

COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

PUBLIC MEETING OF THE ENERGY FACILITIES SITING
BOARD, held at One South Station and via Zoom video
conference, on July 21, 2025 commencing at 9:06 a.m.

SITTING: Rebecca L. Tepper, Chair
James M. Van Nostrand
Staci Rubin
Douglas Gutro
Joseph C. Bonfiglio
Bonnie Heiple
Elizabeth Mahony

Andrew Greene, EFSB Director

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<p style="text-align: right;">Page 2</p> <p>1 July 21, 2025 9:06 a.m. 2 PROCEEDINGS 3 SECRETARY TEPPER: We are going to be on 4 the record now. Good morning and welcome. My name 5 is Rebecca Tepper. I'm the Secretary of the 6 Executive Office of Energy and Environmental 7 Affairs, and the Chair of the Energy Facilities 8 Siting Board. 9 Before we get started, I would ask the 10 siting director to provide instructions on using the 11 interpretation services being provided today. 12 Mr. Greene. 13 MR. GREENE: We are providing 14 interpretation services for this meeting in Spanish, 15 Portuguese, Mandarin Chinese, Vietnamese, and 16 Haitian Creole, as well as English and American Sign 17 Language, which you will see on the video screen or 18 your Zoom screen if you're remote. Whether you are 19 here or on Zoom, you will have access to the 20 interpretation services being provided today. 21 If you are here in the room, you can 22 access interpretation by using a receiver and 23 headphone set, which is over on the table where I'm 24 pointing, with our staff, who are there to help</p>	<p style="text-align: right;">Page 4</p> <p>1 or on Zoom. 2 With me today are the other members of 3 the Siting Board: James Van Nostrand, Chair of the 4 Department of Public Utilities; Staci Rubin, 5 Commissioner of the Department of Public Utilities; 6 Elizabeth Mahony, Commissioner of the Department of 7 Energy Resources; Bonnie Heiple, Commissioner of the 8 Department of Environmental Protection; Doug Gutro, 9 Director of the Permit Regulatory Office and 10 designee for Interim Secretary Ashley Stolba, at the 11 Executive Office of Economic Development; Joe 12 Bonfiglio, the public member. Additionally, Andy 13 Greene, Director of the Siting Board, is here on the 14 board and will be serving as the Zoom meeting host. 15 The meeting today concerns the Siting 16 Board's role in implementing the 2024 Climate Act, 17 signed into law by Governor Healey in 2024. The 18 2024 Climate Act makes many changes in the way that 19 clean energy facilities will be sited and permitted 20 in Massachusetts, about one year from now. 21 The Siting Board is required to 22 promulgate regulations and guidance to implement 23 these reforms for siting and permitting by March 24 1st, 2026. The regulations that result from this</p>
<p style="text-align: right;">Page 3</p> <p>1 provide the equipment. Spanish is Channel 1 on the 2 receiver, Portuguese Channel 2, Mandarin Chinese 3 Channel 3, Vietnamese Channel 4, and Haitian Creole 4 Channel 5. 5 For those on Zoom: In just a moment we 6 will activate interpretation and you will see a 7 Globe icon at the bottom of your screen that reads 8 "Interpretation." Click the Globe, and then you can 9 make your language selection. These instructions 10 will be translated by our interpreters, who we can 11 now have them proceed with their instructions. 12 Jose, would you please get the interpreters to 13 provide the instructions. 14 (Instructions interpreted.) 15 MR. GREENE: Thank you, Jose and the Fox 16 Interpretation team. We'll start the interpretation 17 service now. 18 So again, please make your selection 19 again, welcome, everybody. This is a hybrid meeting 20 of the Energy Facilities Siting Board taking place 21 at the offices of the Department of Public 22 Utilities, One South Station, Boston, and on Zoom. 23 This hybrid meeting format is intended to allow 24 everyone to see and hear all speakers, whether here</p>	<p style="text-align: right;">Page 5</p> <p>1 process will apply to projects filed with the Siting 2 Board starting July 1, 2026. 3 In a few moments you'll hear 4 presentations from Undersecretary Mike Judge, 5 Undersecretary Maria Power, and Department of Energy 6 Resources Siting and Permitting Director Rick 7 Collins, about the 2024 Climate Act and the broader 8 context for the regulations now being developed by 9 the Siting Board. 10 The purpose of today's meeting is for 11 the Siting Board staff to provide a briefing on the 12 highlights of first draft regulations and guidance, 13 and to give the Board an opportunity to ask 14 questions and provide feedback as staff continues to 15 refine its proposed regulations. We will also have 16 time today to listen to public comments and 17 questions regarding the proposed draft regulations 18 and provide an opportunity for dialogue. 19 Prior to today's meeting, the Siting 20 Board staff posted a number of draft regulations and 21 guidance documents on a new website called the 2024 22 Climate Act regulations meetings. The website 23 address is in the meeting notice. 24 Previously Siting Board staff prepared</p>

<p style="text-align: right;">Page 6</p> <p>1 straw proposals that sketched out some of the 2 thinking in these draft regulations and conducted a 3 series of public meetings to seek input at the 4 meetings and in writing, written comments. They 5 posted the written comments that we received online. 6 We appreciate the input received to date 7 and look forward to obtaining additional comments as 8 the proposals are revised, and we'll begin a formal 9 rulemaking process in the fall to be completed March 10 1st of 2026. 11 First, I want to acknowledge that we are 12 on a very tight schedule to accomplishing everything 13 in time to meet the statutory deadline. 14 I also realize that many of the 15 regulations were posted only last week. And two 16 regulations haven't been posted yet and are still 17 going through internal review. We hope to release 18 these two soon. One is on the prefilng process, 19 and the other is on cumulative impact analysis. 20 However, staff will present their thinking on both 21 of these topics and give the Board and attendees an 22 opportunity to ask questions or offer comments. 23 All material presented today will be 24 posted online. We will translate the slides into</p>	<p style="text-align: right;">Page 8</p> <p>1 community. And if your comments lend themselves to 2 it, redlines with narrative descriptions are also 3 very helpful. 4 So I encourage everybody to actively 5 participate, but also understand the tight time 6 frame that we're in and just wanted to assure 7 everybody that this is not your only opportunity. 8 The Siting Board is going to revise its 9 draft regulations and issue a complete package and 10 all supporting materials publicly in early 11 September. 12 The Board meeting will be held in 13 September and the Board will vote on proposed 14 regulations. 15 If approved by the Board, the proposed 16 regulations will be filed with the Secretary of 17 State for publication in the Massachusetts Register. 18 Once published in the Massachusetts Register, this 19 begins the formal review process required by law. 20 The review process will include public hearings, 21 technical sessions, and working sessions to continue 22 to refine and improve the proposed regulations. 23 Staff will revise the proposed regulations and 24 guidance following the public comment process. The</p>
<p style="text-align: right;">Page 7</p> <p>1 multiple languages and post those slides as soon as 2 possible. An agenda for today's meeting is 3 available on the welcome table and is posted on the 4 EFSB website. We will show it on screen in a 5 moment. 6 We welcome written comments on any of 7 the draft regulations, guidance, and presentation. 8 Given the tight schedule, we ask for your written 9 comments no later than Monday, July 28. As a 10 reminder, there will be additional comment periods 11 this fall. 12 I do want to make a quick side note that 13 while we're providing these documents, I do want to 14 be clear that we are still early in the process. 15 Nothing that you're seeing today is set in stone. 16 The whole reason that we're doing this pre-work 17 before the Board actually issues draft regulations 18 is to get input before the formal process begins. 19 Staff will read every comment that comes in. 20 I would say that, having been on both 21 sides of the comment issue, it's very helpful to 22 understand real-world impacts of the particular 23 regulations, providing examples of how regulations 24 will work or may not work for your business or your</p>	<p style="text-align: right;">Page 9</p> <p>1 Siting Board will meet again in early 2026 to 2 discuss the revised package and send the materials 3 for interagency review. A final Board vote to 4 promulgate the final regulations and issue a 5 decision will take place in February 2026. The 6 regulations will be submitted to the Secretary of 7 State and published in the Massachusetts Register 8 prior to March 1. 9 The Siting Board provided notice of 10 today's meeting to the Commission on Energy 11 Infrastructure Siting and Permitting, which is a 12 broad group of stakeholders and member 13 organizations, the Siting Practitioners Advisory 14 Group, and the Interagency Task Force for Siting and 15 Permitting. The notice was also posted on the 16 Siting Board's website and provided under the 17 Massachusetts Open Meeting Law. The notice was also 18 translated into the languages mentioned earlier. 19 Before we begin the substance of the 20 meeting, I can provide some important information 21 about how we will be conducting this meeting. 22 First, here is the agenda. We're not 23 going to do that. Sorry. After a few introductory 24 presentations by EEA and DOER to set the stage,</p>

<p style="text-align: right;">Page 10</p> <p>1 we'll take up sections of the proposed draft 2 regulations as presented by EFSB staff. After each 3 subject is presented, staff will pose some key 4 questions for discussion, and the Board will then 5 ask questions, make comments and provide 6 suggestions. We will take public comments on the 7 specific topics presented in that session and then 8 move on to the next session topic. I'm hoping that 9 this format provides a good amount of time to 10 provide hearing from the public. We'll take 11 comments first from members of the Commission on 12 Energy Infrastructure Siting and Permitting, the 13 Siting Practitioners Advisory Group, and the 14 Interagency Task Force, and then the public. We'll 15 break around noon for lunch and resume at 1:00. 16 The Siting Board is conducting today's 17 meeting both in person and remotely using Zoom. 18 This meeting is being recorded and will be available 19 on the Siting Board's YouTube channel. For our 20 remote attendees, if you're having any difficulty 21 with Zoom, please call or text 857-200-0065 for 22 assistance at any time. 23 A stenographer is present today to 24 transcribe everything we say and to make an official</p>	<p style="text-align: right;">Page 12</p> <p>1 here, what's the general thrust of what's going on 2 with these reforms. So if you could go to the next 3 slide, please. 4 As many of you may know, there was a 5 commission established by the Governor in September 6 of 2023 via Executive Order 620. This is the 7 Commission on Energy Infrastructure Siting and 8 Permitting. It was required to advise the Governor 9 on three distinct items. So first was accelerating 10 the responsible deployment of clean energy 11 infrastructure through siting and permitting reform; 12 also facilitating community input into the siting 13 and permitting process; and then third, ensuring 14 that the benefits of the clean energy transition are 15 shared equitably as these reforms are made. 16 The commission met about 15 times over 17 the span of I think six to eight months -- I can't 18 remember exactly -- but it held two public listening 19 sessions, collected over 1500 public comments, and 20 then sent some detailed recommendations to the 21 Governor at the end of March of 2024. 22 That then led to the development of 23 legislation that was later enacted into law in 24 November of last year, the 2024 Climate Act, and</p>
<p style="text-align: right;">Page 11</p> <p>1 record of the meeting. Everybody should speak 2 slowly -- which I'm not doing now, but you 3 appreciate that -- and clearly and allow the prior 4 speaker to finish before you begin speaking. That's 5 process will help us ensure an accurate transcript. 6 We're now ready to start the substantive 7 portion of our meeting. As I mentioned, the sole 8 item on our agenda is to hear from Siting Board 9 staff about draft regulations to implement the 2024 10 Climate Act. Given the nature of today's meeting, I 11 will describe the process as being Roberts' Rules of 12 Order - Lite, with somewhat less formality than 13 usual. 14 Then we'll take public comment. I will 15 ask commentators to limit themselves to three 16 minutes so that we can hear from as many people as 17 time permits. I'll also allow members of the Siting 18 and Permitting Commission, SPAG, and the Interagency 19 Task Force additional time. 20 So Undersecretary Judge, can you start 21 us off. 22 UNDERSECRETARY JUDGE: I'm happy to. 23 I'm going to start with just a little bit of 24 context-setting on the general kind of why are we</p>	<p style="text-align: right;">Page 13</p> <p>1 that contains a lot of different reforms to the 2 siting and permitting rules for the State. 3 So at a very high level, I think what 4 we'd be focussing on mostly today is the reforms for 5 permitting large clean energy infrastructure. So 6 these are facilities that are jurisdictional to the 7 EFSB. There's a slight expansion of the EFSB 8 jurisdiction, so whereas previously generation 9 facilities above 100 megawatts were EFSB 10 jurisdictional, now facilities above 25 megawatts 11 are jurisdictional to the EFSB. 12 Additionally, energy storage facilities 13 that are created with 100 megawatthours in capacity 14 are also now eligible -- or jurisdictional to the 15 EFSB. 16 And another major change to the process 17 that the Board is going to follow under this 18 legislation is that the Board is now going to issue 19 all State and local permits for facilities. So 20 it's -- facilities won't come in for approval to 21 construct and then go seek all of their permits 22 individually. They'll come direct to the Board, and 23 the Board will have up to 15 months to issue a 24 determination on the permits for those facilities.</p>

<p style="text-align: right;">Page 14</p> <p>1 And if that deadline is not met, then there will be 2 a constructive permit issued -- constructive 3 approval issued to the project and permits will 4 proceed and the project can proceed forward if the 5 Board does not complete its work in that time frame. 6 So much more kind of firm timelines, but 7 also all permits being encompassed. It's sort of 8 akin to issuing a certificate but moving that up in 9 the process. 10 All State and local agencies will be 11 able to have a permitting role, that otherwise would 12 have a permitting role, would be automatically able 13 to intervene and issue statements of recommended 14 permit conditions. So there's going to be just a 15 different engagement of how State and local agencies 16 engage with the Board in the proceedings. 17 And then, as is the case today, all EFSB 18 decisions are appealed directly to the Supreme 19 Judicial Court. 20 Next slide. I'll just quickly touch on 21 this, because I think Rick is going to talk about 22 this later from DOER. But the legislation also 23 reformed the local permitting process and granted 24 DOER some authority to establish rules that govern</p>	<p style="text-align: right;">Page 16</p> <p>1 around community benefits agreements and cumulative 2 impact analyses. There's also the first mandatory 3 community engagement requirements, including 4 documentation about the efforts to involve community 5 organizations and develop community benefit 6 agreements. 7 There's a new Division of Public 8 Participation at the D.P.U. that is tasked with 9 assisting communities and project applicants in 10 navigating D.P.U. and EFSB proceedings. There's a 11 new Division of Siting and Permitting at DOER, which 12 is similarly tasked with doing the same thing for 13 projects and communities as they navigate local 14 permitting processes. 15 And then lastly, there's an intervenor 16 financial support program that's established at the 17 D.P.U. that provides financial support to 18 underresourced communities and organizations as they 19 engage in D.P.U. and EFSB proceedings. 20 And then just to kind of frame it a 21 little bit: There's roughly -- there's five 22 different work streams that emerge from the bill 23 that are spread out across three different agencies. 24 So EEA, D.P.U. staff that are supporting the Board,</p>
<p style="text-align: right;">Page 15</p> <p>1 how municipalities and other local governments issue 2 permits to clean energy infrastructure. In this, 3 municipalities retain all permitting authority, but 4 they do have to issue a single consolidated permit 5 to these facilities within 12 months. So any 6 facility that is not automatically jurisdictional to 7 the EFSB would be going through this process. 8 I think where we'll focus a little bit 9 today is that local government decisions can be 10 reviewed by the EFSB at the request of parties to 11 the local government proceeding. So there's this de 12 novo adjudication process where locally 13 jurisdictional projects, smaller projects that would 14 not normally come to the Board may come to the Board 15 as a result of a local permitting decision where 16 somebody feels aggrieved with the results or if the 17 municipality feels that they do not have the 18 resources to issue the permit themselves. So that's 19 a new role for the Board. 20 There's also a lot of new community 21 engagement requirements that come out of the law. 22 So the Office of Environmental Justice and Equity 23 was formally established in statute at EEA and 24 granted a specific mandate to develop guidance</p>	<p style="text-align: right;">Page 17</p> <p>1 and DOER all have different responsibilities that 2 stem from this legislation. 3 And so you can see here the five 4 different streams. Site suitability guidance, that 5 falls with EEA, and I'm going to talk about that in 6 just a second. Cumulative impacts, community 7 benefits guidance also falls with EEA, with 8 specifically the Office of Environmental Justice and 9 Equity, and my colleague, Undersecretary Power, will 10 be speaking on that. 11 Siting and permitting rules for 12 municipalities. That falls with the Department of 13 Energy, and Rick from DOER will be speaking about 14 that today, too. And then the EFSB siting and 15 permitting rules, which is the bulk of what we'll be 16 talk about today. And then lastly this D.P.U. 17 component of intervenor funding to support some of 18 these rules. 19 All of these regulations have to be 20 promulgated by March 1st, 2026. We expect that 21 draft regulations will formally be released for 22 public comment likely later summer or early fall. 23 And there's a number of websites you can go to. 24 This one is the EEA website, mass.gov/energy</p>

<p style="text-align: right;">Page 18</p> <p>1 permitting, and that links to all of the different 2 pages, but each agency has its own materials on its 3 own pages as well.</p> <p>4 Now I'm going to get into a little bit 5 of what EEA has been working on with respect to site 6 suitability.</p> <p>7 So the Climate Act contains a provision 8 that amends EEA's enabling statute and requires it 9 to establish a methodology for determining the 10 suitability of sites for clean energy generation, 11 clean energy storage, and transmission and 12 distribution facilities. It has to consider a 13 number of different factors, which are listed here, 14 so development of potential climate change 15 resilience, carbon storage, sequestration, 16 biodiversity, and social and environmental benefits 17 and burdens.</p> <p>18 And this guidance is designed to inform 19 State and regional and local regulations, 20 ordinances, bylaws, and permitting processes to 21 avoid, minimized, and where those impacts cannot be 22 avoided or minimize, mitigate impacts on the 23 environment and people that result from the siting 24 of energy infrastructure.</p>	<p style="text-align: right;">Page 20</p> <p>1 their project accordingly, or propose mitigation 2 upfront, mitigation measures upfront as they come in 3 for an application.</p> <p>4 Applicants are using -- all these things 5 are designed to be using publicly available datasets 6 to the greatest extent possible, so people would 7 have access to the GIS data layers and tools and 8 information they need in order to score their 9 projects on their own.</p> <p>10 But there are situations where maybe the 11 underlying data may not be perfectly accurate or 12 conditions on the ground aren't necessarily 13 reflected by the GIS data layer that exists. So 14 there may be an opportunity for requesting a score 15 review from a third party, and we're still figuring 16 out some of the details of that. But we recognize 17 that people may not be able to do this perfectly on 18 their own, because sometimes situations on the 19 ground are a little different.</p> <p>20 So EEA's proposing that each site will 21 have a total site suitability score calculated. So 22 that represents how suitable the site is for a given 23 energy infrastructure project across all different 24 criteria that are being examined. But then it will</p>
<p style="text-align: right;">Page 19</p> <p>1 So, many projects that are going to be 2 applying to the Board will be required to complete 3 this assessment. I'll note a few things, though. 4 One, the law does not require transmission and 5 distribution facilities to go through this unless 6 they are in a newly established public right-of-way. 7 So by and large, most transmission and distribution 8 infrastructure will not be subject to the site 9 suitability methodology.</p> <p>10 But the majority of projects that I 11 think will be going through this will be energy 12 storage and solar projects. That is a majority -- 13 the majority of projects that we're seeing developed 14 today is probably going to be the majority of 15 projects that are developed going forward. So I 16 think a very high percentage of projects that this 17 will apply to will be solar and storage facilities.</p> <p>18 Applicants will be using this storage 19 framework to determine their score before submitting 20 their application. So this is designed to be a 21 pre-filing screening tool that hopefully helps 22 applicants identify areas where they're going to 23 have detrimental impacts before they submit a permit 24 application and they can make the modifications to</p>	<p style="text-align: right;">Page 21</p> <p>1 also have criteria-specific suitability scores, 2 which represent the suitability of a site for -- 3 with respect to each criterion that's being 4 established.</p> <p>5 So each criterion gets scored on a scale 6 of 0 to 10, with lower scores being better, so lower 7 scores reflecting a smaller impact. And that adds 8 up to a total site suitability score of 40. At 9 least that's our proposal at the moment. This is 10 very much -- I just want to also clarify -- very 11 much draft, very much subject to change. We're 12 looking for input.</p> <p>13 But criteria-specific suitability scores 14 will be calculated based on the project footprint 15 and how it overlaps with different data layers. And 16 so again, lower suitability scores indicate more 17 suitable locations for energy infrastructure 18 development.</p> <p>19 So there are four main criteria that 20 we're looking at here, and these are mostly spelled 21 out in the law. And I will also say, we are trying 22 to build off of the good work that the Department of 23 Energy Resources has done in its SMART program. So 24 the SMART program is the state's solar incentive</p>

<p style="text-align: right;">Page 22</p> <p>1 program, and it contains a number of different 2 land-use rules and has been in place for years. But 3 they just have recently put forward draft 4 regulations that are now out for comment that change 5 the way that these land-use rules are structured and 6 create this mitigation fee structure. 7 And so this is largely based off of 8 this, but it's slightly modified for a permitting 9 construct. 10 And so there's four different 11 categories. So looking at carbon sequestration and 12 storage. Projects will be stored on a 0-to-10 basis 13 based on how much they impact that. Also we're 14 looking at biodiversity, again scored on a 0-to-10 15 basis. We're also looking at agricultural 16 production potential, so trying to identify if 17 projects are sited on prime agricultural soils or 18 farmlands of statewide importance. So there's again 19 a range of scores that could be established here. 20 And then lastly climate resilience is 21 another category that we're required to look at by 22 law. And so projects will be scored based on that 23 as well. 24 Next slide.</p>	<p style="text-align: right;">Page 24</p> <p>1 two points for each of the things listed here. So 2 improvements to habitat, improving outdoor air 3 quality, creating new recreational opportunities or 4 local jobs. 5 So these are again draft. We're open to 6 suggestions. There are other ways we could approach 7 this, certainly, but this is the direction we're 8 proposing to head at the moment. 9 As I mentioned, projects that are 10 located in an unfairly burdened area -- actually, I 11 didn't mention this. So if you're located in an 12 unfairly burdened area, there's this whole other 13 process, this cumulative impact analysis process. 14 And those projects will not be required to complete 15 site suitability assessment. So if you're a project 16 that's coming to the EFSB and you're already in an 17 unfairly burdened area, we're not going to -- we're 18 proposing not to require that project to go through 19 both the site suitability analysis and the 20 cumulative impact analysis process. We're just 21 saying it will be one or the other. It will be 22 cumulative impacts for projects coming to the Board. 23 For other projects it would be the site suitability. 24 And the Board is generally recommended</p>
<p style="text-align: right;">Page 23</p> <p>1 There are also some other -- so these 2 are three other criteria that we are required to 3 provide some scoring for under the law. So this is 4 development potential. So for development potential 5 we're giving a subtraction to scores for projects 6 that are located in a -- not every specific area, 7 but like a CIP investment area. But these are areas 8 where the D.P.U. has authorized utility 9 infrastructure investments and there are ratepayer 10 implications if projects don't go into that area. 11 So trying to steer people into those geographic 12 areas. 13 There's also a subtraction if projects 14 are a solar canopy or on a landfill, on a brownfield 15 or previously developed area. So preferential 16 siting areas from the State's perspective. 17 We also are trying to look at social and 18 environmental burdens. So if a project is located 19 inside of an unfairly burdened area, which we'll get 20 into a little more detail about what that means 21 later, that could trigger some additional analysis 22 and explanation that's required. 23 And then also looking at social and 24 environmental benefits. So we can subtract up to</p>	<p style="text-align: right;">Page 25</p> <p>1 to consider the total site suitability score in its 2 deliberations. And it will be also be empowered to 3 use the criteria-specific scores as a resource to 4 determine if minimization or mitigation is required 5 in particular areas. So if a project scores really 6 poorly on biodiversity, the Board could use that as 7 justification to say some mitigation measures are 8 required. You're taking critical habitat of so many 9 kinds, and you need to impose a -- we're going to 10 impose mitigation requirements accordingly. 11 Lastly, the process for municipalities 12 might look a little bit different, but somewhat 13 similar. So looking at the total suitability score 14 and then also looking at some of the criteria- 15 specific scores, and again, using those criteria- 16 specific scores to determine what types of 17 mitigation might be required of a particular 18 project. 19 With that I'll close. There's a lot 20 here, but there's a lot more we have to cover, too. 21 I think this is my last slide, and then I'm turning 22 it back over to the Secretary. 23 SECRETARY TEPPER: I think up next is 24 Undersecretary Maria Belen Power.</p>

