from state and local agencies to the Siting Board;
- Ensure that in the event of constructive approval, a clean energy infrastructure facility would still meet the Siting Board’s statutory mandate;
- Address technology-specific impacts with appropriate minimization and mitigation measures;
- Are readily enforced by the other state, regional and local permitting agencies once a final decision is issued or constructive approval is triggered; and
- Are readily understood by project proponents and their successors, who will be responsible for complying with said conditions.

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<sup>5</sup> State law requires agencies to evaluate the project and make a finding that all feasible measures have been taken to avoid or minimize said impacts, while considering climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise. G.L. c. 30, § 61.

<sup>6</sup> The Siting Board notes that many of the standard conditions may also be imposed in decisions for non-clean energy infrastructure facilities (e.g., fossil fuel facilities), although not required by the 2024 Climate Act.

### III. MAJOR COMPONENTS OF THIS STRAW PROPOSAL

To meet the objectives stated by the Siting Board above, the Siting Board proposes to develop three categories of standard conditions of varying levels of specificity:<sup>7</sup>

- **Level 1 Universal Standard Conditions:** Standard conditions that would apply to all consolidated permits, including those by constructive approval.<sup>8</sup> Input provided by other permitting agencies will help ensure that conditions necessary to meet these agencies program and permit responsibilities are included in EFSB regulation and guidance. These agencies also have the opportunity to provide additional project-specific recommended permit conditions during the evidentiary phase of EFSB proceedings.
- **Level 2 Constructive Approval Conditions:** Additional conditions that would apply only in the event of an EFSB consolidated permit issuance by constructive approval. The Consolidated permit by constructive approval would include both Constructive Permit Conditions and Universal Standard Conditions. Input provided by other permitting agencies will help ensure that conditions necessary to meet these agencies program and permit responsibilities are included in EFSB regulation and guidance.
- **Level 3 Technology-Specific Conditions:** Technology-specific standard conditions, where applicable.

The Siting Board expects that the standard conditions would continue to be refined over time and reflected in updates to regulations and guidance.

### IV. DETAILS OF KEY STRAW PROPOSAL COMPONENTS

#### A. Level 1 – Universal Standard Conditions

Universal Standard Conditions would apply to all energy facilities. These conditions prescribe a minimum expectation of the Siting Board, and other permitting agencies, for the project proponent or its successors. The following are examples, but not an exhaustive list, of such conditions:

Level 1 Universal Standard Conditions	
Topic	Language
Project Commencement Project Change	Because issues addressed in this Decision relative to the Project are subject to change over time, construction of the proposed Project must commence within three years of the date of the Decision.
	In addition, the Siting Board notes that the findings in this Decision are based upon the record in this case. A project proponent has an absolute obligation to

<sup>7</sup> The Siting Board notes that other agencies will have the opportunity to file project-specific Statements of Recommended Permit Conditions. 2024 Climate Act, Section 74.

<sup>8</sup> Current Siting Board decisions already include many such conditions, such as requirements for community outreach plans for construction duration activities. See, e.g., Greater Cambridge Energy Program, EFSB 22-03/D.P.U. 22-21, at 224, Condition G.