<p style="text-align: right;">Page 26</p> <p>1 UNDERSECRETARY POWER: If we could go to 2 the next slide, please. So following from 3 Undersecretary Judge's slide, these are the five 4 work streams that he mentioned, and so the Office of 5 Environmental Justice and Equity is prioritizing and 6 focused on the second work stream, which is 7 cumulative impact and community benefit plans and 8 agreements and the guidance for both. 9 So as Undersecretary Judge mentioned, 10 our office, the Office of Environmental Justice and 11 Equity, was turned into law by the 2024 Climate Act, 12 and really the Office of Environmental Justice and 13 Equity is responsible for implementing environmental 14 justice principles. And the two principles, in very 15 short words, is really meaningful involvement of all 16 people and the equitable distribution of the burdens 17 and the benefits from energy and environment. 18 So together with Undersecretary Judge 19 and the Department of Public Utilities, we held four 20 statewide public stakeholder meetings, which 21 included in-person and hybrid. We held one in 22 Roxbury, one in Holyoke, and one at the Department 23 of Public Utilities. Additionally, we held 13 24 stakeholder meetings, which included targeted</p>	<p style="text-align: right;">Page 28</p> <p>1 guidelines promote the core principles which are 2 newly required by the cumulative impact analysis. 3 And it hopes to provide a very practical roadmap so 4 that it is clear and easy, as easy as possible for 5 project proponents as well as for the communities. 6 And the idea, the spirit of it is to 7 advance environmental justice, to mitigate 8 inequities, and to foster sustainable and inclusive 9 outcomes from the energy and utility sector. 10 So what -- a cumulative impact is really 11 a way of creating awareness but also addressing the 12 combined impacts. It is a framework for 13 understanding how all of these stressors intersect, 14 and no community lives single-issue lives; that 15 every sector, every part of our lives compounding 16 have an impact. And so the impacts from those 17 different sectors create burdens and benefits. And 18 so for fostering an awareness of these stressors, it 19 allows us to look at the big picture, the cumulative 20 impact. 21 The guidelines will allow the Energy 22 Facilities Siting Board to assess the disparities 23 and require appropriate mitigation. And it 24 recognizes that we need to create policies to really</p>
<p style="text-align: right;">Page 27</p> <p>1 meetings with representatives from utilities, the 2 renewable energy industry, local government, 3 regional planning authorities, and organizations 4 focused on environmental justice, as well as 5 environmental organizations and public health 6 sectors. 7 And now I'll talk about cumulative 8 impact analysis. So in the 2024 Climate Act our 9 office is required to develop standards and 10 guidelines. And so a cumulative impact analysis is 11 really a report that is produced by the proponent, 12 and it includes -- it's focused on existing 13 environmental burdens and public health 14 consequences. And it requires the identification of 15 the three sort of bucket areas, which are 16 environmental and public health impact, whether it 17 increases or reduces the effects of climate change 18 in the overburdened area, and the proposal of 19 potential remedial actions if there is an additional 20 burden created into that geographical area. 21 So the purpose of our guidance is really 22 to provide and establish a clear and consistent 23 framework for evaluating the effects of the burdens 24 from the facility or from the project. And our</p>	<p style="text-align: right;">Page 29</p> <p>1 balance the development of goals with equity and 2 sustainability. 3 So Step 1 that we see in the cumulative 4 impact analysis is identifying the UBAs, which are 5 the unfairly burdened areas. So we will do that by 6 providing a tool. Our office is building a tool 7 similar to California's CalEnviroScreen. Very 8 creatively, we're going to call it MassEnviroScreen. 9 It provides sort of a standard way of measuring 10 risk, of a risk model, which is the cumulative 11 impact equals existing burden times the population 12 vulnerability. 13 So by integrating the MassEnviroScreen, 14 the project proponents will have access to a 15 reliable and data-driven foundation for 16 understanding the existing community burdens. 17 No. 2 is to evaluate the potential 18 impacts. So now that we have established the area 19 where the project will go, the applicant must 20 evaluate whether the proposed project will 21 contribute to any of the adverse impacts. It will 22 also be a consideration of the potential 23 contributions that compound the burdens that already 24 exist and that relate to health consequences.</p>

<p style="text-align: right;">Page 30</p> <p>1 The emphasis will be placed on the</p> <p>2 stressors that have a known or likely compounding</p> <p>3 effect when layered with a new project and with the</p> <p>4 impacts from a new project. So the potential</p> <p>5 adverse effects should be considered across sectors,</p> <p>6 but we're focusing on the following six areas that</p> <p>7 can be also project- and technology-specific.</p> <p>8 So the bucket areas that we're focusing</p> <p>9 on are the natural environment, which includes air,</p> <p>10 water, and biodiversity; the built environment,</p> <p>11 which includes infrastructure, housing, and</p> <p>12 essential services that provide our daily life;</p> <p>13 climate vulnerability, which includes the climate</p> <p>14 risks, as well as the individual or collective</p> <p>15 capacity to respond to those climate risks.</p> <p>16 The fourth one is public health impacts,</p> <p>17 and so it considers the physical and mental -- the</p> <p>18 impacts on the physical and mental health outcomes</p> <p>19 resulting from the environmental exposure, health</p> <p>20 disparities, and access to care.</p> <p>21 The next one is socioeconomic, and it</p> <p>22 focuses on economic opportunity, community</p> <p>23 stability, and social equity, but in particular</p> <p>24 looking at the overburdened communities.</p>	<p style="text-align: right;">Page 32</p> <p>1 prioritizes the conversations with the folks on the</p> <p>2 ground, either from the municipalities, the</p> <p>3 residents, community-based organizations, or any</p> <p>4 other stakeholder that is impacted by the project.</p> <p>5 So now I'll briefly touch on the</p> <p>6 community benefits plans and community benefits</p> <p>7 agreements.</p> <p>8 Community benefit plans are</p> <p>9 commitments -- it is a roadmap, really -- to provide</p> <p>10 meaningful and measurable benefits for the</p> <p>11 community. The community benefits are the tangible</p> <p>12 and lasting outcomes the project will deliver, and</p> <p>13 the response to the priorities, needs, and the</p> <p>14 concerns of the communities that it will impact.</p> <p>15 So what is the difference between a CBP</p> <p>16 and a CBA, a community benefit plan versus a</p> <p>17 community benefit agreement? A plan is non-legally</p> <p>18 enforceable. It is basically a summary of the</p> <p>19 community engagement, and it outlines the commitment</p> <p>20 from the developer in response to the community's</p> <p>21 needs. And really, it begins during the development</p> <p>22 and the process of the Energy Facilities Siting</p> <p>23 Board or the municipal consolidated permit.</p> <p>24 A community benefit agreement can be the</p>
<p style="text-align: right;">Page 31</p> <p>1 The last one is the cultural category.</p> <p>2 But now I can focus on the identity of the remedial</p> <p>3 actions.</p> <p>4 So after it establishes the project and</p> <p>5 the area and the potential adverse environmental</p> <p>6 impacts, now we need to consider the remedial</p> <p>7 actions that can prevent the burdens or mitigate the</p> <p>8 burdens. And those would be identified and can be</p> <p>9 written into the permit conditions of the project.</p> <p>10 So the process as we see it would be</p> <p>11 these six steps. No. 1 is to gather the baseline</p> <p>12 data. No. 2 is, in consultation and conversations</p> <p>13 with the community, would be to identify the</p> <p>14 potential impacts of the project.</p> <p>15 No. 3 would be to evaluate the</p> <p>16 significance of the impacts. No. 4 would be to</p> <p>17 score the project site or route for cumulative</p> <p>18 impact.</p> <p>19 No. 5 would be to assess mitigation and</p> <p>20 management strategies. And No. 6 would be to share</p> <p>21 the draft report for feedback and to finalize.</p> <p>22 And so all of this is under the umbrella</p> <p>23 of meaningful involvement and meaningful community</p> <p>24 feedback that is really collaborative and that</p>	<p style="text-align: right;">Page 33</p> <p>1 outcome of a plan, which is a legally binding</p> <p>2 agreement that is negotiated between a project</p> <p>3 proponent and a municipality or community-based</p> <p>4 organization. And it really outlines the specific</p> <p>5 benefits that the developer will provide and that</p> <p>6 the community will benefit from.</p> <p>7 It is enforceable in court, as it is a</p> <p>8 legally binding agreement. And like I said, a</p> <p>9 community benefit agreement can be an outcome of a</p> <p>10 community benefit plan.</p> <p>11 So why is this important? Why do</p> <p>12 community benefit plans matter? Looking basically</p> <p>13 at the cumulative impact analysis as well as the</p> <p>14 community benefit plans is looking at the unfairly</p> <p>15 burdened areas. And these communities have borne</p> <p>16 the brunt of fossil fuel energy infrastructure as</p> <p>17 well as the pollution coming from facilities, and at</p> <p>18 the same time lacking access to the benefits.</p> <p>19 So a CBP framework, a community benefit</p> <p>20 plan's framework, really aims to do the following.</p> <p>21 It aims to center community voices, reduce harm and</p> <p>22 displacement, to build local wealth and capacity,</p> <p>23 and to reduce legal, political, and community risk</p> <p>24 for developers. And really this means avoiding</p>

<p style="text-align: right;">Page 34</p> <p>1 opposition that could come in the process.</p> <p>2 A community benefit plan is not</p> <p>3 replacing mitigation for the community, but it is</p> <p>4 providing a benefit and support -- an additional</p> <p>5 benefit for the community.</p> <p>6 So the steps, similar to the cumulative</p> <p>7 impact analysis, we are hoping to provide a very</p> <p>8 clear and consistent framework for a community</p> <p>9 benefit plan. And so first is a stakeholder</p> <p>10 mapping. Step No. 2 is to develop an engagement</p> <p>11 plan with the community. Step No. 3 is to conduct a</p> <p>12 prefiling community outreach. Step No. 4 would be</p> <p>13 to co-create the benefits with the community. No. 5</p> <p>14 would be to develop the written and public community</p> <p>15 benefit plan. And No. 6 would be to formalize the</p> <p>16 accountability -- how are communities going to make</p> <p>17 sure -- communities and the developers -- that the</p> <p>18 benefits are -- that they really materialize during</p> <p>19 and after the project.</p> <p>20 So how do we turn a plan or an agreement</p> <p>21 into action? So a well-structured community benefit</p> <p>22 plan will clearly describe each benefit. It will</p> <p>23 provide a clean timeline for delivery. It will</p> <p>24 identify the parties that need to be -- that are</p>	<p style="text-align: right;">Page 36</p> <p>1 within the environmental and public health</p> <p>2 protections, it could include the integration of</p> <p>3 wildlife and habitat protection into the development</p> <p>4 plan, such as creating wildlife corridors,</p> <p>5 preserving wetlands, or planting native vegetation.</p> <p>6 A CPB is as good and as powerful as it</p> <p>7 is accountable, and that communities and developers</p> <p>8 make sure that it is implemented and evaluated. And</p> <p>9 the way to make sure that there is accountability</p> <p>10 for those commitments, that plan and the agreement,</p> <p>11 is to include a monitoring and reporting schedule,</p> <p>12 to designate point contacts for the community and</p> <p>13 the regulatory bodies; that it is a public-facing</p> <p>14 progress -- that there are public- facing progress</p> <p>15 reports that are published at least quarterly and</p> <p>16 made available to the public and in the languages</p> <p>17 necessary; and that it includes opportunities for a</p> <p>18 community to review the project through advisory</p> <p>19 communities, listening sessions, or other ways.</p> <p>20 And the proponent is encouraged to take</p> <p>21 the steps to enter into the community benefit</p> <p>22 agreement as a result of the community benefit plan,</p> <p>23 and that is the community benefit agreements with</p> <p>24 the municipalities, organizations, or other</p>
<p style="text-align: right;">Page 35</p> <p>1 important or that are key to the implementation.</p> <p>2 And it outlines -- as well it outlines the funding</p> <p>3 sources and the budget for each benefit. And all of</p> <p>4 this is through the milestones shown here as</p> <p>5 SMARTIE, which are specific, measurable -- you might</p> <p>6 be familiar with the SMART milestones, but there are</p> <p>7 two additional ones. So they are specific,</p> <p>8 measurable, achievable, relevant, time-bound -- and</p> <p>9 this includes two additional goals, which are</p> <p>10 inclusive and equitable.</p> <p>11 A few examples of what could be</p> <p>12 meaningful commitments from a community benefit</p> <p>13 plan. So within the environmental justice and</p> <p>14 equity it could include funds to install air quality</p> <p>15 monitors and a community-led environmental health</p> <p>16 monitoring program.</p> <p>17 Within the economic development example</p> <p>18 or the economic development and workforce example,</p> <p>19 it could include training and apprenticeship</p> <p>20 programs.</p> <p>21 Within the infrastructure and community</p> <p>22 support, it could include investments in</p> <p>23 transportation or access improvements, such as bus</p> <p>24 lanes, road upgrades, public access routes. And</p>	<p style="text-align: right;">Page 37</p> <p>1 community -- or community groups in the area.</p> <p>2 Now I will end here and pass it over to</p> <p>3 Director Greene or to you, Secretary.</p> <p>4 SECRETARY TEPPER: We'll hear from DOER</p> <p>5 next. Thank you.</p> <p>6 MR. COLLINS: Good morning. I</p> <p>7 appreciate the opportunity to provide a quick update</p> <p>8 on behalf of DOER's Division of Clean Energy Siting</p> <p>9 and Permitting.</p> <p>10 As Undersecretary Judge mentioned, in</p> <p>11 addition to developing regulations around many of</p> <p>12 the same topic areas as EFSB, we are also charged</p> <p>13 with creating rules establishing a whole new siting</p> <p>14 and permitting process at the local level. That</p> <p>15 includes a universal application, prefiling</p> <p>16 requirements, a 12-month review framework, a single</p> <p>17 permit and appeals process using site suitability</p> <p>18 analysis to inform zoning process and mitigation,</p> <p>19 and required community outreach.</p> <p>20 As you have heard, we are working under</p> <p>21 a very quick time frame. We have finalized a straw</p> <p>22 proposal we will be sending out to a list of</p> <p>23 strategic stakeholders very soon, and concurrently</p> <p>24 have started writing our draft regulations. Our</p>

<p style="text-align: right;">Page 38</p> <p>1 draft regulations will be published in late 2 September, and we will immediately move into the 3 public hearing phase. Our deadline for final 4 regulations is March 1st, 2026. I'd be very happy 5 to spend the next hour running through all the 6 details of what we're thinking, but Board staff has 7 smartly suggested I be on a tight schedule. If you 8 have specific questions, I'd be more than happy to 9 answer, however.</p> <p>10 Just a quick update: About five weeks 11 ago we brought on board four regional coordinators, 12 and they have been a real force multiplier: Allison 13 Gage, Stephen Meno, Connor Rockett, and Marcela 14 Castillo. Our fourth is actually meeting with a 15 group of sustainability municipal managers right 16 now. Together they've already met with more than 17 three dozen regional planners and local officials 18 and brought back incredible feedback that we've been 19 able to use to inform our thought process.</p> <p>20 So just a quick note is that alignment 21 with EFSB is a top priority of what we're trying to 22 do. The team has been extraordinarily welcoming and 23 collaborative, as much as any team I've worked with 24 in my career, and has been very much appreciated in</p>	<p style="text-align: right;">Page 40</p> <p>1 first place, legislators, and making sure we get a 2 lot of feedback in as soon as possible. And I think 3 as was mentioned, it's going to be very much a work 4 in progress as we move through this very quick 5 process. So that what comes out in the draft may 6 change based on the feedback we receive between 7 September and March, when the final regulations are 8 published.</p> <p>9 SECRETARY TEPPER: So there will be an 10 opportunity for written public comments as well.</p> <p>11 MR. COLLINS: Yes, absolutely.</p> <p>12 COMMISSIONER MAHONY: Madam Secretary, 13 if I could just add. We won't be having -- DOER 14 won't be having workshops or stakeholder meetings, 15 public conferences, like the EFSB did earlier this 16 spring.</p> <p>17 However, with the team at DOER, they are 18 having a lot of meetings, so if anyone wants to 19 request on the behalf of an organization or a set of 20 organizations to have a stakeholder meeting directly 21 with them, we are welcoming that.</p> <p>22 SECRETARY TEPPER: It's 10:00 o'clock. 23 Shall we start with presentations? Ms. Evans is 24 going to start us off.</p>
<p style="text-align: right;">Page 39</p> <p>1 this process.</p> <p>2 I'll be happy to provide a lot more 3 details as we move through this process. I don't 4 want to take up too much of your time. If there are 5 any specific questions, I'm happy to answer them. 6 Otherwise, more to come soon.</p> <p>7 SECRETARY TEPPER: Before you go, 8 Director, maybe you want to talk a little bit about 9 people's opportunity to engage with these things 10 that you're doing.</p> <p>11 MR. COLLINS: Sure. We are going to 12 start to reach out to -- with some strategic 13 stakeholders, meaning regional planning agencies, 14 municipalities have already had some experience 15 dealing with clean energy infrastructure. We'll be 16 bringing them our straw proposal very shortly.</p> <p>17 And then once we have our draft regs 18 finalized, we'll be holding public hearings around 19 the state, at least one in each region, similar to 20 the format that we've had with these. And then 21 we'll go back and be talking again to regional 22 planning agencies, municipal officials, people that 23 have been in the industry, people on the commission 24 who helped put these recommendations together in the</p>	<p style="text-align: right;">Page 41</p> <p>1 MS. EVANS: Good morning, Siting Board 2 members. My name is Joan Foster Evans, and I'm the 3 general counsel at the Siting Board. And I'm going 4 to present a couple of general slides about what the 5 Act changed regarding the Siting Board and then 6 launch into procedural regulations. I'm leaving 7 those with Daniel Keleher, one of the attorneys in 8 the Siting Division.</p> <p>9 So first I want to just talk about very 10 generally what major changes happened to the Siting 11 Board from the 2024 Climate Act. A major area, it 12 created a new type of infrastructure. As many from 13 the Board know, our jurisdiction generally is by 14 type of infrastructure, as opposed to by type of 15 applicant. So we have a new type of infrastructure, 16 clean energy --</p> <p>17 THE INTERPRETER: This is the ASL 18 interpreter. I'm not able to hear the speaker.</p> <p>19 MS. EVANS: Thank you very much. Sorry 20 about that. We created a new category of 21 infrastructure, clean energy infrastructure 22 facilities. And there's two types of permit 23 programs associated with those facilities: a 24 program associated with large clean energy</p>

<p style="text-align: right;">Page 42</p> <p>1 facilities issued by the Siting Board and then small 2 clean energy infrastructure. Most of those permits 3 will be issued by the local municipalities, although 4 there are certain situations where they're issued by 5 the Board. We'll talk about that in a moment. 6 Another major part of the Act is it 7 establishes deadlines for when the Board can decide 8 on an application, and it also establishes deadlines 9 for local municipalities under the program that DOER 10 is creating. And if the Board or the local 11 municipality does not make those deadlines, a 12 constructive approval will issue, and we'll talk a 13 little bit more about how that would happen. 14 There are two large requirements that we 15 talked about a little bit and we'll talk about more 16 that are established for the clean energy 17 infrastructure facilities: a prefiling requirement. 18 I'll note that this applies both to the clean energy 19 facilities and to the existing legacy facilities, 20 the quote-unquote, "non-clean facilities," that the 21 Board has jurisdiction over now, as does the 22 cumulative impact analysis, and we'll talk about 23 that quite a bit now, that also applies to both new 24 clean facilities and existing legacy facilities. So</p>	<p style="text-align: right;">Page 44</p> <p>1 slide -- is that we think that the prefiling should 2 happen once. If you have to go through the local 3 zoning -- local, excuse me, consolidated permit, 4 that's where that prefiling requirement attaches, or 5 if you have to go through the Board, that's when our 6 prefiling happens. An applicant will not be 7 required to go through both, so we have separated 8 them out. 9 With our slides, I'll like folks to take 10 a look at the details of the slides later. 11 Finally, here are the various chapters 12 that the Board is working on, and D.P.U. and DOER. 13 I'm going to talk about the first couple of 14 procedural regulations, and then others will talk 15 about the other regulations. Thank you. 16 I'd like to say, first of all, that 17 myself and Daniel are going to talk about four 18 different sets of regulations. We have two sets of 19 regulations that we have updated. That's our 1.0, 20 which is our adjudicatory regulations, and 2.0 is 21 how -- the rules for how the Board functions. And 22 then there are two new provisions: the de novo 23 adjudication provision that Undersecretary Judge 24 talked about and what happens with the constructive</p>
<p style="text-align: right;">Page 43</p> <p>1 that's important. 2 The 2024 Act expands the Siting Board 3 membership, establishes a rather extensive new 4 mandate, scope of review, and a set of requirement 5 findings for each one of our decisions that we need 6 to issue. So we'll be taking evidence on those in 7 our proceeding. 8 And finally, moves certain siting 9 jurisdiction matters from the Department of Public 10 Utilities over to the Board, such as zoning 11 exemptions, which are already moved over to the 12 Board, that authority. 13 So this very busy slide tries to 14 indicate which agencies, permitting authorities will 15 apply to each type of facility. It's really busy. 16 But basically, it shows the large and the small and 17 the technology types. And then it also tries to 18 indicate what happens with prefiling and what 19 happens with zoning. And I will say, I know that 20 there's some various opinions on what happens with 21 zoning, which I think we might hear about a little 22 bit later on. 23 So one of the things I want to point 24 out -- I'm not going to go through this whole</p>	<p style="text-align: right;">Page 45</p> <p>1 approval. So we drafted new regulations for both of 2 those. 3 I'd like to say we appreciate the input 4 we've had so far on the regulations. We're trying 5 to get them very detailed, such that it's very 6 transparent what will happen in these proceedings, 7 and that really goes toward making efficient, smooth 8 proceedings and being able to meet our statutory 9 deadlines. 10 So as an overview of the 1.0, these are 11 the regulations that say how a proceeding works in 12 front of the Siting Board. Our proceedings are 13 adjudicatory. They're kind of like a court 14 proceeding. We have evidence. We have written 15 decisions. We're controlled by the Massachusetts 16 Administrative Procedures Act on how we do these 17 proceedings. 18 These are existing regulations. We've 19 updated them for the statute. We've added a bunch 20 of new definitions and a few new provisions, such as 21 the decommissioning plans, requirement for 22 decommissioning plans. 23 We also have updated a lot of our 24 current requirements, including electronic filings.</p>