<b>Level 1 Universal Standard Conditions</b>	
<b>Topic</b>	<b>Language</b>
	construct and operate its facility in conformance with all aspects of its Project as presented to the Siting Board. Therefore, the Siting Board requires the Company, and its successors in interest, to notify the Siting Board of any changes other than minor variations to the proposal so that the Siting Board may decide whether to inquire further into a particular issue. The Company and its successors in interest are obligated to provide the Siting Board with sufficient information on changes to the proposed Project to enable the Siting Board to make these determinations.
<b>Compliance with Regulations</b>	The Siting Board directs the Company to comply with all applicable federal, state, and local laws, regulations, and ordinances from which the Company has not received an exemption. The Company shall be responsible for ensuring such compliance by its contractors, subcontractors, or other agents.
<b>Compliance with All Conditions</b>	The Company and its successors in interest shall comply with all conditions contained in this Decision. Further, the Siting Board directs the Company, within 90 days of Project completion, to submit a report to the Siting Board documenting compliance with all conditions contained in this Decision, noting any outstanding conditions yet to be satisfied and the expected date and status of compliance.
<b>Updated/Certified Cost Estimate</b>	The Company shall submit to the Siting Board, prior to the start of construction, an updated and certified cost estimate for the Project. The Company shall also promptly notify the Siting Board of significant Project cost increases beyond the ranges referenced in this Decision pursuant to the Company's obligation to notify the Siting Board of any changes other than minor variations to the proposal.
<b>Diesel Vehicle Regulation Compliance</b>	The Siting Board directs the Company to ensure that all diesel-powered non-road construction equipment with engine horsepower ratings of 50 and above, and to be used for 30 or more days over the course of Project construction, be certified to the most recent U.S. EPA Tier emissions standards or have U.S. EPA-verified (or equivalent) emissions control devices, such as oxidation catalysts, particulate filters, or other comparable technologies (to the extent that they are commercially available) installed on the exhaust system side of the diesel combustion engine.
<b>Conversion to Electric Vehicles</b>	The Siting Board directs the Company to consider potential opportunities for use of, or conversion to, electric vehicles and electric equipment for construction activities, and to submit a report to the Siting Board indicating the Company's inclusion of electric vehicles at the following times: 30 days prior to construction, 180 days after construction commencement, and 90 days after construction completion.
<b>Community Outreach Plan</b>	The Siting Board directs the Company to implement a community outreach plan for Project construction. The plan shall build off community engagement efforts begun during the pre-filing phase, and should detail the language access provided by the Company. The Company shall make the plan available to the community no later than 90 days prior to commencement of construction, and shall list all groups of residents, businesses, officials, and other(s) with whom the Company will engage in community outreach. Further, the plan(s) shall specify procedures for providing prior notification to affected residents regarding: (a) the scheduled start, duration, and hours of construction; (b) construction methods specific to particular areas; (c) any construction the Company intends to conduct that, due to unusual circumstances, must take place outside of the hours detailed above; and (d) any anticipated street closures or detours. Further, the plan(s) shall detail communication methods that the Company will employ in its engagement efforts.
<b>Permitted Construction Work Hours</b>	The Company's normal construction work hours shall not begin before 7:00 a.m. and end not later than 7:00 p.m. Monday - Friday and not before 9:00 a.m. to

<b>Level 1 Universal Standard Conditions</b>	
<b>Topic</b>	<b>Language</b>
	6:00 p.m. on Saturdays. Normal construction work hours shall not include Sundays or legal, state, or federal holidays. Should the Company need to extend construction work beyond the above-noted hours and days, with the exception of emergency circumstances on a given day necessitating extended hours, the Company shall seek written permission from the relevant municipal authority before the commencement of such work and provide the Siting Board with a copy of such permission. If the Company and municipal officials are not able to agree on whether such extended construction hours should occur, the Company may request prior authorization from the Siting Board and shall provide the relevant municipality with a copy of any such request. Work requiring a longer continuous duration than normal construction work hours is exempt from those hours. The Company shall promptly inform the Siting Board and [municipality/municipalities/others] of any emergency work occurring outside of normal construction work hours.

**B. Level 2 – Constructive Approval Conditions**

As noted above, Constructive Approval Conditions would apply in addition to Universal Standard Conditions if the Siting Board does not issue a final decision before its statutory deadlines. If a constructive approval applies, the Level 2 conditions would be triggered in addition to Level 1 Conditions and any Level 3 Conditions relevant to the particular technology at issue. The following are examples, but not an exhaustive list, of such conditions:

<b>Level 2 Constructive Approval Conditions</b>	
<b>Topic</b>	<b>Language</b>
<b>Excavation/Disposal of Contaminated Materials</b>	The Siting Board directs the Company to comply with all applicable federal and state laws concerning the excavation and disposal of any contaminated soils encountered during construction of the Project.
<b>SF<sub>6</sub> Alternatives</b>	If sulfur hexafluoride (SF <sub>6</sub> ) is proposed for equipment at the facility, for the lifetime of the facility, the Company shall investigate alternatives to using SF <sub>6</sub> at the facility, and, whenever possible, employ such alternatives. Further, the Company shall inform the Siting Board if/when viable alternatives are identified.
<b>Fire Suppression Foams/PFAS</b>	If foams are used for fire suppression at the facility, the Siting Board directs the Company to ensure that non-PFAS foams are employed to the extent that such products are commercially available, efficacious, and compliant with relevant requirements of 310 CMR 112. In addition, the Company shall provide to the Siting Board [within timeframe] a safety data sheet or other demonstration verifying that any foams of other fire-suppressing materials stored at the facility do not contain PFAS.
<b>Mitigation: Wetland Replacement</b>	If wetlands are permanently altered, the Siting Board directs the Company to replace the permanently altered wetlands in kind, proximate to the relevant waterbody, in an amount at least equal to the amount of the permanently altered wetlands, or as otherwise specified in MassDEP regulation.
<b>Lighting Mitigation</b>	The Siting Board directs the Company to use lighting mitigation measures (e.g., turning off lights when not in use, motion detectors, dimmers, shielded light fixtures, warm-color bulbs).
<b>Flood Mitigation &amp; Sea Level Rise</b>	The Siting Board directs that every five years from the date of facility operation the Company shall review municipal, state, and federal projections, as applicable, of sea level rise and submit a report to the Siting Board analyzing the necessity, appropriateness, and cost of implementing additional flood mitigation measures at the [facility] to protect the [facility] from inundation. In preparing