<p style="text-align: right;">Page 46</p> <p>1 Our existing regulations are somewhat old. We 2 recognize the Board needs to follow its language 3 access plan, which is something that the Board has 4 developed and is following. We provide standards 5 for mailed notice, make those explicit in the 6 regulations. We recognize that the Board has been 7 conducting its public comment hearings in hybrid 8 mode, which is important. We've been doing this for 9 quite a while now. We find that that increases 10 transparency in our proceedings. And a couple of 11 other procedural requirements that are updated in 12 the regulations. 13 As I said, we've updated the regulations 14 for the Board on how the Board works. We're 15 recognizing the fact that the Board has a standard 16 of review that we're expanding from nine to eleven 17 members, adding more expertise. We recognize that 18 the director now can issue the adjudicatory -- de 19 novo adjudicatory decisions. We recognize the 20 requirement from the legislature for an online 21 dashboard, and make other types of clarifications in 22 our regulations. 23 Next slide, please. So the next thing 24 I'd like to talk to is the new regulations that we</p>	<p style="text-align: right;">Page 48</p> <p>1 to us because somebody is unhappy with the decision. 2 And we've indicated 12 months for a request for 3 local government that hasn't been adjudicated at all 4 at the local level, where we have to start from 5 ground zero in order to issue that decision. 6 Again, it comes to the director. The 7 standards consist of the program that DOER is 8 implementing, and we have an opportunity for DOER to 9 provide an opinion as to whether the local community 10 has followed its rules and our regulations, and then 11 consistency with our statutory mandate. These 12 decisions are appealable, like our other decisions, 13 to the SJC. 14 I'm now going to pass it along to Daniel 15 to talk about constructive approval, and then we can 16 answer questions. 17 MR. KELEHER: Good morning. Thank you, 18 Joan. 19 A major objective of the 2024 Climate 20 Act is to accelerate the permitting process for 21 clean energy sites. One mechanism for achieving 22 this is the constructive or automatic approval 23 process. If the Board does not issue a final 24 decision within a certain deadline, then a</p>
<p style="text-align: right;">Page 47</p> <p>1 have drafted for de novo adjudications. We also, 2 like everyone else looking for input, looking for 3 changes -- these are early drafts, but I think it's 4 very helpful to have something on paper to work with 5 here and react to. So hopefully this is helpful. 6 In the de novo adjudications there's two 7 instances where these can occur. They both go to 8 the Director of the Siting Board. The first is when 9 someone is unhappy with a local permitting decision 10 and can come to the Siting Board; or secondly, when 11 a local government lacks resources, they can send 12 the whole local consolidated permit up to the Board 13 for our adjudication. 14 So during the de novo adjudication we 15 will have possible public hearings. We will take 16 evidence. We will allow -- often allow for 17 briefing. We may allow for evidentiary hearings, 18 depending on the nature of the adjudication and what 19 nee to be done for that particular filing. 20 The timing for the de novo adjudication, 21 we have six months for requests for adjudication for 22 a local permitting decision. In other words, the 23 application has already gone through the local 24 community and has come to a decision and then gets</p>	<p style="text-align: right;">Page 49</p> <p>1 constructive approval permit will automatically 2 issue. 3 The advantage of this mechanism is that 4 it ensures prompt decisionmaking. The primary 5 disadvantage is that it omits -- it may omit 6 adequate constraints on the project. 7 The constructive approval mechanism 8 applies to both small and large clean energy 9 projects, facilities. The Act says if no final 10 decision is issued within the deadline, and I'm 11 skipping over some language here, the Board shall 12 issue a permit granting approval to construct. The 13 statute later refers to that approval as a 14 constructive approval. We interpret this language 15 to require automatic approval by the Board that 16 bypasses a deliberative process. 17 The Act states that the constructive 18 approval permits shall adopt common conditions and 19 requirements established by the Board either in or 20 through, depending upon whether we're talking about 21 smaller clean energy projects, through regulation 22 for the type of facility under review. 23 So in short, the permits shall adopt 24 conditions -- i.e., restrictions -- that are common</p>

<p style="text-align: right;">Page 50</p> <p>1 for the type of facility under review.</p> <p>2 The Act, which calls for the inclusion</p> <p>3 of common conditions, does not seem to contemplate</p> <p>4 that the Board can include special conditions within</p> <p>5 the constructive approval permits.</p> <p>6 This slide talks about the process that</p> <p>7 the draft regulations envision. It envisions that</p> <p>8 60 to 90 days before the deadline for issuing the</p> <p>9 final decision the presiding officer will assess</p> <p>10 whether that deadline is achievable or not. And if</p> <p>11 the presiding officer doesn't find reasonable</p> <p>12 assurances that a final decision will issue by the</p> <p>13 deadline, then the presiding officer will issue a</p> <p>14 notice of likelihood of constructive approval and</p> <p>15 will also draft a constructive approval permit and</p> <p>16 distribute it to the parties and others for review</p> <p>17 and comment.</p> <p>18 This issuance, this step, doesn't mean</p> <p>19 that the final decision will not issue. It's just</p> <p>20 there's a likelihood that it will not, and therefore</p> <p>21 the constructive approval permit will have to issue.</p> <p>22 This slide lists basic information -- or</p> <p>23 the contents that are envisioned for the permit.</p> <p>24 It's all in the regulations. It's all very clearly</p>	<p style="text-align: right;">Page 52</p> <p>1 approval permit as drafted -- you know, perhaps as</p> <p>2 corrected slightly, if corrections are necessary.</p> <p>3 But the presiding officer will issue that permit</p> <p>4 within five business days of the deadline.</p> <p>5 The big question -- or the big concern</p> <p>6 that we have is that a project that is automatically</p> <p>7 approved will not have special conditions. In other</p> <p>8 words, it will not have restrictions on the project</p> <p>9 that are specifically tailored to that project. It</p> <p>10 will have the standard conditions that apply to all</p> <p>11 projects of this type, but it will not have</p> <p>12 custom-tailored restrictions.</p> <p>13 The automatic approval requirement seems</p> <p>14 to preclude the inclusion of special conditions. We</p> <p>15 would welcome insight into how the statute might</p> <p>16 accommodate the inclusion of special conditions.</p> <p>17 SECRETARY TEPPER: Thank you. Should we</p> <p>18 take questions from the Board?</p> <p>19 So let's start. Who has some questions?</p> <p>20 COMMISSIONER RUBIN: Thank you. First,</p> <p>21 I just want to acknowledge all of the work that</p> <p>22 staff has put in to get to this point, and I'm</p> <p>23 recognizing that staff is working nights, weekends,</p> <p>24 for many, many months -- not just the presenters,</p>
<p style="text-align: right;">Page 51</p> <p>1 defined, what has to be included in the permit.</p> <p>2 It's designed not to be discretionary, so that there</p> <p>3 will be basic project information. Most of this</p> <p>4 will come either from the application or revisions</p> <p>5 to the application that are made after the</p> <p>6 application is filed.</p> <p>7 You know, basic information about the</p> <p>8 project -- the permits, a list of the permits that</p> <p>9 have been included for which the applicant is</p> <p>10 seeking approval, and also copies of those draft</p> <p>11 permits as well. A statement on requested zoning</p> <p>12 relief if that has been made.</p> <p>13 And then the permit will also include</p> <p>14 the standard of common conditions that are</p> <p>15 applicable to that type of facility. Finally, the</p> <p>16 permit will include an explanation of what the</p> <p>17 effect of the permit is and some information about</p> <p>18 the parties' rights to appeal the permit.</p> <p>19 So that process will happen a couple of</p> <p>20 months before the final decision issuance deadline.</p> <p>21 It's possible that the final decision will still</p> <p>22 issue. But if the final -- if the deadline is</p> <p>23 missed for issuing the final decision, then the</p> <p>24 presiding officer will issue the constructive</p>	<p style="text-align: right;">Page 53</p> <p>1 but the entire Siting Division and the Division of</p> <p>2 Public Participation. So thank you for that.</p> <p>3 Two questions for you. One, I'm</p> <p>4 wondering if you can talk about the likelihood that</p> <p>5 you think a constructive approval will occur. And</p> <p>6 then secondly, I would love to hear staff's thinking</p> <p>7 on why you are proposing that a presiding officer</p> <p>8 issue a constructive approval in lieu of the Board</p> <p>9 issuing that.</p> <p>10 MR. KELEHER: So for the first question,</p> <p>11 likelihood: We are certainly aspiring to avoid the</p> <p>12 constructive approval permit process. So our</p> <p>13 expectation is that it will happen rarely, but we</p> <p>14 are preparing for the possibility that it will</p> <p>15 happen.</p> <p>16 I personally don't have the expertise to</p> <p>17 make that assessment. So I could turn this over to</p> <p>18 Joan for a more thorough answer, if you like that.</p> <p>19 MS. EVANS: I thought that was a great</p> <p>20 answer. We definitely aspire not to have any</p> <p>21 constructive approvals. However, in the event that</p> <p>22 it did happen, we think it's important to know -- to</p> <p>23 specify what the process is and how it would happen.</p> <p>24 So that's the point of these regulations.</p>

<p style="text-align: right;">Page 54</p> <p>1 The second question was?</p> <p>2 COMMISSIONER RUBIN: Thank you very</p> <p>3 much. The second question is about the issuance of</p> <p>4 the constructive approval by the presiding officer</p> <p>5 and not the Board. If you could just explain</p> <p>6 staff's thinking on that one.</p> <p>7 MS. EVANS: We believe that the</p> <p>8 constructive approval basically operates by</p> <p>9 operation of law, meaning you hit the deadline and</p> <p>10 the project is approved.</p> <p>11 What we wanted to do is make sure that</p> <p>12 there was a document that specified exactly what was</p> <p>13 approved and what conditions attach. That's why the</p> <p>14 presiding officer sends out a draft constructive</p> <p>15 approval permit, so everybody can see what the</p> <p>16 permit would be, and if something had to change on</p> <p>17 it, we could take care of it beforehand.</p> <p>18 And then we view the issuance of the</p> <p>19 final constructive approval permit after the</p> <p>20 constructive approval happens is really more of a</p> <p>21 ministerial act, just simply like we issue the final</p> <p>22 decision after the Board votes. It's mostly</p> <p>23 ministerial, because the Board's vote is the actual</p> <p>24 approval.</p>	<p style="text-align: right;">Page 56</p> <p>1 requirements that are otherwise applied to EFSB</p> <p>2 projects would apply in that circumstance?</p> <p>3 MS. EVANS: So when this would happen is</p> <p>4 that the local government would receive an</p> <p>5 application for a small clean energy infrastructure</p> <p>6 facility, and the local government has, I believe,</p> <p>7 60 days to determine whether or not they can process</p> <p>8 this particular application.</p> <p>9 So in that case the applicant that's</p> <p>10 already filed with the local government should have</p> <p>11 already gone through DOER's prefilling process before</p> <p>12 we even get to the stage where the application is</p> <p>13 filed, and then the local government says, "We can't</p> <p>14 do this," 60 days later kick it up to the Board. So</p> <p>15 I would think that it is the DOER process.</p> <p>16 COMMISSIONER MAHONY: I don't know if</p> <p>17 we're taking specific requests, but I think there</p> <p>18 just needs to be clarification on that within the</p> <p>19 language of the regulations.</p> <p>20 MS. EVANS: We can do that. Thank you.</p> <p>21 SECRETARY TEPPER: I have a few. Not to</p> <p>22 be negative about the way our applicants are, but as</p> <p>23 a lawyer, I wonder what would prevent a party who is</p> <p>24 in a proceeding in front of the EFSB from sort of</p>
<p style="text-align: right;">Page 55</p> <p>1 COMMISSIONER RUBIN: Thank you very</p> <p>2 much. Very helpful.</p> <p>3 SECRETARY TEPPER: Commissioner Mahony?</p> <p>4 COMMISSIONER MAHONY: Thanks. Going</p> <p>5 back to the de novo adjudication: Particularly -- I</p> <p>6 think this will come up a lot today -- there's a lot</p> <p>7 of overlap, obviously, between the work that DOER's</p> <p>8 going to do with and on behalf of municipalities and</p> <p>9 then this new process that EFSB is going to step in</p> <p>10 in certain circumstances. So I'm trying to figure</p> <p>11 out what rules, DOER regulations or these</p> <p>12 regulations.</p> <p>13 With respect to de novo: In the case</p> <p>14 that a local government asks the EFSB to step in and</p> <p>15 review -- I just want to make sure we clarify</p> <p>16 prefilling requirements versus the process that would</p> <p>17 take place here at the EFSB.</p> <p>18 Is it assumed that because the</p> <p>19 municipality has essentially kicked up the permit to</p> <p>20 EFSB that they have a permit in hand, thus the</p> <p>21 prefilling requirements would have been conducted</p> <p>22 under DOER regulations, and therefore the otherwise</p> <p>23 EFSB prefilling requirements would not be required?</p> <p>24 Or is the staff thinking that the prefilling</p>	<p style="text-align: right;">Page 57</p> <p>1 delaying a project so that the Board is unable to</p> <p>2 issue its decision within the time frame for the</p> <p>3 purpose of getting a constructive permit, because a</p> <p>4 constructive permit is going to be less onerous on</p> <p>5 that applicant than whatever the Board issues.</p> <p>6 MS. EVANS: I think that's a good</p> <p>7 question. I think the Board intends to establish</p> <p>8 some model schedules, and so that the schedule, in</p> <p>9 order to make it to the statutory deadline, would</p> <p>10 already be set up and the presiding officer will</p> <p>11 have to ensure that, unless there's a reason to vary</p> <p>12 from that schedule, a good reason, to stay on that</p> <p>13 schedule. I think that the presiding officer has</p> <p>14 the authority to move things along if necessary.</p> <p>15 SECRETARY TEPPER: With respect to the</p> <p>16 de novo: Could a small Town who knows that they're</p> <p>17 not going to be able to handle a whole -- all these</p> <p>18 requirements with respect to the Town permitting,</p> <p>19 could they just ask for the Board to be on a list</p> <p>20 for the Board to handle their proceedings, so that</p> <p>21 they don't have to go through the 60-day thing, they</p> <p>22 can just say, "We're never going to be able to do</p> <p>23 this"?</p> <p>24 MS. EVANS: So we didn't consider that.</p>

<p style="text-align: right;">Page 58</p> <p>1 I don't see why they could not. But that's not 2 something we had considered. It's something to 3 think about and maybe work with DOER on that, 4 because they really have the better pulse of the 5 local communities than we do. 6 So it's something we can look at with 7 DOER, whether the process to get to the Board, we 8 can somehow streamline that, if that's the right 9 thing to do. 10 SECRETARY TEPPER: Remind me: If a Town 11 proposes to do that or asks for the Siting Board to 12 do the review, does the Town have the opportunity to 13 participate in that proceeding? 14 MS. EVANS: Yes, it does. The way that 15 the Act is laid out, there's kind of two layers of 16 participation that apply to both the small and the 17 large facilities. And one is, the lesser level of 18 participation is all the permitting agencies can 19 provide a statement of recommended permit 20 conditions, and that's built into the regulations. 21 You'll see that that shows up, I believe, in 13.0, 22 which Connor will present in a little bit. 23 The other provision in the Act is when 24 the adjudications come to us, the permitting</p>	<p style="text-align: right;">Page 60</p> <p>1 consolidate into one proceeding, the way we do now. 2 We have regulatory authority to consolidate into one 3 proceeding, and we would recommend doing the same on 4 a going-forward basis. 5 SECRETARY TEPPER: But your order would 6 include the discussion with respect to a 7 consolidated permit and then have a separate section 8 on the zoning exemption? 9 MS. EVANS: Yes, it would. To the 10 extent that the analysis is very similar, we could 11 just refer back, as we do now, with Section 69J -- 12 we just refer back up to the analysis where 13 necessary that we've already done. 14 But it is our view that the zoning 15 exemptions were not explicitly included within the 16 consolidated permit. It was an area of contention 17 during the Commission process and during the 18 legislative process, and the legislature could have 19 included it explicitly but did not. I think that 20 the contentious nature is why they kind of maybe 21 bumped it to us to solve. But that is our position 22 right now. 23 SECRETARY TEPPER: But the potential 24 appeal of a zoning exemption would be part of any --</p>
<p style="text-align: right;">Page 59</p> <p>1 agencies are automatically parties if they notify us 2 that they want to be a party. So they can 3 automatically be parties just on notice to the 4 Board. 5 SECRETARY TEPPER: Something I got a 6 little lost on is zoning exemptions and how that 7 gets mixed in with all of this. 8 I don't know if it would help just to 9 walk through the slides on -- Slide 41. I get why 10 it's complicated, because it's in a different 11 statute and requires different requirements. 12 MS. EVANS: There's definitely been a 13 lot of discussion on this point. I think there 14 might be more discussion on this point when we hear 15 comments from some of the practitioners here. 16 The way we view the zoning exemptions, 17 taking a look at the statute, is we do not think 18 that the statute included the zoning exemption 19 within the umbrella of a consolidated permit. 20 SECRETARY TEPPER: So there's no need to 21 get a separate zoning exemption. It would be part 22 of the consolidated. 23 MS. EVANS: The way it would happen is 24 the applicant would file both, and then we would</p>	<p style="text-align: right;">Page 61</p> <p>1 it would have its own separate appeal? 2 MS. EVANS: It would come out from us as 3 one order, one decision, the way it is now. So 4 they're consolidated in one decision right now, and 5 there's one appeal from the decision. So even 6 though it's separate authority, we would treat it in 7 conjunction with the consolidated permit proceeding. 8 SECRETARY TEPPER: I'm sure we'll hear 9 more about that. 10 MS. EVANS: I agree. 11 SECRETARY TEPPER: Any other questions? 12 MR. GREENE: I'm sorry, could I just 13 follow up on Secretary Tepper's question? My 14 apologies for not being more familiar with our 15 regulations on this point. But Secretary Tepper was 16 raising the question about a delay that the 17 applicant might actually be introducing into the 18 proceeding by perhaps not turning around requests 19 for information or just, you know, general 20 participation and spirit of cooperation. 21 Do we have a sort of delay-of-game 22 penalty provision in our proposal right now that 23 would sort of call out any type of seemingly willful 24 delay that could push us towards a constructive</p>

<p style="text-align: right;">Page 62</p> <p>1 approval?</p> <p>2 MS. EVANS: I don't believe so, but we</p> <p>3 just put out a lot of regulations all at the same</p> <p>4 time. I think inherently the Board has the ability</p> <p>5 to call out a situation where a party is delaying on</p> <p>6 purpose or not being responsive. However, we could</p> <p>7 make that more explicit in the regulations. I can't</p> <p>8 think that we did put that in, but we could.</p> <p>9 SECRETARY TEPPER: Why don't you think</p> <p>10 about how that might be handled.</p> <p>11 We'll move on to comments. Why don't we</p> <p>12 take a break. It's a good time for a break. It is</p> <p>13 10:30. We'll take a break until 10:45.</p> <p>14 (Recess taken.)</p> <p>15 SECRETARY TEPPER: We're going to start</p> <p>16 with taking any questions from the Commission</p> <p>17 members. Do we have any Commission members in the</p> <p>18 room that have any questions?</p> <p>19 MR. LONG: Steve Long, with The Nature</p> <p>20 Conservancy in Massachusetts.</p> <p>21 MR. GREENE: Mr. Long, I think we've</p> <p>22 probably been reminded that the microphone needs to</p> <p>23 be pretty close, so you might want to just hold it.</p> <p>24 MR. LONG: Just for the benefit of folks</p>	<p style="text-align: right;">Page 64</p> <p>1 process under a constructive approval permit?</p> <p>2 MR. KELEHER: Steve, if I understand you</p> <p>3 correctly, you're talking about some discussions</p> <p>4 that take place regarding mitigation. The</p> <p>5 constructive approval permit process, as it's</p> <p>6 drafted right now, it doesn't take into account</p> <p>7 negotiations or discussions about mitigation. It's</p> <p>8 just -- the constructive approval permit issues</p> <p>9 based essentially upon information that was provided</p> <p>10 by the applicant as part of the application process</p> <p>11 or that was revised later. Is that a good answer to</p> <p>12 your question?</p> <p>13 MR. LONG: It answers my question. My</p> <p>14 hope is that the draft regulations can be amended to</p> <p>15 allow for the mitigation hierarchy to be considered.</p> <p>16 MR. KELEHER: I hear you.</p> <p>17 MR. GREENE: Can I just make one</p> <p>18 additional comment on the question? The hierarchy</p> <p>19 for avoid, minimize, mitigate, and many other</p> <p>20 provisions are going to hopefully be reflected in</p> <p>21 the standard conditions that would apply under a</p> <p>22 constructive approval situation. So that's really</p> <p>23 the backstop in a constructive approval context,</p> <p>24 that the conditions will reflect the hierarchy,</p>
<p style="text-align: right;">Page 63</p> <p>1 on video, I'm Steve Long, the director of policy and</p> <p>2 partnerships with The Nature Conservancy in</p> <p>3 Massachusetts and also a Commission member.</p> <p>4 First, I just want to express a huge</p> <p>5 thank you and gratitude for all the work that folks</p> <p>6 have been doing here. I can relate to working</p> <p>7 weekends and nights. So I just appreciate all the</p> <p>8 work that you've all been doing.</p> <p>9 So I had a clarifying question on the</p> <p>10 constructive approval, looking at the purpose and</p> <p>11 scope under 17.01, Subsection 3. And I just wanted</p> <p>12 to suggest that 15 be added to that list, so it's</p> <p>13 clear that cumulative impact analysis and site</p> <p>14 suitability are part of the applicability of earlier</p> <p>15 sections.</p> <p>16 And then I had a question. So I know</p> <p>17 that the project proponent will have to go through a</p> <p>18 permitting process, where site suitability will be</p> <p>19 considered, and I'm wondering how that translates to</p> <p>20 the constructive approval. Because under site</p> <p>21 suitability the hope was that the developer would</p> <p>22 avoid and then sequentially minimize what they can't</p> <p>23 avoid and then mitigate what they can't minimize.</p> <p>24 So how would that translate in the</p>	<p style="text-align: right;">Page 65</p> <p>1 avoid, minimize, mitigate, and many other default</p> <p>2 environmental protections, among others.</p> <p>3 SECRETARY TEPPER: When will people have</p> <p>4 the opportunity to understand what those conditions</p> <p>5 will be?</p> <p>6 MR. GREENE: We're going to be talking</p> <p>7 about that in the next panel. Conditions falls into</p> <p>8 the topic of consolidated permits, and it's a work</p> <p>9 in progress, just to preview what we'll be talking</p> <p>10 about. And there are a lot of cooks in the kitchen</p> <p>11 on conditions. It includes what DOER is developing</p> <p>12 for the local process. It includes what state</p> <p>13 agencies right now have as conditions in the dozens</p> <p>14 and dozens of different permits that are issued,</p> <p>15 that we're not necessarily trying to alter those</p> <p>16 general conditions that are used by DEP, Fish and</p> <p>17 Game, and so forth. And then there are some issues</p> <p>18 that EFSB deals with that we call orphan issues</p> <p>19 because they tend not to be addressed by other</p> <p>20 regulatory agencies, and we'll talk about that, and</p> <p>21 those may require unique conditions as well.</p> <p>22 SECRETARY TEPPER: So are you saying</p> <p>23 that the constructive permit that would be issued</p> <p>24 would have the standard conditions that are in a</p>

<p style="text-align: right;">Page 66</p> <p>1 regular permit?</p> <p>2 MR. GREENE: Generally speaking, that's</p> <p>3 what our proposal reflects right now. It may not</p> <p>4 have --</p> <p>5 In an adjudicated outcome, where the</p> <p>6 Board makes a decision, there would be a sort of</p> <p>7 baseline of the standard conditions, and then on top</p> <p>8 of that are all the additional conditions that the</p> <p>9 Board might deem necessary.</p> <p>10 So we won't have necessarily the option</p> <p>11 of those add-on conditions based on the unique</p> <p>12 characteristics of the case.</p> <p>13 SECRETARY TEPPER: Understood.</p> <p>14 Mr. Long, maybe if you had some thoughts about how</p> <p>15 that might be done, that would be helpful to maybe</p> <p>16 hear some ideas in writing.</p> <p>17 MR. LONG: I'm happy to share them and</p> <p>18 always happy to serve as a resource. Our science-</p> <p>19 based staff has really appreciated the interaction</p> <p>20 with DOER. We're always happy to serve as a</p> <p>21 resource and make suggestions. Thank you.</p> <p>22 SECRETARY TEPPER: Thank you so much.</p> <p>23 Anybody else from the Commission?</p> <p>24 So let's go online for the Commission.</p>	<p style="text-align: right;">Page 68</p> <p>1 participating. Appreciate it.</p> <p>2 Anyone else online?</p> <p>3 MS. McGLINCY: Thank you.</p> <p>4 SECRETARY TEPPER: Can you state your</p> <p>5 name and spell it so we can get it, the stenographer</p> <p>6 has the opportunity to write it.</p> <p>7 MS. McGLINCY: My name is Dorothy,</p> <p>8 D-o-r-o-t-h-y, McGlincy, M-c capital G-l-i-n-c-y.</p> <p>9 I'm with the Massachusetts Association of</p> <p>10 Conservation Commissions.</p> <p>11 SECRETARY TEPPER: Thank you.</p> <p>12 MS. McGLINCY: Certainly. I agree with</p> <p>13 the concern about the delaying tactics.</p> <p>14 But my question is related to municipal</p> <p>15 boards. If there are five municipal boards</p> <p>16 evaluating a permit application for the consolidated</p> <p>17 permit on the local level, and four of them say yes</p> <p>18 and one says no, what happens then, No. 1? And are</p> <p>19 all of the municipalities going to be managing this</p> <p>20 in a different manner as all 351 might do?</p> <p>21 I'm just wondering whether anyone has</p> <p>22 thought about those aspects and whether there's</p> <p>23 anything in the regulations that talks about</p> <p>24 consolidating the approval process and timelines,</p>
<p style="text-align: right;">Page 67</p> <p>1 If you could raise your hand if you have a question</p> <p>2 or comment and you are a Commissioner.</p> <p>3 MR. GREENE: I do not see anybody doing</p> <p>4 that.</p> <p>5 SECRETARY TEPPER: Let's go to the SPAG</p> <p>6 group. Anybody from the SPAG group with questions,</p> <p>7 please raise your hand. Anyone online or in the</p> <p>8 audience?</p> <p>9 So we'll go to the general public.</p> <p>10 Anybody here who would like to -- in the room who</p> <p>11 would like to ask some questions? No?</p> <p>12 Anybody online, comments or questions?</p> <p>13 MR. GREENE: Again, if you do have a</p> <p>14 comment or question, please use the Raise Hand</p> <p>15 feature on Zoom so we can see you. We'll move Cathy</p> <p>16 Kristofferson to the panel so she can comment.</p> <p>17 MS. KRISTOFFERSON: Good morning. I</p> <p>18 just wanted to comment in agreement with, I believe</p> <p>19 it was Secretary Tepper in the big room, worrying</p> <p>20 about applicants running out the clock to create a</p> <p>21 situation of constructive approval, especially in</p> <p>22 the local case. So thank you for bringing up that</p> <p>23 concern, and I just wanted to amplify it. Thanks.</p> <p>24 SECRETARY TEPPER: Thank you for</p>	<p style="text-align: right;">Page 69</p> <p>1 because I could see that could impact the timeline</p> <p>2 on the municipal level. Thank you.</p> <p>3 SECRETARY TEPPER: Thank you. Good</p> <p>4 question. Who wants to start?</p> <p>5 COMMISSIONER MAHONY: I'll just say that</p> <p>6 on that second question, DOER's regulations, and the</p> <p>7 second question that Dorothy asked was about 351</p> <p>8 communities establishing different processes -- that</p> <p>9 the DOER regulations hopes to overcome that. But</p> <p>10 there will be still -- we still have local control.</p> <p>11 There will be certain changes from town to town.</p> <p>12 But the goal is for DOER to set out regulations that</p> <p>13 will establish guidelines for municipalities to</p> <p>14 weave their own personal flavor into, but hopefully</p> <p>15 still get some consistency from town to town.</p> <p>16 MR. COLLINS: Rick Collins, with DOER.</p> <p>17 I think that's an accurate description.</p> <p>18 There are 351 different ways that</p> <p>19 communities have their government set up right now,</p> <p>20 and to establish a one flavor for all would not be</p> <p>21 very prudent, especially since a lot of Towns don't</p> <p>22 have full-time staff.</p> <p>23 So for a community it might make sense</p> <p>24 to have the town clerk kind of as the person who</p>

<p style="text-align: right;">Page 70</p> <p>1 receives all these permits and issue the permits in 2 the end run. For another community it might be the 3 building commissioner, might be the mayor, might be 4 the chairman of the select board. 5 Those sort of decisions we want to leave 6 a little bit of flexibility for the municipality to 7 figure out, but it will still be within a more 8 universal approach, which is the 12-month time 9 frame, the universal application, and other sort of 10 procedures that they have to follow. But if they 11 want to hold their proceedings concurrently or 12 consecutively, that can be up to them. As long as 13 they meet the 12-month deadline, it will be their 14 decision. 15 While I'm here, I do want to note that 16 we have taken into consideration and we have further 17 concern about delays on the applicant side, and it's 18 something we will be addressing as well. For 19 instance, a 60-day turnaround for new engineering 20 plans isn't something that's going to be able to fly 21 to make this timeframe work. 22 So there will be expectations on both 23 sides to make sure that this is a process that 24 continues to move.</p>	<p style="text-align: right;">Page 72</p> <p>1 local permits. So that would mean if there's a 2 board that says no and the project isn't able to 3 move forward, that part would be subject to review 4 if the applicant decided. 5 SECRETARY TEPPER: So the applicant then 6 appeals to the EFSB, and you're saying that the 7 thing -- the only thing that is being appealed is 8 the one aspect of the total permit? 9 MR. COLLINS: It would be able to appeal 10 any part of any decision from any of the boards, 11 yeah. 12 SECRETARY TEPPER: So, then, what's the 13 standard that the EFSB would be reviewing that 14 under? 15 MS. EVANS: So the EFSB would look at 16 two different parts of the standard, the first being 17 whether or not the local community complied with 18 DOER's rules, which is in the statute. And the 19 other thing is, I think we would look as an overlay 20 to that whether or not the decision was consistent 21 with 69H, which is our overall mandate for the 22 Board. So those are the two things that the 23 director would look at in that situation. 24 I wonder if there's a way possibly to</p>
<p style="text-align: right;">Page 71</p> <p>1 Was there a third one? 2 SECRETARY TEPPER: Do we have an answer 3 to the first question, what happens if three -- 4 MR. COLLINS: It is our understand 5 through legal interpretation that if one of the five 6 denies the permits it is in denial, that it has to 7 be all or nothing for the most part. What we're 8 going to leave is that for instance if a zoning 9 board is to very quickly determine you're not going 10 to get a variance, it is a denial, all the other 11 boards will still conduct their work and make their 12 decisions, and then that one piece of it would be 13 the part that is appealed to the EFSB. 14 SECRETARY TEPPER: In that situation 15 what is the standard of review for the EFSB to be 16 looking at that? 17 MR. COLLINS: For the zoning piece? 18 SECRETARY TEPPER: The example that the 19 commenter gave was, there's an entity that is trying 20 to get their local permits. They have four local 21 permits. Three say yes, one says no. So now you're 22 saying to us, okay, that's a denial? 23 MR. COLLINS: The language I believe is 24 that it has to -- the permit has to include all</p>	<p style="text-align: right;">Page 73</p> <p>1 coordinate the various decisionmakers in a community 2 so that there's one decision, from Ashland or, you 3 know, from a community. I think that's something 4 that folks are still trying to work out. 5 SECRETARY TEPPER: That's what I thought 6 was happening. I thought that there was going to be 7 one filing from -- 8 MS. EVANS: I believe that's something 9 that's still in process right now, but that was, I 10 think, my understanding also, that there's one 11 decision. Mike might disagree with that. 12 UNDERSECRETARY JUDGE: I agree. My 13 understanding was that it would be a single decision 14 from the municipality, but embedded within that 15 decision you might see what had happened at sort of 16 the individual board level. So it might be the 17 zoning board said no but the others all said yes. 18 But it is a single consolidated decision from the 19 municipality. And if one of the five boards that's 20 looking at it says no, then it would be a no. 21 But what might be appealed to the EFSB 22 or through the de novo adjudication process is, we 23 disagree with the zoning board -- we disagree with 24 the Town's determination, but specifically the</p>

<p style="text-align: right;">Page 74</p> <p>1 zoning board's determination, and here's why we 2 think this is inconsistent with what DOER's rules 3 are or the board's. That's how I understand it. 4 I do think it's a single decision, but 5 within that you'll see sort of the details of what 6 specifically led to a denial. 7 SECRETARY TEPPER: So in that 8 circumstance, let's say it was a zoning board, to 9 make it more complicated. Does the applicant then 10 file both for a de novo review and a zoning 11 exemption? Because the Siting Board direct can't 12 issue a zoning exemption; right? 13 MS. EVANS: That's a good question. I 14 think in that situation it may be that what comes up 15 is the zoning exemption decision -- excuse me, the 16 zoning board decision, and we would adjudicate 17 whether or not the zoning board's decision complied 18 with DOER's requirements and our overall statutory 19 mandate. 20 SECRETARY TEPPER: We're going to have 21 to think about how that works. 22 MS. EVANS: Absolutely, the coordination 23 between the two. We do know that obviously a local 24 community can't exempt its own zoning ordinances;</p>	<p style="text-align: right;">Page 76</p> <p>1 you asking in the de novo adjudication situation, or 2 are you asking a regular consolidated permit? 3 MS. MATTHEWS: In a regular consolidated 4 permit, can that include, for example, a special 5 permit approval? 6 MS. EVANS: It could. It could also 7 just include an exemption, which means you don't 8 need a special permit. 9 MS. MATTHEWS: True. So there are two 10 ways that someone could approach that? 11 MS. EVANS: Yes, I'm assuming that what 12 would normally come in a consolidated permit 13 application would be an exemption. That's normally 14 what we would have, a request for exemption, not a 15 request for special permits or a variance. That's 16 usually what we get now. 17 MS. MATTHEWS: I think we might want to 18 take this discussion offline at a later date. 19 MS. EVANS: It is confusing. There's a 20 lot of things that -- 21 SECRETARY TEPPER: If it's a large 22 project getting a consolidated permit and you're 23 saying that the zoning part of it is not included in 24 the consolidated permit because you have to do that</p>
<p style="text-align: right;">Page 75</p> <p>1 right? They can only provide a special permit or a 2 variance. Variances very rarely occur, especially 3 use variances, which is oftentimes what, as you 4 know, energy infrastructure needs. They need use 5 variances, and that's the important thing that needs 6 to happen in order for the electrical equipment to 7 be built. 8 SECRETARY TEPPER: Okay. Does that 9 answer your question? Or does it make you more 10 confused? I think I might be in a more-confused 11 category. 12 MS. McGLINCY: Yes, thank you. 13 SECRETARY TEPPER: Anybody else on line 14 with questions, have a hand up? Ms. Matthews? 15 MS. MATTHEWS: Diedre Matthews, National 16 Grid. Just a quick question for clarity on the 17 issue we've been discussing. Is the staff's 18 understanding that the Siting Board can when 19 reviewing -- when issuing the consolidated permit, 20 issue every possible zoning agreement -- like a 21 special permit, a variance, whatever -- except that 22 which would require a zoning exemption? Did I ask 23 that right? 24 MS. EVANS: For my clarification, are</p>	<p style="text-align: right;">Page 77</p> <p>1 separately, what if you actually didn't -- what if 2 you don't need any exemptions and there -- but let's 3 say you need, you know -- you still need the 4 approval -- 5 Let's say you need a special permit, for 6 instance. 7 MS. EVANS: Could you ask for a special 8 permit or an exemption? 9 SECRETARY TEPPER: I'm trying to say 10 that the distinction that you're making about the 11 consolidated permit not including zoning exemptions 12 is what makes it confusing. 13 MS. EVANS: It is confusing, I agree. 14 MR. TARR: I might clarify during my 15 comments. 16 SECRETARY TEPPER: Yes, a conversation 17 offline I think would be helpful in that regard. 18 MS. EVANS: I think that would be very 19 helpful. Thank you. 20 SECRETARY TEPPER: Any other hands or in 21 the audience? 22 We'll move on to the next group. 23 MR. TARR: Good morning. I think in 24 this section we might provide some much-needed</p>

<p style="text-align: right;">Page 78</p> <p>1 perspective regarding some of the questions we've 2 asked, especially regarding the consolidated permit 3 as we've established it right now. 4 Some important things to take into 5 consideration is that 13.0 specifically addresses 6 the elements of 69T, 69U, and 69V, which are 7 specifically distinct. 69T is for large projects 8 specifically. 69U is for T&D projects that do not 9 include zoning specifically. So any T&D project 10 that would include zoning would typically be 11 classified as a large project under EFSB 12 jurisdiction and require a 69T application. I'm 13 going to use the numbers. If anyone would like any 14 clarification for me to define anything more, I'm 15 happy to do so. I've been dealing with a lot of the 16 acronyms for a long time now. 17 MR. GREENE: I just wanted to introduce 18 you to the audience. 19 MR. TARR: So my name is Connor Tarr. I 20 am one of the presiding officers with the EFSB. I 21 am one of a number of people who have been working 22 to draft the 13.0 regulations with my team and 23 staff. This has been reviewed and revised a number 24 of times and gone through a number of different</p>	<p style="text-align: right;">Page 80</p> <p>1 time frame under the legacy facilities. 2 As indicated, small transmission and 3 distribution is 69U, small generation and storage is 4 69V. And then small infrastructure would have to go 5 through -- would have the option of going through 6 14.0 de novo review as well. 7 One of the requirements of 13.0 from the 8 statute that we've been determined and tasked with 9 establishing: At this point we're trying to set a 10 uniform set of standards so that there's clarity 11 moving forward for applicants coming into the EFSB 12 so they understand what they need to apply and what 13 they need to provide to the EFSB as part of that 14 application. 15 So we are trying to establish a common 16 standard application that goes through and indicates 17 what required elements would be included and 18 submitted to the Board as part of that. 19 We've also tried to establish standard 20 conditions that are established in every case that 21 would be applied across the board. I'll talk a 22 little bit more about those later, but standard 23 conditions can be broken down into two factions. 24 One would be standard conditions uniformly applied</p>
<p style="text-align: right;">Page 79</p> <p>1 sections. So I think it's at a good point for 2 public review and public editing, and I think that 3 some input would be useful to get us to the finish 4 line. 5 As I indicated, clean energy 6 infrastructure is broken into large and small 7 projects. So large projects are considered 69T 8 applications. 69U and 69V break up small T&D 9 projects that don't include zoning, as a 69U, and 10 then 69V is a state permit only for generation and 11 storage for small projects. So that would be a 12 local permit that would be applying for something 13 related to an energy infrastructure facility -- 14 generation and storage facility. They would apply 15 under DOER for the local permit, and then they would 16 apply to EFSB for State permits. So that's why 17 we've coined the term an EFSB consolidated permit, 18 which incorporates the State permit and the 19 all-encompassing permit. 20 Now, this all applies to clean energy 21 infrastructure facilities. Legacy facilities are 22 still required to go through the same process as 23 they did before. However, there isn't the timeline 24 restrictions that we've established for the review</p>	<p style="text-align: right;">Page 81</p> <p>1 to all projects. Another would be threshold- 2 specific conditions that are applied based on 3 projects or based on project size or use. 4 So depending on the level of energy that 5 is required, the size of the facility, maybe the 6 square footage, it would be -- a lot of that is 7 still under discussion and further review still 8 needed. 9 We also would like to discuss the 10 standards that apply to the cumulative impact 11 analysis and site suitability. That has been 12 incorporated into the application process as being 13 included as part of prefilng. 14 Another important thing to take note is 15 that we have also -- are required to identify the 16 enforcement agencies for the conditions that are 17 established through the permitting process. So we 18 are making sure that we are highlighting which 19 conditions would be enforced by the Board, so which 20 conditions would need to come back to the Board if 21 there's any type of violation, versus what 22 conditions are enforced by the agencies that would 23 have previously enforced them and already have the 24 authority to enforce those permits, as before.</p>

<p style="text-align: right;">Page 82</p> <p>1 Some special considerations that I'll go 2 into specific detail about will be a completeness 3 determination, which is unique to 13.0, which is 4 unique to the statute as being established at this 5 time. I'll go into quite a bit of detail. That's 6 13.09 and incorporates a lot of different sections 7 above that as part of the regulations. 8 We are also, as part of the statute, 9 required to establish a statement of recommended 10 permit conditions. Those would be provided by the 11 permitting agencies. We're also asking as part of 12 the application that that would be included by the 13 applicant for any recommended permit conditions. 14 This may end up addressing some of the issues 15 regarding mitigation from the outset that the 16 applicant is taking into consideration and being 17 aware of from the beginning. 18 Again, constructive approval if these 19 deadlines are not met, we do establish a procedural 20 schedule for general timelines for when we expect 21 the project to move along. I do incorporate the 22 Board's concern -- or I understand the Board's 23 concerns regarding delay, and I do think that that 24 is not specifically in 13.0 as of right now for</p>	<p style="text-align: right;">Page 84</p> <p>1 of the application, so that should be submitted 2 simultaneously with the Board for a 40 Section 3 3 permit, or a zoning exemption request, as well as a 4 consolidated permit request through the EFSB. Those 5 should be filed simultaneously by the applicant and 6 should be -- the Board should be aware of whether or 7 not a zoning exemption is being required. 8 We've also provided a lot of specific 9 details for what sections would need to be included 10 in the EFSB application. So we have gone through 11 all of our standard applications that we've applied 12 before -- or not standard applications, but all the 13 applications that we've received in the past and all 14 the typical information that we've found to be 15 included. We've also highlighted some of the 16 information that we typically end up asking as part 17 of the information requests on the first round, and 18 trying to incorporate that at the beginning, to try 19 and consolidate some time frames and reduce the time 20 of review. 21 One of the significant portions that 22 we've also added at this point would be an inclusion 23 of all of the elements of the permitting -- permits 24 that are being requested by the applicant. So we</p>
<p style="text-align: right;">Page 83</p> <p>1 after a completeness determination has been made. 2 That is incorporated before that as far as any delay 3 that is part of a completeness determination. There 4 is a penalty phase that is activated as part of that 5 process. 6 I believe this might end up getting into 7 some of the discussion regarding zoning that we've 8 all been talking about so much already. So there is 9 a section in 13.0 which specifically delineates the 10 inclusion of zoning as part of the application 11 process. The reason for that is that there is a 12 specific review time frame for the Board after a 13 completeness determination has been made that may or 14 may not be dependent on the inclusion of zoning. So 15 if zoning is not included as part of an application, 16 it would indicate a shorter time frame potentially 17 than if it was a longer time frame, so a 12-month 18 time frame versus 15 months. 19 For instance, a small T&D project would 20 be a 12-month time frame. A small T&D project with 21 zoning would be a 15-month time frame for review for 22 the Board. 23 We have also incorporated requirements 24 for the inclusion of zoning to be included as part</p>	<p style="text-align: right;">Page 85</p> <p>1 have gone through a detailed list of what we are 2 requesting the applicant to provide as part of the 3 application, which would include essentially 4 everything that would have been submitted to the 5 local agency or the State agency submitted to us as 6 a packet, preferably as a separate attachment at the 7 end of the application. That would include all the 8 application materials as part of the filing, so 9 whatever filing form would have typically been filed 10 with the local agency or the State agency, as well 11 as a draft permit for what they would expect to 12 receive as part of a consolidated permit. 13 So one of the highlighted elements of an 14 EFSB consolidated permit is the issuance of all 15 permits that would be provided as part of this, 16 enforced by the agency that would have issued the 17 permit before. 18 So in order to make sure that we are not 19 missing anything and make sure that the expectation 20 for what the agency is to enforce and what we are 21 able -- or we're required to enforce, we're asking 22 that the applicants provide a draft permit to the 23 agency as far as what their expectations are. 24 That should also include standard</p>

<p style="text-align: right;">Page 86</p> <p>1 conditions that would be included in those permits. 2 The applicant would identify which conditions 3 they're indicating would be standard conditions as 4 well. 5 We have coined the term "PEA," for 6 permitting enforcement agencies. Those would be 7 State agencies that typically end up issuing a 8 permit in those cases. So we like to highlight 9 them. 10 A copy of that permit would be -- or 11 notice of that permit being filed with us would be 12 provide to the PEA as a result of the application. 13 We have a time frame for review for the PEA to be 14 able to identify any deficiencies in the project, or 15 in the application, that would have been normally 16 provided. So essentially a shortened review for 17 them to determine if there's anything missing from 18 the application. 19 This actually gets into the completeness 20 determination that we would go through at the 21 beginning of the process. 22 SECRETARY TEPPER: Just a quick 23 question: In terms of -- were you saying that the 24 applicant needs to fill out all the applications</p>	<p style="text-align: right;">Page 88</p> <p>1 indicate any deficiencies, and then if there are any 2 deficiencies indicated, an additional 30-day period 3 to cure those deficiencies. 4 SECRETARY TEPPER: And does that all 5 come within the timeline, or is that a pre thing, 6 before the completeness or after the completeness? 7 MR. TARR: By statute, the time frames 8 for review are based on the completeness 9 determination. So the 12 months would not begin 10 until after the completeness determination. 11 SECRETARY TEPPER: So all that stuff is 12 happening beforehand. 13 MR. TARR: Yes. 14 SECRETARY TEPPER: What is that, how 15 many months? 16 MR. TARR: Well, it's 30 days at a time 17 unless there's an extension requested. 18 SECRETARY TEPPER: But you said that the 19 applicant has to file -- is going to have to go to 20 each agency -- right? -- and is going to have to get 21 their applications? Then they file with you all 22 their stuff. They have their permit application and 23 their proposed permits. Then you send it out. You 24 notify the agencies that you have this request for a</p>
<p style="text-align: right;">Page 87</p> <p>1 that they would have otherwise had to fill out and 2 provide a draft permit? Or just one? 3 MR. TARR: As of right now, that is the 4 expectation. 5 SECRETARY TEPPER: It just makes one 6 wonder where the efficiency is happening here for 7 the applicant. 8 MR. TARR: The 12-month time frame and 9 only submitting to us, would be my argument. You're 10 only coming to one, you're only paying one fee, 11 you're not going to different agencies would be my 12 expectation for the efficiency in the process. 13 SECRETARY TEPPER: What was the time 14 that the agencies are given for looking at the 15 materials? 16 MR. TARR: So the timeline for review 17 for a completeness determination for the presiding 18 officer would be 30 days. So that's why when the 19 applicant's submitted -- or when the application is 20 submitted, there would be simultaneous notification 21 to the other agencies to indicate if there's any 22 deficiencies. Our expectations would be 20 days for 23 them to respond, so that the presiding officer would 24 be able to respond within that 30-day time frame to</p>	<p style="text-align: right;">Page 89</p> <p>1 consolidated permit and one of the permits is 2 something that they normally would do. Then you're 3 giving them how long? 30 days? 4 MR. TARR: We would give the permitting 5 agencies 30 days -- well, 20 days, realistically -- 6 20 days to review the application to determine if 7 there's any deficiencies. Our hope and expectation 8 is that part of the prefiling process and their 9 consultation with these agencies would already 10 provide a lot of that input and oversight. So the 11 other portion of it would be that if we don't hear 12 anything from the agencies it would be an indication 13 that the application is sufficient, that there are 14 no deficiencies. 15 There's also an override by the 16 presiding officer if they determine that the 17 deficiencies aren't significant enough to deny the 18 application, that those may be accepted as part of 19 the process and a completeness determination 20 entered. 21 SECRETARY TEPPER: Would it be possible 22 for an applicant to get ahead of time the 23 verification from the agency that they have provided 24 everything that they need to apply so that they</p>

<p style="text-align: right;">Page 90</p> <p>1 could save the time on the back end? In other 2 words, a self-verification. 3 MR. TARR: That has not been 4 incorporated into the regulations as of right now. 5 I think that my expectation for how it would work is 6 that the agency's silence would indicate that 7 they've already met -- the verification is silence 8 by itself. 9 SECRETARY TEPPER: I get that, but 10 you're going to wait 20 days to find that out; 11 right? 12 MR. TARR: I would expect it to at least 13 take 20 days to review the materials submitted by 14 any applicant for any application of this magnitude. 15 SECRETARY TEPPER: I know it sounds like 16 a little bit, but for me the big part of this is to 17 try to make things go faster. And so if we can save 18 20 days, if the applicant -- a developer is all 19 about time and certainty. So if they could get the 20 time and the certainty, if -- if they could get the 21 certainty before they file from the agencies that 22 they are giving you everything that they want -- 23 that they show them -- the applicant shows the 24 permitting authority, "Here's what we're going to</p>	<p style="text-align: right;">Page 92</p> <p>1 determination. That is going to be a quite 2 extensive process, that would include everything 3 that would applied. There is a section that would 4 reference zoning as well that would need to be 5 included. 6 So we categorize it as three main 7 sections in the application. There would be the 8 generalized EFSB application that we had had before 9 that has been spelled out, or general conditions 10 that we've asked for in the past, and "general 11 conditions" is the wrong term, but standard sections 12 that we've had previously in other EFSB decisions. 13 Then we're requesting any zoning 14 exemptions be highlighted and specifically called 15 out. And then any agency permits that are being 16 requested. 17 There also are some additional things 18 that we had not previously incorporated into 19 applications, such as the request for visual media 20 overview of the project. We're trying to be 21 inclusive of any potential changes moving forward, 22 as this will probably be in effect for a long time 23 moving forward. So some visual representation of 24 the project so that it would be easy to understand</p>
<p style="text-align: right;">Page 91</p> <p>1 give to the EFSB. Can you please just give us a 2 check and tell us that this is good?" And they have 3 their seven checks. They come in. You don't have 4 to do the review of the agency thing. 5 I mean, would they get all those checks? 6 I don't know. But why not have it be an option? I 7 just throw it out there. 8 I just think that any place that we 9 can -- where we can give the ability of an applicant 10 to save time by doing something ahead of time, we 11 should give them that opportunity. 12 MR. TARR: Absolutely. I appreciate the 13 input. That's not something that I had considered 14 before. 15 SECRETARY TEPPER: It's all good. This 16 is just supercomplicated stuff, and I think it will 17 really help to hear from the people who file these 18 applications all the time and who do these projects, 19 you know, where we can find some efficiencies, but 20 without -- ensuring that we have meaningful 21 participation. So go ahead. 22 MR. TARR: Thank you, Secretary. 23 I'm going to move forward with the -- 24 highlight some other portions of the completeness</p>	<p style="text-align: right;">Page 93</p> <p>1 what it is they're asking for. Some projects in the 2 past have already incorporated that as part of their 3 applications and provided that, and we're just 4 encouraging applicants to provide that moving 5 forward. 6 We also have a mechanism which will be 7 discussed, I think, further later on in Section 8 16 -- but there is going to be the mechanism for us 9 to have prefiling as a part of the completeness 10 determination. That has to be indicated that 11 prefiling has been successfully completed as part of 12 the application process. So you would not be deemed 13 to be complete unless you had successfully completed 14 and complied with the prefiling requirements under 15 16. 16 As I mentioned before, we have also 17 incorporated enforcement procedures. The statute 18 highlights the fact that agencies would enforce the 19 permits that they have authority to enforce as of 20 right now if you were to apply individually for 21 those permits. 22 Right now we are trying to establish a 23 process that would allow for any grievances or 24 issues regarding enforcement to be brought to the</p>