<b>Level 2 Constructive Approval Conditions</b>	
<b>Topic</b>	<b>Language</b>
	each report the Company shall consult with agencies including, but not limited to, municipal officials, the Office of Coastal Zone Management, Massachusetts Emergency Management Agency, and the Department of Environmental Protection. The Siting Board will review each report and determine whether any of the additional flood mitigation measures are necessary and appropriate.
<b>Emergency Response Plans ("ERPs")</b>	The Siting Board directs the Company to develop an emergency response plan ("ERP") that shall: (1) be developed in consultation with local public safety officials; and (2) require close coordination between the Company and first responders to ensure that first responders are fully informed about emergency events and understand how to address such events without assuming unnecessary personal risk. The ERP shall include: (1) equipment types and layouts without compromising Critical Energy/Electric Infrastructure Information; (2) safety data sheets for materials used or stored onsite; (3) a firefighting plan with suggested response procedures for various emergency conditions; and (4) the emergency response tasks that will be undertaken and completed by the operator of the facility/facilities.

### C. Level 3 – Specialized Conditions

Specialized Conditions would contain technology-specific mitigation measures, that would automatically apply to certain types of energy facilities. The following are examples of such conditions:

<b>Level 3 Technology-Specific Conditions</b>		
<b>Topic</b>	<b>Technology/Scenario</b>	<b>Language</b>
<b>Shore-to-Ship Electricity</b>	Technology: Offshore Wind Transmission Lines	The Siting Board directs the Company to: (i) use shore-to-ship electricity for vessels while they are moored, whenever feasible; (ii) evaluate the feasibility of supplying shore-to-ship electricity to near-shore vessels to minimize or eliminate the need for onboard engines to generate power from fossil fuels; and (iii) submit reports indicating the Company's ability to use shore-to-ship operations 30 days prior to construction, 180 days after construction commencement, and 90 days after construction completion.
<b>Magnetic Field Testing</b>	Technology: Transmission Lines, Substation	The Siting Board directs the Company to conduct testing of magnetic fields [at location(s)], which shall occur: (i) at least 30 days prior to construction commencement to establish a baseline; (ii) 180 days after construction commencement; and (iii) 1 year from commencement of facility operations. For each of the three milestones listed above, the Company shall file with the Siting Board a report detailing: (i) the results of the magnetic field testing; (ii) whether the results are consistent with projected or anticipated magnetic field measurements; (iii) any remediation measures necessary to rectify inconsistencies; and (iv) whether such remediation measures (if required) are warranted.

### V. REQUEST FOR COMMENTS

The Siting Board welcomes comments on any or all of the contents of the straw proposal above, and on any or all of the questions below:

1. [To permitting agencies:<sup>9</sup>] What Universal Standard Conditions (Level 1) does your agency recommend for inclusion in future consolidated Siting Board permits to reflect essential functions and requirements of your agency?
2. [To permitting agencies:] What Constructive Approval Conditions (Level 2) does your agency recommend for inclusion in future EFSB consolidated permits by constructive approval to reflect essential functions and requirements of your agency?
3. [To permitting agencies:] Which, if any, of your agency's permits should be exempt from being included in future consolidated Siting Board permits, and what is the statutory or practical basis for such exclusion?
4. [To permitting agencies:] How would you propose that the Siting Board consider an agency's project-specific Statement of Recommended Conditions in the event of a constructive approval?
5. Should the standard permit conditions be fixed or should they provide a reasonable range of options, where applicable?

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<sup>9</sup> "Permitting agencies" refers to all state, local and regional permitting entities. The Siting Board welcomes comments from all of these entities on the questions indicated.