<p style="text-align: right;">Page 94</p> <p>1 Board potentially, and then the Board can provide 2 clarification or guidance, although they would not 3 have the authority to have any other disputes 4 regarding that. They can provide any clarification 5 to the conditions that were provided as part of 6 those permits and provide that to the agency as well 7 as to the applicant.</p> <p>8 We also highlight there are a number of 9 conditions that will be enforced by the Board, and 10 there will be a specific process that the Board 11 would go through for enforcement on violations. The 12 director would have -- we've indicated that the 13 director would end up having authority to provide 14 potential penalties and cures regarding -- they 15 could either dismiss the complaint, they could 16 provide a probationary period to comply with the 17 conditions, or, if need be, they could apply 18 specific penalties if necessary, depending on the 19 severity, the level, and the number of recurring 20 violations by the project.</p> <p>21 We'll go to the next slide. Now, this 22 is going to get a little bit more confusing. I will 23 signal that from the beginning. Conditions are a 24 lot more complex than somehow they've been treated,</p>	<p style="text-align: right;">Page 96</p> <p>1 that could be updated, as the condition language 2 would be part of guidance and not specifically part 3 of the regulations. So then we could update 4 language to incorporate additional standard 5 conditions moving forward as necessary and as the 6 Board would determine appropriate.</p> <p>7 There also ends up being a large 8 category of conditions. So there's EFSB conditions 9 that are being applied to the project; potentially 10 DOER standard conditions as part of local permits 11 that would applied to the project; and then existing 12 State agency conditions would be applied to the 13 project. This would be the standard conditions from 14 the permits that we're asking that the applicants 15 highlight as part of the application, so that -- 16 because we don't have all of that information as of 17 right now, we don't have a list that says, "This is 18 what these ten permits would require as a standard 19 condition." I know that there's some agencies that 20 have specific conditions and like to have specific 21 conditions for every project and don't necessarily 22 have standard conditions, but there are other 23 agencies that have 25 pages of standard conditions 24 for their projects.</p>
<p style="text-align: right;">Page 95</p> <p>1 and we've gone through this a number of different 2 ways.</p> <p>3 As of right now, the way that we are 4 treating conditions is that we have two levels of 5 conditions, a generalized condition, standard 6 condition, to be applied to any and all projects, 7 regarding of type facility, size, small, large. 8 These standard conditions would apply across the 9 board to every project.</p> <p>10 We also have general conditions that 11 would be applied on a threshold basis based on the 12 project itself. So if the project is a certain 13 size, certain level, creates a certain amount of 14 noise -- honestly, the conditions that could be 15 applied regarding threshold-specific conditions 16 could be unlimited, depending on how specific the 17 Board would like to be and how detailed we'd like to 18 provide those conditions ahead of time.</p> <p>19 We also would like to highlight that 20 this could be adaptable, depending on the project. 21 So if the project -- and I mean that to say that 22 after a project is completed, if the Board 23 recognizes that there are certain conditions that 24 should have been or could have been incorporated,</p>	<p style="text-align: right;">Page 97</p> <p>1 So we're trying to incorporate that by 2 reference or as part of the application to 3 highlight, and those would be deemed as either Level 4 1 or Level 2, threshold-specific or standard 5 conditions, so that they would be automatically 6 incorporated and included as part of a constructive 7 approval situation. Additionally --</p> <p>8 SECRETARY TEPPER: Just a quick question 9 on that one. Were you saying that there could be a 10 situation where an applicant has a permit that has 11 been approved, a consolidated permit that's been 12 approved by the EFSB, but the conditions may change 13 depending on future guidance?</p> <p>14 MR. TARR: Not during the process. I'm 15 saying that at the conclusion of a project, after 16 it's been resolved, the Board would be able to 17 update its guidance to add or include any additional 18 conditions for future projects.</p> <p>19 SECRETARY TEPPER: Not retroactively. 20 MR. TARR: Not retroactively, no. I 21 don't think we could get away with that.</p> <p>22 SECRETARY TEPPER: That's what I was 23 wondering. Okay.</p> <p>24 MR. TARR: But we wouldn't have to go</p>

<p style="text-align: right;">Page 98</p> <p>1 through this process every time.</p> <p>2 And then another highlight that I want</p> <p>3 to make regarding conditions is the inclusion for a</p> <p>4 Board approval of supplemental conditions.</p> <p>5 Supplemental conditions are specifically to address</p> <p>6 additional impacts that the Board feels that the</p> <p>7 project is making, so that any special mitigation or</p> <p>8 special reduction of those impacts that the Board</p> <p>9 feels is necessary for approval, the Board would be</p> <p>10 able to include.</p> <p>11 So these would be any project-specific</p> <p>12 impact -- or any project-specific conditions that</p> <p>13 they'd like to apply to the project. This would be</p> <p>14 the unique portion of the actual Board hearing,</p> <p>15 rather than the constructive approval -- and also,</p> <p>16 as the Board is permitted to do so, they can modify</p> <p>17 any conditions that they feel appropriate as part of</p> <p>18 the Board approval -- non-constructive approval.</p> <p>19 I think at this point I'm going to turn</p> <p>20 it over to Director Greene for the guidance portion</p> <p>21 of 13.0, which is also fairly extensive.</p> <p>22 MR. GREENE: Thank you, Presiding</p> <p>23 Officer Tarr.</p> <p>24 We're on the slide now that talks about</p>	<p style="text-align: right;">Page 100</p> <p>1 We're including the site suitability</p> <p>2 criteria, which Director Collins had spoken to as</p> <p>3 well as Undersecretary Judge. It will include any</p> <p>4 elements of cumulative impact analysis, which is</p> <p>5 another topic that we'll be hearing about shortly.</p> <p>6 And it needs to reflect what are called in the</p> <p>7 statute baseline health, safety, environmental, and</p> <p>8 other standards -- a rather sweeping categorization</p> <p>9 of things to consider.</p> <p>10 One thing just to mention about</p> <p>11 applications, and this may surprise people, but for</p> <p>12 an agency that's been in business for 50 years, the</p> <p>13 EFSB has shockingly few application forms. You</p> <p>14 might wonder, how is that possible for an agency</p> <p>15 that deals with such complicated issues and is</p> <p>16 certainly scrutinized by the public as well as other</p> <p>17 stakeholders? How does that work?</p> <p>18 I think the explanation of how we got</p> <p>19 where we are to this point is that we grew up in an</p> <p>20 era when utilities were the applicants, and they</p> <p>21 were very familiar with all of the decisionmaking</p> <p>22 procedures and kind of learned over time what was</p> <p>23 needed to get an approval, and certainly attorneys</p> <p>24 and consultants working for the utilities were also,</p>
<p style="text-align: right;">Page 99</p> <p>1 kind of the key objectives for applications, and</p> <p>2 really many of these take root in the guidance</p> <p>3 document. We issued the guidance document -- I</p> <p>4 believe it went public just last Wednesday. So</p> <p>5 there has not been a lot of time for the document to</p> <p>6 really, I think, be reviewed by the public, by</p> <p>7 members of the Commission and practitioners group.</p> <p>8 So we realize that and we'll try to, again, leave</p> <p>9 the window open for comments as long as we possibly</p> <p>10 can, although we are on a schedule to hit the March</p> <p>11 1st date for the regulations, and there are a lot of</p> <p>12 intervening steps.</p> <p>13 At any rate, what we are obviously</p> <p>14 shooting for is to design the application itself --</p> <p>15 the contents of it, the regulations that Mr. Tarr</p> <p>16 was talking about speak to -- to hopefully ensure</p> <p>17 that we've asked for everything that's needed for a</p> <p>18 completeness determination and gotten it and have</p> <p>19 certainty that we've gotten it, so we can make that</p> <p>20 determination and move on and the clock can start</p> <p>21 ticking on the 12- or 15-month timeline to issuance</p> <p>22 of the decision. So that's an extremely important</p> <p>23 element of what we're trying to capture on the</p> <p>24 application and the guidance relating to it.</p>	<p style="text-align: right;">Page 101</p> <p>1 you know, very well experienced in this whole</p> <p>2 process.</p> <p>3 So it didn't necessarily need to be</p> <p>4 written down as a set of prescriptive rules. It</p> <p>5 happened somewhat through practice, let's put it</p> <p>6 that way.</p> <p>7 With the clean energy infrastructure</p> <p>8 picture, we're now looking at a lot of new entrants</p> <p>9 who will be building new infrastructure who have not</p> <p>10 been part of our regulatory landscape. We've seen</p> <p>11 them already, developers who are building battery</p> <p>12 projects, small generation, solar, that are not the</p> <p>13 Eversources and the National Grids of the energy</p> <p>14 economy.</p> <p>15 So having applications and clarity as to</p> <p>16 what's required becomes extremely important, and</p> <p>17 this has been affirmed through many conversations</p> <p>18 that we have with developers informally when they</p> <p>19 call us to say, "What do we have to do? We want to</p> <p>20 build a battery project" or a large solar project or</p> <p>21 what have you. That's really what we're striving</p> <p>22 for, to address a need that has been there all along</p> <p>23 but somehow we managed to avoid it.</p> <p>24 So best practices for applications:</p>

<p style="text-align: right;">Page 102</p> <p>1 Again, these are the high-level things. We really 2 want to emphasize clear filing formats and an 3 organizational structure of an application, so that 4 if you're interested in a particular topic, you'll 5 know exactly where to look for it in the application 6 without having to do a word search in a PDF 7 document. It will just be more intuitive. 8 We want these rather hefty documents, 9 which can run sometimes into hundreds of pages or 10 more, to be accessible to the communities and 11 stakeholders who also will be participating in 12 cases. 13 And so that emphasizes the value of 14 plain language where possible. Some things are very 15 complicated. It's somewhat hard to explain magnetic 16 fields without talking about milligausses and things 17 that sound technical. But certainly the summaries 18 and narratives that go along with the applications 19 can be written in plain English and understood by 20 the general public. We're striving to achieve that. 21 That's consistent with our public-participation 22 objectives and many other good regulatory practices. 23 We want to make sure that there's enough 24 supporting documentation with the application to</p>	<p style="text-align: right;">Page 104</p> <p>1 Massachusetts Environmental Policy Act -- is no 2 longer required for energy facilities reviewed by 3 the Siting Board. I will say that MEPA has 4 developed a lot of very useful information- 5 collection tools over time that have a fit in 6 applications, so we want to try and preserve some of 7 that. 8 What's actually in the application and 9 what will we see? This is what's reflected in the 10 guidance. This is kind of the table of contents, if 11 you will. It starts off with general instructions 12 on filings, formats, PDFs, different mapping 13 procedures that are used. 14 It will identify the baseline health and 15 safety standards, which I'll talk about a little bit 16 more momentarily. 17 It will include the requirements for the 18 other State, regional permits -- we've talked a 19 little bit about that -- that the application 20 actually will include applications specific to those 21 other permits as well as the actual proposed permit 22 form itself that the applicant is seeking. 23 One thing to emphasize here is that, 24 since DOER is contemplating creating a standard</p>
<p style="text-align: right;">Page 103</p> <p>1 avoid delays that can occur when supplemental 2 information requests are issued. 3 Mr. Tarr mentioned overview videos. We 4 think this is a useful addition as well, that we 5 kind of think of as part of the application itself, 6 as a supplement to the written material, that will 7 provide, again, more intuitive understanding of 8 what's being requested and why and what it might 9 look like in the community, with some visual 10 representations. We have gotten some of these 11 already from different applicants, and they've been 12 well received. 13 We want to make use of technology in the 14 applications, so that anything that we receive is 15 searchable. In other words, it's optical character 16 recognition. It's not just a picture but a 17 searchable text file that goes into it. 18 Lots of hyperlinks, so if you're looking 19 at a particular section that refers to a supporting 20 exhibit, there's something to click on and go right 21 to that document without having to search through, 22 again, many, many pages. 23 And also, MEPA, which we haven't really 24 talked about to this point -- that's the</p>	<p style="text-align: right;">Page 105</p> <p>1 application for all 351 Cities and Towns, we would 2 want to make use of that to the greatest extent 3 possible, and pulling that into the EFSB 4 jurisdictional applications so that we're relying on 5 many similar types of collected pieces of 6 information at the local level and working as much 7 as possible to have a common basis. 8 We need information about the community, 9 where the project's located, confirmation of the 10 prefiling process completion that was mentioned. 11 And then in terms of certain topics that 12 I called before EFSB orphan topics -- that's maybe a 13 little bit cheeky there. But there are topics that 14 EFSB has in its statutory mandates that are not part 15 of other permitting agencies' general portfolio, and 16 those include need, energy benefits, project 17 alternatives, route selection. Site-suitability 18 scoring is certain part of what EEA's offering and 19 DOER will include. Similar for climate mitigation 20 and resiliency, but that's a policy objective that 21 we have to incorporate as part of our compliance 22 with State policy. 23 Decommissioning would be a new element 24 of an EFSB-specific focus. Electric and magnetic</p>

<p style="text-align: right;">Page 106</p> <p>1 fields: This is an issue that generally has not 2 been part of the permitting landscape outside of the 3 EFSB, so that will be very much a subject. 4 And cost, reliability, physical and 5 cybersecurity of facilities -- not always a sort of 6 permitting topic at other State and local agencies. 7 Obviously cybersecurity and physical security are 8 addressed by regulatory agencies, but usually not in 9 the siting and permitting context. 10 And the standard conditions, which, 11 again, were discussed just before. 12 Next slide. So the application 13 guidance, as you may have noticed if you've looked 14 at it, is a work in progress. Again, there are a 15 lot of TBDs that are included in the document right 16 now. We're still working on things. It's not a 17 final product, but it's still, you know, fairly 18 substantial and shows the direction we're going. 19 Baseline standards is a really critical 20 topic and it can get complicated, so I wanted to 21 just explain what we're trying to do in the guidance 22 and the work we have to do to complete this. 23 Again, DOER in the consolidated local 24 permitting process is developing the same thing,</p>	<p style="text-align: right;">Page 108</p> <p>1 magnetic fields. The Board has years and years of 2 precedent that has made decisions on what's an 3 acceptable level in different cases. We don't wind 4 up in the same place every single case. This is an 5 evolving area of scientific research, and we don't 6 have a lot of particular guidance from other State 7 or local agencies as to where that threshold ought 8 to be set. 9 So this is an area, as an example, where 10 we may need to craft some more specific standards so 11 applicants know what is the level of performance 12 that they're expected to meet when they submit an 13 application. 14 Standard conditions -- really kind of 15 the same things again, that we need to be working 16 very closely with DOER to have standard conditions 17 instead of different standard conditions. We have 18 the same issue with other State agencies, where 19 water quality certifications, air permits of various 20 kinds, waste permits will have a number of standard 21 conditions that we really don't want to alter, and 22 we need a means of incorporating those standard 23 conditions into our overall fulfillment of the 24 statutory charge.</p>
<p style="text-align: right;">Page 107</p> <p>1 baseline health, environmental, and safety 2 standards. Should EFSB look dramatically different 3 from what DOER is proposing at the local level? I 4 don't think so. This is a topic that we've been 5 working with our colleagues at DOER to try to 6 develop consistent thinking about what those 7 standards should be. This is a discussion that has 8 started but not reached fruition yet. 9 And this is a theme that recurs over and 10 over: the need for DOER and EFSB to be thinking 11 together about how to develop baseline standards, 12 conditions, and maybe even permit documents when 13 issued that have more similarities than differences. 14 We also want to take note of and 15 incorporate the standards that are used by our 16 sister State agencies -- DEP, Fish and Game, DCR. 17 Again, we don't need to reissue the standards. We 18 need to incorporate them and make sure that they're, 19 again, consistent with the overall array of 20 standards. So that involves other participants in 21 the discussion about developing these standards. 22 There may be some areas where we do need 23 to craft brand-new standards that really have no 24 place in regulation right now -- for example,</p>	<p style="text-align: right;">Page 109</p> <p>1 So there's work to be done there to 2 coordinate, again, on the local side with DOER, on 3 the State side with our colleagues at DEP, DCR, Fish 4 and Game, and so forth. 5 As also Mr. Tarr mentioned, the set of 6 conditions would apply broadly, so that they would 7 kick in if there's a constructive approval, when the 8 Board does not issue a decision, or they would be 9 built into a general application, and the 10 understanding of what's required from the applicant 11 relative to the specific type of technology that 12 they're proposing. 13 There's some other goodies in the 14 application guidance that we're also continuing to 15 work on. We need an online filing system that's 16 different than the one that we currently have right 17 now, which was built a while ago and recently 18 updated, but it's still based on the applicant or 19 others sending emails with attachments, which those 20 who have used State email know that there's a 20- or 21 25-megabyte limit to attachments, and most of the 22 files that we get that have maps or large databases 23 vastly exceed that threshold. So we would like to 24 have the user be able to upload these files and,</p>

<p style="text-align: right;">Page 110</p> <p>1 frankly, all of the information through a data 2 portal. We have some examples of that that have 3 been successfully used by DEP. There's the eDEP 4 filing system. MEPA now has an update or a filing 5 portal. 6 So even though the ink is not really dry 7 on the DPU's latest e-filing system, I think we want 8 to gravitate towards something different, and we're 9 working with DOER, again, on developing sort of 10 common specifications for an information portal that 11 will support our needs, consolidated local 12 permitting needs, and provide pretty much a seamless 13 pathway for projects that may start off at the local 14 level as a consolidated local permit request but 15 somehow migrate over to EFSB review under the de 16 novo provisions that we talked about, and we would 17 need access to that record information to base our 18 decision on in part. So a common filing system will 19 help. 20 The completion checklist -- what's a 21 good application without a completion checklist? 22 Everybody wants that. We're going to do it. 23 We also would like to simplify the 24 public notice documents that kick off the public</p>	<p style="text-align: right;">Page 112</p> <p>1 presiding officer, an opportunity to maybe suspend 2 or revisit that completeness determination, which 3 would then stop the clock, in the event there was a 4 finding that maybe there's been some abuse of the 5 process by, it looks like, trying to delay it. 6 I'm just trying to figure out how do we, 7 given the statutory timeline -- but how do we 8 really -- where is an opening to be able to address 9 this in the confines of the statute. 10 MR. TARR: I definitely think that the 11 completeness determination is the avenue to do that. 12 There is a section in there -- if, for instance, an 13 enforcement agency had not been included in the 14 original application and only found out later, it 15 would deem the application incomplete, to reset the 16 timelines. So that is one mechanism to ensure that 17 additional time could be added if necessary. 18 The hard part is that the statute 19 indicates a specific 12-month or 15-month time frame 20 from -- like it's a hard time. So without resetting 21 the timeline completely, I don't know that the 22 presiding officer can delay for two months or 23 something in that nature. 24 So I appreciate that we definitely need</p>
<p style="text-align: right;">Page 111</p> <p>1 engagement part of our proceedings. We go back and 2 forth quite regularly with applicants now over 3 various, you know, formatting issues and wording 4 issues. This can all be standardized to a template. 5 So that's part of what we're going to be adding into 6 our guidance package to make the process better and 7 more efficient. 8 I think this may be it. Next slide. 9 These are just discussion questions. 10 Sorry, I've gone a little bit long. But I'm happy 11 to hear any questions that come up. 12 Again, "work in progress" I think on the 13 guidance document is a fair characterization, and we 14 really do want to hear what else needs to be done 15 besides the things that we've identified. I will 16 leave it at that. 17 SECRETARY TEPPER: Any questions from 18 the Board? Mr. Chairman? 19 CHAIR VAN NOSTRAND: Connor, I was 20 giving some thought to this issue that's been raised 21 about the potential use of delay tactics to trigger 22 constructive approval. I wonder if there might be 23 an opening in that completeness review section in 24 13.09 to maybe give the hearing officer, the</p>	<p style="text-align: right;">Page 113</p> <p>1 to have some more input on some potential options. 2 I know that not -- most applicants would not seek 3 that, but it is something that we do want to guard 4 ourselves against for sure. 5 CHAIR VAN NOSTRAND: Thanks. 6 SECRETARY TEPPER: Commissioner Heiple? 7 COMMISSIONER HEIPLE: Bonnie Heiple, 8 MassDEP. I have a question about, you referenced 9 this and I think there's language in the guidance as 10 well, concerning the completeness determination and 11 the ability of the presiding officer to waive 12 certain permitting requirements. 13 Do you anticipate that applying only to 14 sort of administrative or ministerial requirements? 15 I'm just thinking through the process of, if the 16 permitting agency would typically require something, 17 you don't want to hold up the entire application on 18 that basis, and we don't have that piece of 19 information and later need to -- well, soon need to 20 craft permit conditions and later may need to help 21 enforce those -- if we would need the information 22 that is in that missing piece -- that we would view 23 as a missing piece of information that should have 24 been included and there was a difference of opinion</p>

<p style="text-align: right;">Page 114</p> <p>1 about that --</p> <p>2 I'm just wondering if there's sort of a</p> <p>3 universe of requirements that could be waived or</p> <p>4 could be not required in the first instance, or if</p> <p>5 that would apply to any State agency permitting</p> <p>6 requirement?</p> <p>7 MR. TARR: So we haven't addressed</p> <p>8 whether or not it would be specific. The primary</p> <p>9 concern for that section was whether or not a</p> <p>10 specific State agency or local agency would always</p> <p>11 find a deficiency, so delaying the project from</p> <p>12 their end, potentially on purpose. So that's the</p> <p>13 reason that we had included the override for the</p> <p>14 presiding officer.</p> <p>15 So it's not to slow down the process --</p> <p>16 or not to speed up the process on purpose,</p> <p>17 necessarily. So the presiding officer would hear</p> <p>18 any information or input from the agencies or the</p> <p>19 local government, and if there is something that is</p> <p>20 deemed -- or justified by the agency as being</p> <p>21 necessary, that would be an identified deficiency</p> <p>22 and then prolong the completeness determination.</p> <p>23 So that's the basis for why that was</p> <p>24 included. Maybe that language can be clarified to</p>	<p style="text-align: right;">Page 116</p> <p>1 course always encourage applicants to come, when we</p> <p>2 are the deciding authority, to come to us as soon as</p> <p>3 possible, have as many preapplication meetings as we</p> <p>4 can, have things be as clear to the applicant as</p> <p>5 they can be, so we get the best application as we</p> <p>6 can and we can process it quickly. We don't always,</p> <p>7 despite having a lot of meetings, get an application</p> <p>8 that has every piece of information that we need in</p> <p>9 the way that we need it.</p> <p>10 So I think having that experience and</p> <p>11 continuing to encourage folks to engage early, but</p> <p>12 seeing how, you know, there can be bits and pieces</p> <p>13 of information that still require some back-and-</p> <p>14 forth, and having the intervention of yet another</p> <p>15 authority come in and say, "Actually, State</p> <p>16 permitting agency, you don't need that," gets a</p> <p>17 little complicated. And we're just kind of playing</p> <p>18 out how that could impact our ability to adequately</p> <p>19 enforce down the road, if and when you did.</p> <p>20 SECRETARY TEPPER: Are they saying you</p> <p>21 can't have that, or are they saying we just need to</p> <p>22 get this process started?</p> <p>23 COMMISSIONER HEIPLE: It sounds like</p> <p>24 there is a circumstance in which you would make a</p>
<p style="text-align: right;">Page 115</p> <p>1 make it more specific, so that there can be maybe</p> <p>2 more of a defined term of what would be considered</p> <p>3 material as far as a deficiency, so that we can have</p> <p>4 a little bit more defined language for that. I</p> <p>5 think that can definitely be expanded.</p> <p>6 COMMISSIONER HEIPLE: I think that could</p> <p>7 be helpful. Lawyers; right? We think of what could</p> <p>8 go wrong or what could be abused. So if there is an</p> <p>9 instance in which a PEA needs to enforce -- we</p> <p>10 obviously don't have the basis for a valid</p> <p>11 enforcement action.</p> <p>12 So if we don't have the underlying piece</p> <p>13 of information that we otherwise would rely on in</p> <p>14 that enforcement action, that kind of compromises</p> <p>15 what can happen down the road to make sure that the</p> <p>16 entire permit is adequately complied with.</p> <p>17 MR. TARR: And I think that's part of</p> <p>18 what we're using as a reason for the agencies to be</p> <p>19 involved as much as possible.</p> <p>20 SECRETARY TEPPER: I was going to say,</p> <p>21 couldn't you, Commissioner Heiple, ask for that in</p> <p>22 discovery?</p> <p>23 COMMISSIONER HEIPLE: Yes. I think this</p> <p>24 kind of harkens back to your initial comment: We of</p>	<p style="text-align: right;">Page 117</p> <p>1 determination as part of the completeness</p> <p>2 determination that that piece of information is not</p> <p>3 significant enough to delay this entire project</p> <p>4 application, so let's just move forward without it.</p> <p>5 Is that how you envision that working?</p> <p>6 MR. TARR: Let's indicate that the</p> <p>7 application is complete and begin the evidentiary</p> <p>8 process. So there would still be opportunities for</p> <p>9 input and still opportunities for the agency to get</p> <p>10 that information through information requests if</p> <p>11 necessary. So if it's something that would be cured</p> <p>12 simply through information requests, it may not be</p> <p>13 something that's necessary. Or if it's some large</p> <p>14 portion of the project that just wasn't included</p> <p>15 that this agency always receives, then the presiding</p> <p>16 officer has the discretion to delay it as necessary.</p> <p>17 So I think the agency would need to</p> <p>18 justify to the presiding officer for the delay why</p> <p>19 it would be needed before we have to move forward</p> <p>20 with evidentiary hearing. That ends up being the</p> <p>21 communication between the EFSB and all the other</p> <p>22 agencies, and we encourage a lot of discussion, open</p> <p>23 communication.</p> <p>24 COMMISSIONER HEIPLE: Thank you.</p>

<p style="text-align: right;">Page 118</p> <p>1 SECRETARY TEPPER: I was wondering if 2 you could talk a little bit about -- maybe everybody 3 else gets this. But I'm not sure I get the baseline 4 standards and what they're used for. We don't 5 currently have baseline standards written out at the 6 EFSB. 7 So I guess I'm just not getting what 8 they are and why we need them. 9 MR. TARR: So baseline standards were 10 included as part of the statute. Some of that 11 language was incorporated from the statute itself, 12 as far as incorporating baseline standards for 13 health and safety. I think that's part of the 14 reason why we included it there. 15 It's so that the Board would have the 16 option of being able to establish those standards 17 but not necessarily forcing the Board to establish 18 them right now if it's not feasible or not 19 realistic. 20 I'm going to turn it over to Director 21 Greene. Do you have any additional comments 22 regarding the baseline standards? I know this was 23 more of a contentious section that we've gone back 24 and forth a number of times about what that should</p>	<p style="text-align: right;">Page 120</p> <p>1 something. So we've used that standard. We've 2 referred to it. We don't necessarily have a 3 superbright line that if you're at 10 that's good 4 enough. We try to avoid, minimize, and mitigate. 5 That's part of our requirement, too, so that if 6 projects come in with a lower level of noise, that's 7 great, but the standard is 10 dB, but that's the 8 standard we've used from DEP. That's one example. 9 SECRETARY TEPPER: Is the intent that 10 you're going to literally have a list of standards 11 that are going to try to encompass every permit that 12 everybody meets? 13 MR. GREENE: It sounds pretty daunting, 14 the way you put it. I don't think I want to sign up 15 for that. But I think we could incorporate by 16 reference that, yes, we are embracing established 17 regulatory standards that are used by the following 18 State permitting agencies, that, again, will be 19 developed through the DOER consolidated local 20 permitting process, which really is setting the 21 foundation for the whole local component of 22 consolidated permitting. 23 So that we don't have to necessarily 24 compile the encyclopedia of baseline standards, but</p>
<p style="text-align: right;">Page 119</p> <p>1 include and the language for that section. 2 MR. GREENE: I agree that the statute 3 doesn't give us discretion. We have to check the 4 box that says we have baseline health, safety, and 5 environmental and other standards. That's the 6 language in the Act. How we accomplish that is to 7 be determined. 8 So again, the thought process that I 9 think most of the staff have is that there are 10 plenty of existing standards that are used by other 11 State agencies that are useful and well known. 12 We've not codified them and collected them and 13 compiled them into a compendium of, quote, "baseline 14 standards." We could do that. We could refer to 15 standards that are used by agencies like MassDEP, 16 incorporate those by reference. But generally 17 speaking -- 18 SECRETARY TEPPER: How are they used? 19 What are you using them for? You cannot get 20 approval from the EFSB unless you meet the following 21 standards? Is that what it is? 22 MR. GREENE: Just as an example, think 23 of noise. MassDEP has had a 10-dB-over-background 24 condition as their noise policy since 1970-</p>	<p style="text-align: right;">Page 121</p> <p>1 we can certainly reference the ones that exist, and 2 there may be some uncertainty as to -- I'm not 3 really sure that these other agencies have been all 4 that clear about some of their standards, either. 5 So that could not always be a bright line or easily 6 discerned requirement. 7 So there may be some need to articulate 8 with greater specificity what a baseline standard is 9 even when incorporating it, let's say, by reference. 10 But this is a very tricky and 11 challenging part of the statute -- 12 SECRETARY TEPPER: What does it say 13 today? 14 MR. GREENE: Maybe I should let a lawyer 15 answer that. 16 MR. WANG: Could I interject? 17 SECRETARY TEPPER: Please, go ahead. 18 MR. WANG: I think, Chair, you're asking 19 about application of the standards, having a list. 20 So the team has discussed that sort of 21 currently there's no standard. So we spend an 22 inordinate amount of time in analysis and findings 23 discussing things that could be clearer with, okay, 24 this complies with MassDEP noise, therefore we find</p>

<p style="text-align: right;">Page 122</p> <p>1 that it's avoided, mitigated, and minimized the 2 noise impact. So that could be an efficiency in 3 that way, where we have enumerated standards that we 4 don't have to torture ourselves to describe over 5 five pages and then ultimately say, "And they also 6 comply with MassDEP, therefore we find this to be 7 avoided and minimized and mitigated." So that's a 8 potential application that we're looking at for 9 standards.</p> <p>10 MR. TARR: Just to back that up: So 11 this would be applied to what I believe is 13.03, 12 all of the different application sections that we 13 would be describing and request be included, which 14 are detailed ad nauseam within the guidance 15 documents, so as far as what needs to be included.</p> <p>16 So this section is incorporated into the 17 entire application, so this is applied to all the 18 different sections.</p> <p>19 MR. GREENE: One other just example, if 20 I may, to illustrate what the opportunity is here: 21 Magnetic fields. I mentioned that that's kind of an 22 issue that really focuses EFSB review and is not 23 part of the permitting landscape generally.</p> <p>24 There are many different groups and</p>	<p style="text-align: right;">Page 124</p> <p>1 concerns and questions. But generally speaking, 2 guidance is more flexible and can evolve as 3 knowledge changes and practices inform our thinking.</p> <p>4 So going through a reg. process is very, 5 very time-consuming.</p> <p>6 SECRETARY TEPPER: I'm not suggesting 7 that it should be a reg. process. I was just trying 8 to understand where it would be.</p> <p>9 Ms. Evans, what does the statute say?</p> <p>10 MR. TARR: I've been provided with a 11 copy of the statute.</p> <p>12 MS. EVANS: On paper.</p> <p>13 SECRETARY TEPPER: This is in what 14 section?</p> <p>15 MR. TARR: This is in 69T, Subsection d, 16 so applying to all large -- or all large facilities 17 under the EFSB jurisdiction. "The board shall 18 establish the following criteria governing the 19 siting and permitting of large clean energy 20 infrastructure facilities:" Subsection i, "a 21 uniform set of baseline health, safety, 22 environmental, and other standards that apply to the 23 issuance of a consolidated permit."</p> <p>24 So the statute specifically requests us</p>
<p style="text-align: right;">Page 123</p> <p>1 organizations that have put out their own notion of 2 what's an acceptable magnetic field exposure level. 3 The Institute of Nonionizing something Protection -- 4 ICNIRP is the acronym -- has a 2,000-milligauss 5 exposure level. The Siting Board has never allowed 6 a 2,000-milligauss exposure level in any of our 7 cases, but we acknowledge that that standard exists 8 and it has scientific foundation.</p> <p>9 But there are other standards. The 10 World Health Organization has a standard and many 11 others have a standard. We do not have a specific, 12 articulated, enshrined standard in regulation. 13 Other PUCs or siting entities around the country, 14 some of them do. New York State has a 200- 15 milligauss edge-of-right-of-way exposure limit, and 16 it's pretty much of a bright line. If you're below 17 200 milligauss at the edge of a right-of-way, that's 18 okay.</p> <p>19 SECRETARY TEPPER: But you're going to 20 do these standards in guidance?</p> <p>21 MR. GREENE: The alternative would be to 22 have them addressed in the regulation. So that 23 boundary between what's in a regulation versus 24 what's a guidance raises a whole other set of</p>	<p style="text-align: right;">Page 125</p> <p>1 to provide some baseline. I'm sure health in ten 2 years will be a little different than health now.</p> <p>3 SECRETARY TEPPER: I certainly would be 4 interested in seeing in people's comments what they 5 think should happen with that. It just seems to me 6 to go through every possible permit that people are 7 going to have that have to do with health, safety, 8 environmental, and making some list of things that, 9 you know, are the standard -- that makes me nervous.</p> <p>10 MR. TARR: I think that the standard 11 would be an acceptable standard that it would be an 12 automatic yes, is what we're trying to search for. 13 So if anything was above that, it doesn't mean that 14 it's no, it just means that further explanation or 15 analysis is needed.</p> <p>16 SECRETARY TEPPER: Right.</p> <p>17 COMMISSIONER HEIPLE: I'll just add that 18 as part of that discussion we should try to 19 contemplate things changing over time -- not just 20 lessons learned from previous applications, but if 21 an agency updates their standard that informed your 22 standard, is there some sort of automatic process? 23 Are we on notice to notify the Board that if one of 24 our standards has been swept in as a baseline</p>

<p style="text-align: right;">Page 126</p> <p>1 standard and we make a change to that policy or that 2 standard, that we notify you in some way? Does that 3 then change in the baseline standards? So we should 4 all think through how those are evergreen. 5 MR. TARR: I would hope if you are an 6 intervenor in the case you would make sure that the 7 Board is aware. 8 COMMISSIONER HEIPLE: If we change the 9 10 dBa -- I'm not suggesting that we will. But if 10 we did, yes, of course we would make you aware of 11 that. But as an applicant coming in and seeing that 12 that 10 dBa is still reflected as a baseline 13 standard, I think you have a different argument that 14 you don't necessarily need to comply with something 15 that may be more stringent in the future. 16 MR. TARR: And I think that's why the 17 incorporation by reference would probably be the 18 best option moving forward, because there's so many 19 different agencies that have so many different 20 policies moving around that that would probably be 21 our safest option, so that we are amenable to change 22 and it adapts as things are happening, rather than 23 waiting for us to ratify and going through and 24 acknowledging -- if it's whatever you say it is --</p>	<p style="text-align: right;">Page 128</p> <p>1 a draft permit, looking at what their draft permits 2 normally look like. 3 But we try to get draft permits now in 4 the certificates from the permitting agency to 5 incorporate that into the certificate. 6 MR. GREENE: I just wanted to add one 7 more comment, if I may. What you said about being 8 concerned about trying to develop a list of baseline 9 standards and how daunting that sounds, I couldn't 10 agree with you more. 11 The problem is that, if there isn't 12 someplace you can go and find what the applicable 13 standard is around a particular impact or a permit, 14 then it just leaves the issue open for argument in 15 the case, which usually leads to a protracted 16 proceeding and more time and greater likelihood of 17 bumping up against the statutory deadline and having 18 an automatic decision. 19 So there are some pretty impressive 20 efforts, I will say, by some of our peer states and 21 other places that have gone through this process to 22 really compile standards and articulate them with 23 specificity, and it provides certainty around how 24 issues get adjudicated in cases and makes it easier</p>
<p style="text-align: right;">Page 127</p> <p>1 COMMISSIONER HEIPLE: That's the 2 best-case scenario. 3 MS. EVANS: Just one thing else I wanted 4 to add, is that's one of the reasons why we wanted 5 to go with the aggregation model for the 6 consolidated permit, so that we are reflecting the 7 substantive rules in the various permitting agencies 8 that are out there, and as those rules evolve, they 9 would show up in our -- we're relying on your 10 substantive rules except for the actual orphan 11 issues that Andy has talked about, to review these 12 permits. 13 SECRETARY TEPPER: How does it work in 14 the certificate process right now? 15 MS. EVANS: So the certificate process, 16 we usually get copies of craft permits at least from 17 the agencies with the larger permits -- we get a 18 draft Chapter 91 or we get a draft air permit from 19 DEP, and we end up incorporating that in the 20 certificate. 21 Sometimes a permitting agency sometimes 22 at the local level does not want to provide us with 23 a draft permit because they do not want the 24 particular facility involved. Then we will develop</p>	<p style="text-align: right;">Page 129</p> <p>1 to achieve a timely decision. It may not be as 2 custom-tailored and maybe not as thoughtful as some 3 of the cases and issues that we've wandered into 4 over years, but, you know, our approach has not been 5 efficient. So we're balancing the burden of 6 compiling a lot of information upfront versus having 7 to adjudicate everything in a case. 8 SECRETARY TEPPER: I hear you. It would 9 be just a lot easier if the only thing you had to do 10 was do one step with the EFSB. I'm just thinking 11 about all the other permits that one would possibly 12 have to get. Maybe it's not as hard as I think. 13 MR. TARR: I think part of the other 14 concern would be that if there's a permit that's 15 missed or an agency that's omitted, if there was 16 just one application, we wouldn't be aware of that, 17 or we might not be aware of that. So this is just 18 to make sure that everybody is fully aware of every 19 permit that they're anticipating that they're 20 receiving. 21 So I think this is just putting a lot of 22 the onus on the applicant to make sure that they do 23 their due diligence in the background, so that when 24 they come before us, they know exactly what they're</p>

<p style="text-align: right;">Page 130</p> <p>1 getting at the end of the day.</p> <p>2 SECRETARY TEPPER: I may have forgotten</p> <p>3 how this works. But when you issue the consolidated</p> <p>4 permit, you're actually issuing all the individual</p> <p>5 permits? Or are you issuing one thing?</p> <p>6 MR. TARR: So the issuance of the</p> <p>7 consolidated permit is as if all of those agencies</p> <p>8 issued their own permits. And then they're required</p> <p>9 to enforce --</p> <p>10 There is the option that we could have</p> <p>11 done a consolidated permit that issues one thing and</p> <p>12 then they all have to comply and hope they know what</p> <p>13 they're complying with. In order to give clarity to</p> <p>14 all of the agencies and the local governments that</p> <p>15 are going to be enforcing this, we're trying to</p> <p>16 provide them with what they already know and what</p> <p>17 they've already experienced. So that's why we're</p> <p>18 trying to do it in the aggregate model, so that</p> <p>19 they're fully aware and know what they're already</p> <p>20 enforcing and that there's clarity from our side and</p> <p>21 theirs.</p> <p>22 SECRETARY TEPPER: Understood. Other</p> <p>23 questions from the Bench?</p> <p>24 So let's move on to comments from the</p>	<p style="text-align: right;">Page 132</p> <p>1 and in particular the Siting Board staff have</p> <p>2 invested in developing proposals, drafting</p> <p>3 preliminary regulations, and organizing</p> <p>4 opportunities to engage with stakeholders. These</p> <p>5 interim actions -- we've talked a little bit about</p> <p>6 efficiency and how important interim actions are.</p> <p>7 And these are really critical to getting to the</p> <p>8 March 2026 -- getting to July 2026. It's coming</p> <p>9 fast. It's pretty impressive that we are looking at</p> <p>10 preliminary draft regulations at this point, as</p> <p>11 people can see more specifically what's being</p> <p>12 appropriate and how issues are being handled. So we</p> <p>13 really appreciate that.</p> <p>14 I know for most of us, I'll say it</p> <p>15 again, because we know how hard you work, we know</p> <p>16 how hard the staff work, this is a second job for</p> <p>17 most of us as well as for you. It's also an amazing</p> <p>18 opportunity.</p> <p>19 So we will be providing written</p> <p>20 comments. I also wanted to note, I think it's clear</p> <p>21 to everyone, we've been trying to align with</p> <p>22 National Grid all along the way here to ensure</p> <p>23 you're hearing from two utilities with a single</p> <p>24 voice. So she's going to address some more specific</p>
<p style="text-align: right;">Page 131</p> <p>1 Commission.</p> <p>2 MS. BUCKLEY: Thank you for offering</p> <p>3 this opportunity today to speak to you and to hear</p> <p>4 questions. My name is Deirdre Buckley. I'm with</p> <p>5 Eversource Energy. I am representing Katherine</p> <p>6 Finneran, who is one of the Commission members and</p> <p>7 who couldn't be here today. But she did want to</p> <p>8 pass along her appreciation for all of the</p> <p>9 opportunities we've had to look at draft</p> <p>10 regulations, look at proposals, and talk with not</p> <p>11 only your staff but lots of other stakeholders about</p> <p>12 these issues.</p> <p>13 The Healey administration it's very</p> <p>14 clear to us has demonstrated its commitment to</p> <p>15 accelerating deployment of clean energy</p> <p>16 infrastructure, ensuring opportunities for</p> <p>17 meaningful engagement, and requiring that the</p> <p>18 benefits of the clean energy transition are shared</p> <p>19 equitably in the Commonwealth. An efficient and</p> <p>20 effective process is needed to ensure reliability,</p> <p>21 equity, and least-cost outcomes for customers and</p> <p>22 for residents.</p> <p>23 We sincerely appreciate the significant</p> <p>24 commitment and thoughtfulness EEA and its agencies</p>	<p style="text-align: right;">Page 133</p> <p>1 comments and I'm going to talk a little bit more</p> <p>2 generally.</p> <p>3 My focus is more on context that's kind</p> <p>4 of guided our considerations for evaluating these</p> <p>5 proposals and regulations and informed our comments</p> <p>6 and recommendations. It's been helpful to me to</p> <p>7 have some key things to think about. Some of you</p> <p>8 have heard these already several times from me.</p> <p>9 Some of you haven't. So I just will be repeating</p> <p>10 them here.</p> <p>11 I also want to say, we've seen it</p> <p>12 reflected in the process. So some of these issues,</p> <p>13 you know, people are thinking of these issues. So</p> <p>14 every element of the process from early engagement</p> <p>15 to completeness determinations, hearings, and</p> <p>16 drafting of decisions and conditions contributes to</p> <p>17 its overall effectiveness and our ability to meet</p> <p>18 deadlines. That's been clear here today. Secretary</p> <p>19 Tepper has mentioned a couple of times.</p> <p>20 I love completeness determinations.</p> <p>21 It's really important. Who wants to waste their</p> <p>22 time reading a 200-page report and then find out</p> <p>23 it's been pulled because it's not complete. It's</p> <p>24 the worst thing for State agencies, it's bad for</p>

<p style="text-align: right;">Page 134</p> <p>1 residents, for people who are interested.</p> <p>2 So all of these things hang together;</p> <p>3 right? They're all important to the process, and we</p> <p>4 need to look at how they connect.</p> <p>5 Just as Secretary Tepper said, wherever</p> <p>6 we can increase efficiency in the process, the</p> <p>7 opportunity should be taken. So it's a 12-month</p> <p>8 process. It's short. It's intended to be</p> <p>9 efficient. You know, if you lose a week here, if</p> <p>10 you lose a week there, it's really going to affect</p> <p>11 your overall time frame. So we don't want to be at</p> <p>12 the end of the process having to catch up.</p> <p>13 Building on what works: We are doing</p> <p>14 something new, consolidated very different, but</p> <p>15 building on what works while integrating these new</p> <p>16 approaches to supporting efficiency.</p> <p>17 So one recommendation that would avoid</p> <p>18 confusion and introduction of opportunities to</p> <p>19 appeal is that, you know, new rules must be clear,</p> <p>20 flexible, and consistent with the explicit language</p> <p>21 of the Act. In addition, wherever possible,</p> <p>22 referring to existing underlying regulatory language</p> <p>23 and defined terms rather than introducing new</p> <p>24 terminology has been helpful, and we've seen that</p>	<p style="text-align: right;">Page 136</p> <p>1 may be cases where discovery and evidentiary</p> <p>2 hearings are not necessary, so taking advantage of</p> <p>3 that flexibility where it's appropriate.</p> <p>4 In addition, continuing to lean on</p> <p>5 extensive experience of siting staff and State</p> <p>6 agencies to tackle these challenges. Massachusetts</p> <p>7 has an incredible number of very smart, experienced</p> <p>8 people who are working at EEA and their agencies,</p> <p>9 and so depending on them to help support this</p> <p>10 process. Again, we can clearly see how involved</p> <p>11 they've been, and it definitely is making this</p> <p>12 process more effective.</p> <p>13 It's also been talked about how this is</p> <p>14 an adjudicatory process, so like a trial. So it</p> <p>15 includes extensive opportunities for discovery, also</p> <p>16 known as information-gathering, testimony, and</p> <p>17 discussion of substantive issues. So keeping that</p> <p>18 in mind in terms of thinking about what do you need</p> <p>19 on the front end and what are you going to develop</p> <p>20 during the process. That can be a powerful way to</p> <p>21 increase efficiency also.</p> <p>22 All of you have been appointed based on</p> <p>23 your experience and expertise. You know, you're</p> <p>24 going to be using your judgment and your discretion</p>
<p style="text-align: right;">Page 135</p> <p>1 reflected in some of the draft regulations.</p> <p>2 Each project and its review is highly</p> <p>3 technology- and location-specific. Potential</p> <p>4 impacts and benefits vary significantly, and</p> <p>5 incorporating flexibility is necessary for an</p> <p>6 effective review of all different types of projects.</p> <p>7 We are concerned with clean transmission</p> <p>8 and distribution, but there are many other projects</p> <p>9 that will be coming before the Board.</p> <p>10 And to be able to adapt this process</p> <p>11 over time as new technologies and challenges emerge.</p> <p>12 It's easy to say this. It's really hard to do it.</p> <p>13 But trying to strike that balance between what is</p> <p>14 guidance and what is in regulations and where is it</p> <p>15 important to distinguish between those two.</p> <p>16 So we did want to support, as permitted</p> <p>17 by the Act, establishing interim deadlines and</p> <p>18 procedures for different types of projects within</p> <p>19 those 12- and 15-month deadlines. So there could be</p> <p>20 projects that are fairly straightforward with</p> <p>21 relatively few impacts, and so having perhaps, you</p> <p>22 know, a shorter time frame for those projects.</p> <p>23 Thinking about using procedures where</p> <p>24 appropriate to tailor the process. So again, there</p>	<p style="text-align: right;">Page 137</p> <p>1 to balance these various factors on project</p> <p>2 reliability, cost, viability, and community impacts,</p> <p>3 and statewide interest.</p> <p>4 I wanted to note, the Climate Act did</p> <p>5 expand the Board from nine to Eleven, so there are a</p> <p>6 couple of new nonvoting positions, and in addition,</p> <p>7 public members have increased from three to four.</p> <p>8 One of the challenges in the past has been</p> <p>9 scheduling Siting Board hearings, so this is one of</p> <p>10 the things that's practical and not as exciting as</p> <p>11 new policies and new regulations, but being able to</p> <p>12 establish regular Siting Board meetings on an</p> <p>13 ongoing basis, make sure we have a quorum where we</p> <p>14 need it, and available to make decisions and avoid</p> <p>15 unnecessary constructive approvals.</p> <p>16 I can say we absolutely do not want any</p> <p>17 constructive approvals. We want our projects to be</p> <p>18 reviewed thoroughly and rigorously, and we want to</p> <p>19 demonstrate that we're meeting all of the criteria</p> <p>20 that we need to in order to get approval.</p> <p>21 In addition, so it will provide</p> <p>22 consistency for Board members but also for members</p> <p>23 of the public, for stakeholders who want to</p> <p>24 participate. The participation in these hybrid</p>

<p style="text-align: right;">Page 138</p> <p>1 meetings has been excellent from the point that it's 2 got introduced to the process. I know Andy in 3 particular has worked really hard to make these 4 hybrid meetings work, and they really do, and they 5 give so many people an opportunity to participate 6 who haven't been able to participate in the past. 7 I should probably breathe. I also want 8 to thank you for filling up my beach book list. I 9 didn't have to think about what books I would read 10 this summer. 11 So in addition, I just want to note on 12 transition rules, we've talked a little bit about 13 transition rules and the need for them. So what is 14 the process going to look like for projects that we 15 file from now until July 2026? And if we have 16 projects that haven't been reviewed and approved, 17 what's going to happen once July 1st comes around, 18 and how do we manage that transition? So that's 19 something else to think about, and we look forward 20 to working with you on that. 21 We also, again, appreciate these draft 22 regulations and look forward to seeing the 23 preliminary regulations on cumulative impacts 24 analysis as well as pre-filing engagement.</p>	<p style="text-align: right;">Page 140</p> <p>1 Our biggest concern is really about 2 making this process work. To deliver the promise of 3 the Climate Act, you're going to have to develop a 4 practical, functional process for permitting clean 5 energy projects. The rules governing this process 6 need to be clear, they need to be flexible, they 7 need to be internally consistent, and really 8 importantly, they need to be consistent with the 9 explicit language of the Act. 10 I think we all know what happens when 11 the Board does not cling closely to their guiding 12 statute and end up on appeal. 13 It also needs to be ready -- the process 14 is going to need to be ready for projects that are 15 going to come to you in 2026. We're developing the 16 applications for those projects now, and we're 17 looking for as much guidance as we possibly can get 18 from you. 19 The advance proposals that we've seen up 20 until now are thoughtful, they're thorough. We 21 really appreciate the detailed focus on how things 22 are going to work. They also do raise issues where 23 further stakeholder input might be important. I'm 24 going to just list a couple of these in no</p>
<p style="text-align: right;">Page 139</p> <p>1 So thank you for the opportunity again. 2 I appreciate it, and look forward to the rest of the 3 session. 4 MS. MATTHEWS: I'm Diedre Matthews, 5 which I think most of you know, and I'm here on 6 behalf of National Grid, which is a member of the 7 CEISP. My comments today are going to be pretty 8 short and focused mostly on a first reading of the 9 documents that have been posted to the website over 10 the last week. 11 As you know, the Climate Act of 2024 12 established a one-stop process for permitting 13 certain clean energy projects, including some but 14 not the majority of electric utility projects. The 15 Act put the responsibility of creating this new 16 process on the Siting Board and its staff for the 17 most part. Since the law was passed, Siting Board 18 staff and their partners in the Department and EEA 19 have worked tirelessly on implementation. We are 20 grateful for their work. We hope you can get some 21 sleep soon. 22 I'd like to thank the Board for issuing 23 early drafts of the rules and guidance for 24 discussion.</p>	<p style="text-align: right;">Page 141</p> <p>1 particular order. 2 First of all, completeness: I think we 3 all agree that the presiding officer's completeness 4 determination is critical to the consolidated 5 process because it starts the Board's clock. 6 The draft rules on completeness right 7 now reference a guidance document which in its 8 current form requires really detailed analyses on a 9 wide range of issues, many of which are not going to 10 be relevant to a given project. So for avoidance of 11 confusion, we think that the final rules and 12 guidance should make it clear that you'll deem an 13 application complete if it addresses all material 14 impacts of the project, recognizing that the Siting 15 Board is going to develop comprehensive records, so 16 it doesn't have to be the last word. 17 On the guidance documents generally, I 18 think they are really a great idea. We really do 19 appreciate that you are looking to incorporate 20 things into guidance so that we have some 21 flexibility. We do suggest holding some technical 22 sessions, so that we can ensure that all the filing 23 requirements, standard conditions, everything in the 24 guidance documents are practical and technically</p>

<p style="text-align: right;">Page 142</p> <p>1 feasible.</p> <p>2 It may also make sense to limit the</p> <p>3 scope of the guidance documents initially, get fewer</p> <p>4 things correct rather than a multiplicity of detail</p> <p>5 that's maybe not quite correct.</p> <p>6 On the cumulative impact analysis, the</p> <p>7 Climate Act specifically requires applicants to</p> <p>8 submit a written cumulative impact report with their</p> <p>9 application that assesses existing impacts and</p> <p>10 burdens on the project area and proposes remedial</p> <p>11 actions for any disproportionate adverse impacts.</p> <p>12 To us, this means that under the Climate</p> <p>13 Act the cumulative impact analysis is an impact</p> <p>14 assessment and not really a route selection tool. I</p> <p>15 know there can be some discussion around that, but</p> <p>16 for avoidance of appeals, we urge you to make sure</p> <p>17 that whatever you do on the cumulative impact</p> <p>18 analysis is consistent with the Climate Act.</p> <p>19 One topic that we have not discussed at</p> <p>20 all, except some references in the guidance</p> <p>21 document, is a noticed-alternative requirement. We</p> <p>22 suggest that the Board reconsider noticing</p> <p>23 alternative routes or sites as part of a</p> <p>24 consolidated permitting process. Practically</p>	<p style="text-align: right;">Page 144</p> <p>1 other members of the CEISP, and all the interested</p> <p>2 stakeholders on practical, functional consolidated</p> <p>3 permitting for clean energy.</p> <p>4 One thing in passing: This is not a</p> <p>5 brand-new format that you are working with here. We</p> <p>6 file this kind of application in New Hampshire</p> <p>7 frequently. Don't be afraid of it; it's possible.</p> <p>8 Thank you.</p> <p>9 SECRETARY TEPPER: Anybody from the</p> <p>10 lawyers group? Anyone online? Mr. Kaplan, you're</p> <p>11 going to go next. We're going to have Mr.</p> <p>12 Rosenzweig go first.</p> <p>13 MR. ROSENZWEIG: David Rosenzweig, an</p> <p>14 attorney at Keegan Werlin, and I was a member of</p> <p>15 SPAG throughout the development of the proposed</p> <p>16 legislation that led to the 2024 Climate Act. I</p> <p>17 also represent Eversource and National Grid on many</p> <p>18 siting matters. I'm here really speaking on their</p> <p>19 behalf and not as a SPAG member.</p> <p>20 One of the issues, or the issue I wanted</p> <p>21 to address was really relating to zoning. That's</p> <p>22 come up in conversations. I think it requires</p> <p>23 further consideration by the Board. I have a lot of</p> <p>24 respect, tremendous respect, for the staff. They do</p>
<p style="text-align: right;">Page 143</p> <p>1 speaking, when you move a project like a</p> <p>2 transmission line to an entirely different location,</p> <p>3 it creates a different project, different impacts,</p> <p>4 and necessarily different permitting requirements.</p> <p>5 The Board, the applicant, the reviewing</p> <p>6 agencies, and the public cannot pivot from one</p> <p>7 project to another in the middle of a consolidated</p> <p>8 proceeding, and I think we should stop pretending</p> <p>9 they can.</p> <p>10 Finally, just on site suitability: As</p> <p>11 Secretary Judge noted, the Climate Act requires EEA</p> <p>12 to develop site suitability criteria for the very</p> <p>13 small subset of clean T&D facilities that are</p> <p>14 located in a newly established public right-of-way.</p> <p>15 And I really appreciate the thoughtful approach</p> <p>16 you've taken to that. There still are some</p> <p>17 artifacts in drafting, I think, in both the draft</p> <p>18 rules and the guidance that suggest all T&D projects</p> <p>19 have to address site suitability criteria. Just</p> <p>20 something to do in the next round.</p> <p>21 So those are just a couple of thoughts</p> <p>22 prompted by a first reading of the documents. We'll</p> <p>23 be filing substantially more detailed comments, and</p> <p>24 we really look forward to working with you, with</p>	<p style="text-align: right;">Page 145</p> <p>1 hard work. They really know their business. And I</p> <p>2 think a closer look should be taken at the</p> <p>3 particular statute involved and what the legislature</p> <p>4 contemplated.</p> <p>5 The operative language about Section 69T</p> <p>6 authority appears in Section 74 of the Act. And the</p> <p>7 last sentence of that section of the Act says, "A</p> <p>8 consolidated permit, if issued, shall be in the form</p> <p>9 of a composite of all individual permits, approvals,</p> <p>10 or authorizations that would otherwise be necessary</p> <p>11 for the construction and operation of the" large</p> <p>12 clean energy infrastructure facility.</p> <p>13 So the first task for an agency is what</p> <p>14 do the words in the statute mean, to try to</p> <p>15 interpret the statute in accordance with those plain</p> <p>16 words. The staff has actually and the Board</p> <p>17 actually has interpreted this language in analogous</p> <p>18 circumstances, and that is certificate cases. The</p> <p>19 language is precisely the same. And the only</p> <p>20 limitation that the legislation put on the language</p> <p>21 in the 2024 Climate Act is that the scope of</p> <p>22 authority for the Siting Board to issue a</p> <p>23 consolidated permit shall not include any State</p> <p>24 permits that operate under delegated authority from</p>

<p style="text-align: right;">Page 146</p> <p>1 Federal agencies. Other than that, there was no 2 limitation. 3 This same language that I'm referring to 4 in the 2024 Climate Act has been interpreted by the 5 Siting Board on numerous occasions in certificate 6 proceedings and has been reviewed by the SJC. The 7 Siting Board has interpreted the language broadly 8 and interpreted it as a grant of authority by the 9 legislature to grant any and all permits that would 10 otherwise be required for a facility. 11 And indeed, in some of the certificate 12 cases that the Siting Board has litigated, it has 13 included zoning relief. There are two cases. One 14 involved Footprint Power in 2014. One involved a 15 special permit authority under local zoning bylaws 16 for IEC Bellingham in 2001. Secretary Tepper may be 17 familiar with that one. 18 So as a matter of consistency, not just 19 with the plain words, I see no basis for the Siting 20 Board taking a different interpretation with respect 21 to the scope of the consolidated permit for Section 22 69T than it has taken for certificate authority 23 under Section 69K or K1/2, for which it's granted 24 consolidated permits in the past.</p>	<p style="text-align: right;">Page 148</p> <p>1 that. We've touched upon a couple of those already, 2 dealing with some of the local consolidated 3 permitting and what if some of that authority 4 reverts back to the Siting Board, would they have 5 the authority under their statute for 69U or 69T to 6 grant the zoning relief without a separate zoning 7 petition. 8 I think there's dangers to including a 9 separate requirement for zoning petitions to 10 accompany Section 69T applications, because not only 11 is it unnecessary, but it does raise the issue of 12 under a constructive approval whether the Zoning 13 Act, Chapter 40A, Section 3, authorizes constructive 14 approvals. 15 So I think the better approach, the 16 clearer approach, consistent with your historical 17 interpretation of those words, is to ensure that the 18 consolidated permit you grant is comprehensive in 19 nature and includes zoning-related relief where it's 20 warranted under the facts, and as a matter of 21 authority, that you have the power to do so. 22 SECRETARY TEPPER: Can you just remind 23 us in the certificate proceedings, how is the zoning 24 dealt with in the application process?</p>
<p style="text-align: right;">Page 147</p> <p>1 The SJC has also opined on this issue. 2 In one of the Cape Wind cases -- it's under the name 3 of Alliance to Protect Nantucket Sound. And they 4 found that this language was an express delegation 5 of authority to the Siting Board to grant all 6 permits and to step into the shoes of those 7 agencies, and that the word "all" in the statute 8 means all. 9 There's no particular limitation that 10 was implied by the legislature where they intended 11 to limit the authority of the Siting Board with 12 respect to the permits granted. They said so 13 explicitly. Otherwise it was comprehensive in 14 nature. The only limitation that I mention here is 15 the issue of delegated authority for State permits 16 that operate under Federal law. 17 So I think you have a very strong basis 18 to interpret the statute, the operative language for 19 consolidated permits, consistent with how you've 20 interpreted in the past for certificates and 21 consistently with how that language is stated in the 22 2024 Climate Act. 23 I also think there could be some 24 unintended consequences if you didn't interpret</p>	<p style="text-align: right;">Page 149</p> <p>1 MR. ROSENZWEIG: So when we file the 2 application -- I've done -- there's been about nine 3 or ten certificate cases. I've done the majority of 4 them. And what happens is, in the application that 5 you file, you file for all permits that are required 6 for a particular facility. You provide information 7 regarding the status of those permits. If one of 8 them lacked zoning relief or required zoning relief, 9 you would specify what individual or comprehensive 10 zoning exemptions you seek. You'd request them. 11 You'd say that this is one of these permits and 12 approvals that are within the scope of the 13 certificate authority. And it does not require a 14 separate 40A, Section 3 petition in order for the 15 Siting Board to grant that authority. 16 SECRETARY TEPPER: Questions for Mr. 17 Rosenzweig? Thank you. 18 Does staff want to talk about this at 19 all? 20 MS. EVANS: Thank you, Mr. Rosenzweig. 21 Yes. So it is a legal interpretation. I will note 22 that in the certificates in the past usually the 23 zoning exemption has been dealt with in the petition 24 to construct before you get to a filing for a</p>

<p style="text-align: right;">Page 150</p> <p>1 certificate. So the zoning exemption isn't asked as 2 part of the certificate; it was already granted 3 below by the Siting Board. 4 So I think there are some differences. 5 SECRETARY TEPPER: The Chapter 40, 6 Section 3 petition? 7 MS. EVANS: That's correct. It was 8 filed and consolidated with the 69K and 69J order 9 when the Board initially makes the decision on the 10 project. 11 So I think there are some differences 12 with the certificate statute. It is a legal 13 interpretation. 14 I will say that there is a memo that's 15 pending right now that goes through staff's 16 interpretation of the statute. 17 I think the bottom line is that the Act 18 does not address, explicitly address the situation 19 of zoning exemptions. I think it's because it was 20 contentious below, it was contentious during the 21 certificate -- the Commission process and the 22 legislative process, and the staff and the Act 23 didn't end up actually addressing the problem of 24 what do you do with zoning. It left it as a</p>	<p style="text-align: right;">Page 152</p> <p>1 think this is the way the Act is written. 2 SECRETARY TEPPER: Okay. Do you want to 3 respond, Mr. Rosenzweig? 4 MR. ROSENZWEIG: Two quick points. One 5 is on the two instances that I mentioned that zoning 6 relief was granted in certificate cases. Those were 7 in instances where the applicant, power plants, 8 attempted to get zoning relief locally and either 9 failed to get it, a special permit for a tank, or in 10 one instance, they actually got zoning relief but it 11 was subject to local appeal and the certificate 12 process was used to negate the effect of the appeal. 13 So in both instances it was not an 14 instance in which 40A, Section 3 authority was 15 previously granted in order for the Siting Board to 16 issue a certificate. It was inclusive of zoning 17 relief. 18 SECRETARY TEPPER: So they did or did 19 not get the 40A, Section 3 approval? 20 MR. ROSENZWEIG: At the first instance. 21 They did not get that from the Siting Board. They 22 applied locally for zoning relief. 23 SECRETARY TEPPER: They didn't have to 24 do a 40A, Section 3.</p>
<p style="text-align: right;">Page 151</p> <p>1 separate authority. It moved it to the Siting 2 Board, and several of the provisions in the Act 3 treat facilities differently, timing and who reviews 4 them, depending on whether or not they need a zoning 5 exemption. 6 The Act seems to anticipate that zoning 7 remains a separate authority. And I do agree that 8 it creates some practical considerations that need 9 to be worked out by staff, and we haven't worked all 10 of them out yet at this point in time. 11 But I think it is a legal interpretation 12 of the Act, and we have a little bit of a different 13 point of view on the interpretation. 14 SECRETARY TEPPER: Just quickly stepping 15 back from the legal interpretation: What is the 16 benefit of having them be separate things? What 17 makes it a better process or -- 18 MS. EVANS: I don't think it necessarily 19 does make it a better process. This is simply a 20 legal interpretation of the way the Act is written 21 right now, is I think that the Act does not include 22 zoning exemptions in the consolidated permit. But 23 it doesn't necessarily make it a better process. At 24 times it makes it a more complicated process. But I</p>	<p style="text-align: right;">Page 153</p> <p>1 MR. ROSENZWEIG: Correct. 2 SECRETARY TEPPER: So by the time it got 3 to the certificate, they then needed to get some 4 relief. 5 MR. ROSENZWEIG: Because they weren't 6 able to obtain that locally. So they needed zoning 7 relief. They tried to obtain it locally. They were 8 either unsuccessful or unduly delayed, and therefore 9 in the certificate requested that relief to be part 10 of the certificate. 11 The second point: I think General 12 Counsel Evans mentioned the issue of zoning is not 13 mentioned specifically in Section 69T, the section 14 of the Act that I read. And that is correct. But 15 neither is any other State or local permit. And the 16 fact that there's a separate statutory section that 17 would in some instances grant that authority, that's 18 true of every permit, frankly, every State and local 19 permit, whether it's conservation commission 20 approval, whether it's grants of location, whether 21 it's a Chapter 9 License. All of those things are 22 subject to their own statutory frameworks and normal 23 application by State or local agencies. 24 But that doesn't inhibit the ability of</p>

<p style="text-align: right;">Page 154</p> <p>1 the Siting Board -- the authority of the Siting 2 Board to grant those types of approvals within the 3 scope of a certificate and by analogy with the same 4 language for the consolidated permit. Thank you. 5 SECRETARY TEPPER: Thank you. 6 Mr. Kaplan. 7 MR. KAPLAN: Thank you so much, Madam 8 Secretary, and Board. My question sort of pertains 9 to the application completeness determination 10 process. I'm concerned that the issue of gaming the 11 system that we talked about earlier could actually 12 delay the process from even starting. 13 I didn't understand the consistency 14 between what Director Greene was talking about with 15 respect to the application guidance points and the 16 process that Mr. Tarr laid out with respect to input 17 from each agency. I thought that the completeness 18 process was just intended to be a 30-day time period 19 that I presumed would be some kind of a checklist 20 that could be easily reviewed by the EFSB. I 21 thought something Mr. Greene had discussed to 22 something that I now think I understand from 23 Mr. Tarr could actually take months by the time you 24 go to each agency, you fill out their application,</p>	<p style="text-align: right;">Page 156</p> <p>1 application would be after the prefilling is 2 completed and the application is then submitted to 3 the Board, the hearing officer or the presiding 4 officer would have 30 days to review and make a 5 determination. The 30 days is a statutory 6 requirement for 30 days of review. 7 If the hearing officer determines that 8 in that 30 days -- so this would include the 20 days 9 needed to respond by a permitting agency or a local 10 government to indicate any deficiencies -- if within 11 that 30 days the hearing officer hears nothing and 12 indicates that everything has been included, the 13 application would be deemed complete. 14 We would potentially need to add some 15 language. But if there are material deficiencies 16 that would prevent the application from being 17 effectively reviewed, then the applicant would be 18 notified by the presiding officer of the 19 deficiencies. They would need to provide additional 20 documentation and a cure. There would be a timeline 21 for that additional -- additional information to be 22 provided to the Board, typically probably 30 days, 23 or sooner, depending on the applicant's drive and 24 need to have a turnover and do it quickly.</p>
<p style="text-align: right;">Page 155</p> <p>1 you submit it to that agency, they have to ensure 2 completion, they could ask questions, they'll 3 probably get input from members of the public who 4 might be opposed to some of these projects. They 5 might come back and ask more questions before they 6 decide that the process is completed or the 7 application is completed. 8 If my math is correct, that could expand 9 this 12-to-15-month process to 24, 26 months, which 10 I think is inconsistent with the Secretary's goals 11 of streamlining the process. 12 So I just wanted to make sure, one, if I 13 understood that completely, that the completion 14 determination process could actually go on much 15 longer than 30 days. I'm hoping we could sort of 16 figure something out that would cut down on that 17 period. And if not, then I look forward to hearing 18 that I misunderstood. So thank you. 19 SECRETARY TEPPER: Thank you, 20 Mr. Kaplan. 21 MR. TARR: Thank you, Mr. Kaplan. I 22 want to clarify some of the completeness 23 determination timeline that I had originally issued. 24 So the vision that we have for an</p>	<p style="text-align: right;">Page 157</p> <p>1 And then the presiding officer would 2 have an additional 30 days to review the new, cured 3 application. That doesn't mean that the presiding 4 officer would need to take 30 days to make that 5 completeness determination. That could be done 6 sooner. There's no requirement that the clock would 7 need to be waited out. 8 There are some provisions if the 9 applicant is unprepared -- because this is a long 10 process, and if the applicant continuously provides 11 incomplete applications, then we would essentially 12 prevent them from providing additional cures for a 13 certain period, so that they can get their ducks in 14 a row before they can come back to the Board, 15 because of the resources it takes to provide notice 16 to all of the agencies as well as review all of the 17 applications, depending on length. Again, some of 18 these applications I anticipate to be at least 500 19 pages or more, depending on the project and 20 depending on the complexity. 21 So I don't envision it being a year. If 22 it is a year, that would be by request from the 23 applicant, to have an extension of time to provide a 24 cure, or the applicant under Section 1 would have</p>

<p style="text-align: right;">Page 158</p> <p>1 voluntarily withdrawn their application so that they 2 could correct any deficiencies long term that they 3 feel they couldn't make within the prescribed 4 timeline that the presiding officer provides. 5 MR. KAPLAN: But it does sound a little 6 bit to me, at least, that you're arguing your case 7 upfront to prove that your application is complete, 8 as opposed to what I thought Director Greene was 9 saying, which was you have your table of contents, 10 and if you have a section on, you know, the overview 11 and you have a section on need or whatever the 12 sections are, then you've completed your 13 application, and then the EFSB can ask discovery 14 requests and, you know, move on from there. 15 If you're having to demonstrate that 16 your application is complete substantively and 17 you've answered all the questions from various 18 agencies, I mean, then the 12 to 15 months doesn't 19 start -- which I understand 12 to 15 months is a 20 pretty short period of time to go through this 21 entire process, and I completely understand why the 22 Board would want as much information up front to 23 make sure that they could meet the 12-to-15-month 24 deadline.</p>	<p style="text-align: right;">Page 160</p> <p>1 of arguing your case and trying to demonstrate that 2 your analysis is actually what's needed. I mean, if 3 your analysis is not correct during the actual 4 hearing, you're not going to get approved. 5 SECRETARY TEPPER: Can I just ask a 6 quick question? Commissioner Heiple, when you're 7 doing a completeness determination, what is it that 8 you look for? 9 COMMISSIONER HEIPLE: I think part of 10 the major advantage to applicants here would be that 11 in this process, as I understand it, at least -- 12 we're still obviously going through everything -- we 13 typically do at DEP administrative completeness 14 review. Did you check every form, did you give us 15 the maps, forms, whatever documents that you need? 16 And then a technical completeness review, which is 17 more substantive. 18 Under this process, as I understand it, 19 those two completeness reviews would be combined in 20 record time, at least for us, to really make sure 21 that everything is set to start the clock here. 22 I don't think the point is to adjudicate 23 the project before the clock even starts, and I 24 don't think the point is -- we as an agency would</p>
<p style="text-align: right;">Page 159</p> <p>1 But it seems like there's an easy way to 2 game the system to have these projects never even 3 get started at the EFSB. 4 MR. TARR: And I understand the concern 5 that could be raised for that, for the indeterminant 6 amount of time that could end up happening and being 7 forlorn in the completeness determination process. 8 That is not the intention. The intention is also 9 not to answer every substantive question that would 10 be needed for the project. 11 The question is more so is there enough 12 information to actually get started? So if there's, 13 for instance, a significant number of maps that are 14 missing and not provided, if there's an attachment 15 that's not included that should have been part of an 16 analysis, or analysis was done completely 17 incorrectly and we've determined that, we're going 18 to ask that you fix that before we start our 19 12-month-to-15-month timeline. It's not a 20 comprehensive, substantive review. 21 MR. KAPLAN: I do understand that the 22 checklist of you missing a couple of maps is 23 different than your analysis is incorrect, because 24 once you're talking about your analysis, you're sort</p>	<p style="text-align: right;">Page 161</p> <p>1 not be going out -- Mr. Kaplan suggested there could 2 be some external component, getting some feedback 3 from other stakeholders or the public. We would not 4 intend to do that at DEP as part of the completeness 5 determination, just to be clear on that point. 6 So I think that the advantage is it 7 combines these processes and does so quite quickly. 8 MR. KAPLAN: Thank you. 9 SECRETARY TEPPER: I do think it's worth 10 us thinking about what exactly we think we're going 11 to be looking at in this process, in terms of your 12 sort of two processes, Commissioner -- you know, 13 what parts of that would you really be doing here. 14 I just think it's worth thinking about, if there's 15 an application that affects your agency or -- mostly 16 your agency, usually -- what would you want to see 17 ahead of time to say that it's complete? I think 18 it's worth maybe a chat with the Siting Board staff 19 on that. 20 MR. TARR: I would note as part of the 21 guidance documents that we've prepared, there's also 22 a completeness determination checklist that the 23 applicant would be requested to complete themselves. 24 So I believe that it was mentioned during earlier</p>

<p style="text-align: right;">Page 162</p> <p>1 comments that there are some sections that didn't 2 apply. 3 There would also be a section that 4 indicates that this is not applicable to my project 5 so therefore it is not included in this application. 6 There's actually a specific section that indicates 7 that if zoning is not part of your project, 8 affirmatively say we are not asking for zoning in 9 this project. 10 So that is part of the checklist. That 11 is designed to be filled out by the applicant and 12 then subsequently filled out by staff, so that we 13 can all be in agreement on what sections are 14 deficient and what sections need additional 15 information or not, and make sure that they're 16 included, so the administrative checklist portion of 17 it. 18 SECRETARY TEPPER: That's very helpful. 19 MR. GREENE: Can I just add one other 20 point, which is that, as Presiding Officer Tarr was 21 saying, we do want to try and get early input from 22 the other permitting agencies at the ridiculously 23 early 20-day mark and the 30-day completeness 24 period, to at least get a red flag if there is one</p>	<p style="text-align: right;">Page 164</p> <p>1 want this to be a substantive review, but I think we 2 do need to figure out exactly what we're saying. 3 Anybody else online? Mr. Kaplan, are 4 you done? 5 MR. KAPLAN: Yes. Thank you. 6 SECRETARY TEPPER: Anyone else? 7 MR. WANG: I would interject that we're 8 20 minutes behind lunchtime. 9 SECRETARY TEPPER: Why don't we hear 10 from Mr. Long, and then we'll have lunch. 11 MR. LONG: Again, Steve Long, with The 12 Nature Conservancy, member of the Commission. 13 So I'm looking at the guidance document 14 on Pages 21 and 22 and trying to get a better 15 understanding of the approach to mitigation that the 16 Commonwealth typically takes. 17 I think the intent of the members of the 18 Commission was to have site suitability and 19 community engagement provide the science and the 20 lived experience to provide a more efficient and 21 equitable process. So communities and folks who are 22 concerned about the environment would see how the 23 developer had paid attention to these issues, and it 24 would enable things to move forward with less</p>
<p style="text-align: right;">Page 163</p> <p>1 from DEP's perspective or any other agency, saying 2 that "this would not be deemed a complete 3 application if it were filed with us and here's 4 why," and that information will help inform the 5 hearing officer in making the determination at day 6 30. 7 Some of this does get to a bit of 8 subjectivity, unfortunately. It's not just a simple 9 administrative check-off. There is a form that says 10 it's a summary; check that box. You're describing 11 some technical-review components as well, and that 12 goes beyond just is there a document that has this 13 title on it. 14 SECRETARY TEPPER: I guess for me I 15 think that we should be trying to figure out whether 16 we have the information we need in order to review 17 the petition. To the extent that there are 18 questions about, you know -- I think there's a 19 difference between trying to figure out whether 20 somebody meets a standard or whether somebody is 21 able to get a permit based on the substance. 22 So I do hear what Mr. Kaplan is saying. 23 I think we need to just think through -- I think 24 we're all basically saying the same thing: We don't</p>	<p style="text-align: right;">Page 165</p> <p>1 conflict and fewer objections. 2 So when I think about mitigation, I 3 think about a no-net-loss or a nature-positive 4 approach, whereby if X number of acres of forest are 5 being converted for a development purpose, then 6 either x or x plus y number of acres of forest would 7 be mitigated and provided for in another area of 8 ecological value. 9 I just wanted to put that on the table 10 in terms of I think how the Commission was thinking 11 about this -- or at least I was when I presented it 12 to the Commission. 13 I read through the pieces on mitigation 14 here. So any clarification -- and I know you 15 haven't put out the site suitability pieces yet. 16 But do you envision -- I guess this is a question 17 for the Board: Do you envision the site suitability 18 components or the guidance coming out providing 19 guidance about how mitigation would work? Is it a 20 fee? Is it the developer doing the project? What 21 does that look like? Or do I need to wait? 22 UNDERSECRETARY JUDGE: So we're still 23 finalizing this, obviously. It's still definitely 24 in draft form. I do think we provide some examples,</p>

<p style="text-align: right;">Page 166</p> <p>1 though, of types of mitigation that could be 2 provided, so, you know, could be a fee, could be 3 conserving lands in some other area. 4 So we list out some options, and I think 5 discretion is provided to the permitting authority, 6 and it's designed to be sort of commensurate with 7 the level of impact; right? So you look at the 8 criteria-specific score. So a project scoring 9 really poorly on a biodiversity impact, then you'd 10 probably be looking at mitigation efforts that 11 address that particular issue, or if it's carbon 12 sequestration, maybe you're looking at conserving 13 forestlands somewhere else. 14 So we're not superprescriptive, and I 15 think this is something where we internally shared 16 this with the other agencies that are writing these 17 regs last week, and it's kind of a challenging 18 thing, because they're writing their regs, we're 19 writing this, and I think we're now trying to weave 20 the two things together. 21 So hopefully we'll be able to share more 22 details publicly soon. But I think a lot of the 23 discretion on the type of mitigation is dependent on 24 how substantial the impact is and what the type of</p>	<p style="text-align: right;">Page 168</p> <p>1 incorporates stakeholder suggestions as well as 2 feedback that was received on internal staff 3 proposals. 4 The proposal focuses on prefiling 5 outcomes and provides applicants with the 6 flexibility with the timing of meeting those 7 requirements. The 2024 Climate Act requires the 8 D.P.U. to establish prefiling requirements in 9 coordination with the Board for all facilities that 10 fall under the Board's purview. 11 The statute calls for prefiling 12 consultation with permitting agencies as well as the 13 Massachusetts Environmental Policy Act Office. It 14 requires applicants to use multiple outreach 15 channels, including public meetings, to inform 16 stakeholders about the project before filing an 17 application with the Board. Applicants will also be 18 required to provide evidence that prefiling 19 consultation with local as well as State and 20 regional agencies and community groups have been 21 satisfied. 22 The statute also creates the Division of 23 Public Participation, DPP, at the D.P.U. It tasks 24 DPP with assisting stakeholders navigating prefiling</p>
<p style="text-align: right;">Page 167</p> <p>1 impact is. And then there's a few kind of options 2 listed as potential ways to address it. 3 MR. LONG: Thank you very much. 4 SECRETARY TEPPER: Why don't we break 5 for lunch and be back at 2:00 o'clock. 6 (Recess for lunch.) 7 SECRETARY TEPPER: Next on our agenda 8 for this morning is prefiling engagement. 9 MS. DHARMARAJ: My name is Veena 10 Dharmaraj. Good afternoon, members of the Board. 11 I'll be speaking about the prefiling consultation 12 and engagement requirements that are going to be a 13 part of the EFSB process. 14 We received several oral as well as 15 written comments on the prefiling straw proposal 16 following the stakeholder sessions, and since then 17 we've had an opportunity to meet with several 18 stakeholders and get the perspective of different 19 stakeholders, including understanding the project 20 development process as well as meeting with 21 community groups to understand, you know, how 22 community engagement would tie in with the proposed 23 prefiling requirements. 24 The proposal I'm sharing with you today</p>	<p style="text-align: right;">Page 169</p> <p>1 engagement requirements in coordination with EEA's 2 Office of Environmental Justice and Equity, and 3 facilitating dialogue among stakeholders in the 4 permitting process. 5 At present the goals prefiling 6 requirements are not very prescriptive, and we don't 7 have any formal prefiling requirements. This means 8 that it can be read across projects. In some 9 projects there have been instances where outreach 10 has occurred later in the development process, when 11 it is harder to make changes. This also means that 12 often people hear about the project after it has 13 been filed and most of the details are already baked 14 in. 15 So the objectives of the prefiling 16 consultation as well as engagement process is to 17 make sure that there's consistency in outreach 18 practices across all of the different projects that 19 are filed with the EFSB, that the information 20 reaches those who might be potentially impacted 21 early, and stakeholders have an opportunity to 22 influence the project, as well as it will encourage 23 wider participation, community engagement. 24 The prefiling requirements apply to</p>

<p style="text-align: right;">Page 170</p> <p>1 large and small clean energy infrastructure 2 facilities as well as all other facilities that fall 3 under EFSB purview. 4 During the prefiling outreach period, 5 the applicant -- what we want the applicant to do is 6 to endeavor to balance the goal of providing 7 information early on in the project as well as, you 8 know, making sure that the applicant has the time to 9 pursue all the due diligence on potential site 10 alternatives that they're looking at. 11 As a part of this process and prefiling 12 requirement, applicants will use the site 13 suitability criteria with cumulative impact analysis 14 tool as well as the guidance and describe how it 15 influenced the analysis that they used in the 16 selection of the preferred site option and how the 17 preferred option avoids -- minimizes 18 disproportionate impacts. 19 The applicant will also document all 20 efforts to inform as well as partner with key 21 stakeholders, and key stakeholders include abutters, 22 businesses, municipal officials, community-based 23 organizations, Federal as well as State recognized 24 and acknowledged tribes, as well as the wider</p>	<p style="text-align: right;">Page 172</p> <p>1 statute -- and complete relevant agency consultation 2 with local, regional, as well as State permitting 3 agencies to receive feedback on compliance with 4 regulatory requirements. 5 As part of broader public engagement, 6 the applicant will conduct at least two public 7 meetings for key stakeholders as well as the wider 8 community. The second meeting should be held no 9 less than two months prior to submitting the 10 prefiling notice to the board. 11 The prefiling notice itself should be 12 submitted no less than 45 days and no more than 60 13 days prior to filing an application with the Board. 14 The applicant will be required to submit 15 two checklists during the prefiling outreach period. 16 The prefiling engagement status checklist and 17 supporting documents will be submitted midway 18 through the prefiling outreach period. 19 The second one, which is the prefiling 20 engagement completion checklist, as well as the 21 supporting documentation will be submitted at the 22 conclusion of the prefiling outreach period to both 23 DPP as well as the Board, along with the prefiling 24 notice.</p>
<p style="text-align: right;">Page 171</p> <p>1 community. 2 We will maintain notes for meetings that 3 they hold with key stakeholders as well as agency 4 consultations and the public meetings. They will 5 summarize those comments that they have received and 6 how those comments influenced their project design. 7 All through the prefiling outreach 8 period the applicant will publicize project 9 information using multiple outreach channels and 10 will create a Web page that is updated regularly all 11 through that process. 12 At the start of the prefiling 13 consultation and engagement period, the applicant 14 will meet with DPP as well as OEJE to discussion 15 their proposed outreach plan and clarify any 16 prefiling engagement requirements. They will meet 17 with relevant key stakeholders early during the 18 process and add them to an email distribution list 19 and send quarterly updates that might include any 20 new project developments that have happened, any 21 changes to the site or project design, and the 22 contact details of the applicant's representatives. 23 They will be required to consult with 24 the MEPA office at least once -- this is required by</p>	<p style="text-align: right;">Page 173</p> <p>1 The next few slides provide some 2 additional details on the requirements for each of 3 the steps that I just outlined. So the start of the 4 prefiling outreach period, the applicant will meet 5 with DPP as well as OEJE either individually or it 6 can be a joint meeting. 7 At least two weeks before the meeting 8 they will need to submit some basic level of 9 documentation. For example, they will need to 10 provide a plain-language description of the project, 11 the need of the project, with the location map, any 12 alternative sites and routes that are under 13 consideration, and any meetings that have already 14 been held or planned with key stakeholders and the 15 community. 16 The applicant will meet with MEPA and 17 relevant State, local, and regional permitting 18 agencies to receive feedback on compliance with 19 regulatory requirements as well as receive 20 recommendations on any studies or analysis that need 21 to be carried out to inform the Board's review 22 process. 23 At the meeting the applicant will 24 provide basic details and list all of the</p>

<p style="text-align: right;">Page 174</p> <p>1 anticipated permits if available. They will also 2 present copies of the draft project applications for 3 the application permits if that is available. I 4 know we had a discussion where we were discussing 5 13.0; and so based on what gets adjusted there, we 6 could adjust what gets included in the prefiling 7 requirements. 8 For transmission facilities the 9 applicant will present potential route and site 10 alternatives considered as well as the associated 11 environmental resource constraints, and they will 12 describe the alternative analysis that was used in 13 selecting the preferred option. 14 For generation and storage projects, the 15 applicant will describe the alternative analysis 16 used in the selection of the preferred location; 17 will also present locations that were considered and 18 any associated environmental resource constraints 19 that went along with those locations that were under 20 consideration. 21 They will discuss how site suitability 22 criteria, the CIA guidance and tools were 23 incorporated in the selection of the preferred route 24 or site, and include a map that identifies any</p>	<p style="text-align: right;">Page 176</p> <p>1 also share the estimated timeline for prefiling 2 notice, for submitting the prefiling notice with the 3 Board, and share any future opportunities for public 4 comment or input on the project. All through the 5 process they need to provide a link to the main 6 project Web page, where information will be 7 regularly updated to reflect what's happening on the 8 ground. 9 The outreach requirements for all the 10 public meetings will be tailored to the project as 11 well as to the characteristics of the potentially 12 impacted populations. Project information will be 13 publicized using at least two outreach channels that 14 have wide reach within the community. Paper copies 15 of the outreach material will be available for 16 review at municipal buildings as well as at public 17 libraries. 18 Applicants will be required to provide a 19 notice for the public meeting at least two weeks in 20 advance and hold hybrid meetings where possible at 21 reasonable times and at accessible locations. 22 Where possible, meeting locations should 23 be near public transit, and interpretation and 24 interpretation should be provided as per the Board's</p>
<p style="text-align: right;">Page 175</p> <p>1 unfairly burdened areas that are in proximity to 2 their location. 3 And finally, they will share estimates 4 of environmental impacts as well as potential 5 mitigation measures and discuss any decommissioning 6 and site restoration plans during the consultations 7 with the MEPA office as well as agency consultation. 8 For meetings with key stakeholders -- 9 for meetings both with the key stakeholders as well 10 as the public meetings, the applicant will present 11 basic project-level information in plain language, 12 describe potential impacts in the proposed project, 13 and solicit input on the mitigation impacts. 14 For transmission facilities they will 15 present the alternatives under consideration, a 16 comparison of anticipated impacts, as well as the 17 proposed mitigation measures, as well as identify 18 the preferred alternative. 19 For generation and storage facilities, 20 the applicant will present the alternative analysis 21 used in the selection of the preferred location, its 22 anticipated impacts, as well as the proposed 23 mitigation measures. 24 During these meetings the applicant will</p>	<p style="text-align: right;">Page 177</p> <p>1 language access plan, and additional languages 2 should be provided -- interpretation and 3 translation -- additional languages should be 4 provided as requested. 5 The applicant will submit the prefiling 6 notice together with the prefiling engagement 7 completion checklist as well as the supporting 8 documentation to both DPP as well as the Board no 9 less than 45 days and no more than 60 days prior to 10 filing an application with the Board. 11 DPP will review the documentation 12 submitted and assess if all the prefiling 13 consultation as well as engagement requirements have 14 been either met or if they're insufficient or 15 incomplete, and then provide its opinion both to the 16 Board as well as to the applicant. 17 The prefiling notice will include basic 18 project details -- for example, the project name, a 19 plain language project summary, location map, 20 anticipated project filing date, as well as a link 21 to the project website, and any decommissioning and 22 site restoration plans. 23 This is a list of supporting 24 documentation that needs to be submitted along with</p>

<p style="text-align: right;">Page 178</p> <p>1 a prefiling engagement completion checklist.</p> <p>2 So the applicant would need to provide</p> <p>3 an overview of the prefiling consultation as well as</p> <p>4 engagement efforts. This includes a list of key</p> <p>5 stakeholders, agency consultation and public</p> <p>6 meetings that were held, including the date, time,</p> <p>7 and location of those meetings; a description of the</p> <p>8 outreach materials that were created and recipients,</p> <p>9 including the date and method of contact; notes for</p> <p>10 meetings with key stakeholders as well as agency</p> <p>11 consultation as well as the public meetings.</p> <p>12 A table summarizing the comments that</p> <p>13 they received, how they've considered those</p> <p>14 comments, and if there were any changes that were</p> <p>15 made to the project design in response to the</p> <p>16 comments that were received.</p> <p>17 They will also describe how site</p> <p>18 suitability criteria, CIA tool, were incorporated</p> <p>19 into the selection of their preferred solution;</p> <p>20 details of any partnerships that were developed with</p> <p>21 either key stakeholders, including any advisory</p> <p>22 boards that were formed to provide input; a copy of</p> <p>23 the prefiling engagement status checklist that is</p> <p>24 provided midway through the process; and an update</p>	<p style="text-align: right;">Page 180</p> <p>1 see that staff is attempting to balance these</p> <p>2 various perspectives. There's a lot of details in</p> <p>3 here about what's required, without specifying the</p> <p>4 order that it should happen in or the exact timing.</p> <p>5 So I just want to acknowledge that and appreciate</p> <p>6 staff's work on that point.</p> <p>7 And I would just say, if you want to</p> <p>8 comment and give any more thoughts on how that</p> <p>9 balancing is occurring, I welcome it. But I think</p> <p>10 we would also welcome additional comments from</p> <p>11 others about did we get that balance right, because</p> <p>12 I think it's something that I can tell has been a</p> <p>13 struggle throughout these conversations.</p> <p>14 MS. DHARMARAJ: Thank you, Commissioner.</p> <p>15 I would say yes, the effort has been to make sure</p> <p>16 that we are prescriptive in what we are requiring,</p> <p>17 and also keeping in mind what we want the outreach</p> <p>18 requirements to look like and do, because the end</p> <p>19 goal of the outreach requirement is to ensure that</p> <p>20 community members are aware, as well as all the</p> <p>21 other stakeholders engaged in the project, are aware</p> <p>22 about the project, they have enough opportunity to</p> <p>23 ask questions, to provide feedback, and to work with</p> <p>24 the applicant to enhance maybe community -- what the</p>
<p style="text-align: right;">Page 179</p> <p>1 on any ongoing discussions regarding community</p> <p>2 benefit plans and community benefit engagements</p> <p>3 many.</p> <p>4 There are some questions that we have up</p> <p>5 on the slide, but I'm happy to take any other</p> <p>6 questions as well. Thank you.</p> <p>7 SECRETARY TEPPE: Thank you very much.</p> <p>8 Any questions from the Board?</p> <p>9 COMMISSIONER RUBIN: This is Staci</p> <p>10 Rubin. Thank you very much, Director Dharmaraj, for</p> <p>11 this.</p> <p>12 I just wanted to offer comments that</p> <p>13 during the Commission on Energy Infrastructure</p> <p>14 Siting and Permitting we heard a lot of differing</p> <p>15 views as to how to do this. I know there were some</p> <p>16 community-based organizations and municipal</p> <p>17 representatives who mentioned, you know, essentially</p> <p>18 being involved at day zero, was the term we heard,</p> <p>19 or as soon as possible. And then we heard on the</p> <p>20 other end of the spectrum from developers and</p> <p>21 utilities that very early input is essentially too</p> <p>22 early, doesn't give enough time for the due</p> <p>23 diligence.</p> <p>24 So I want to recognize that I think -- I</p>	<p style="text-align: right;">Page 181</p> <p>1 community thinks is important to them.</p> <p>2 So that has been the effort of the</p> <p>3 proposal that we have shared with you today, but we</p> <p>4 welcome feedback from the Board as well as from the</p> <p>5 Commission.</p> <p>6 COMMISSIONER MAHONY: I just wanted to</p> <p>7 maybe layer on to that and pull this back into a bit</p> <p>8 of the conversation that we had this morning, too.</p> <p>9 I think recognizing Commissioner Rubin's</p> <p>10 point about all the balancing that needs to happen,</p> <p>11 I think another thing that I continue to be</p> <p>12 concerned with is balancing the time that it takes</p> <p>13 to do all of this, and also the connection between</p> <p>14 what you're requiring in these prefiling meetings to</p> <p>15 a lot of what we talked about this morning with</p> <p>16 respect to what goes into the application, the</p> <p>17 baseline standards.</p> <p>18 So I think the more we can align those</p> <p>19 two processes, the less work it is really for</p> <p>20 everyone and yet we're still achieving what</p> <p>21 Commissioner Rubin was highlighting about really</p> <p>22 getting folks involved early and having meaningful</p> <p>23 participation.</p> <p>24 I think the other thing I think might be</p>

<p style="text-align: right;">Page 182</p> <p>1 helpful once we kind of get through this day is -- 2 and this is a general point, not just for you -- but 3 especially given the conversation we had this 4 morning about 30 days, 20 days, one month, a month, 5 a month, to have a timeline to understand really 6 with a pretend project, maybe, to explain this 7 process. I think it might be helpful, because 8 there's a lot of dense regulations here. So that 9 just might be helpful given our goal of helping the 10 community understand what's going on. 11 MS. DHARMARAJ: Thank you so much. 12 In terms of your first comment about the 13 time that it might take to do all of the 14 requirements that we have in our proposal: When we 15 released our straw proposal, we had, you know, a 16 suggested timeline of 15 months for large projects 17 and 12 months for small projects. And then we did 18 hear a lot of feedback about not requiring, you 19 know, all of these steps to be done in a particular 20 time frame, because there might be certain 21 applicants who might be able to do all of this in a 22 relatively shorter timeline. Some others might take 23 a little bit longer. 24 And so we have left that flexibility.</p>	<p style="text-align: right;">Page 184</p> <p>1 process? 2 MS. DHARMARAJ: Large transmission 3 projects and small transmission and distribution 4 projects. 5 SECRETARY TEPPER: Those projects that 6 choose to go through this process. 7 MS. DHARMARAJ: Yes. 8 SECRETARY TEPPER: And the smaller 9 storage and solar projects would be going through 10 the DOER process? 11 MS. DHARMARAJ: Yes. The other kind of 12 projects that will be going through this process are 13 legacy facilities that fall under the Board's 14 purview. 15 SECRETARY TEPPER: I, too, appreciate 16 the flexibility on the timing. You know, I do think 17 it would be very helpful in comments for people who 18 are developing these projects to really look at 19 these requirements and see, knowing their expertise 20 in this area, what we're talking about in terms -- 21 generally in terms of time and whether, you know, 22 these requirements are going to allow -- whether 23 they will be able to complete these requirements in 24 a reasonable period of time. So I think that would</p>
<p style="text-align: right;">Page 183</p> <p>1 So what we are requiring is that the applicant do 2 all of the steps that are required but they have a 3 lot of flexibility in terms of how and when they 4 start. For example, if they start in month one and 5 in month four we think that they're already midway 6 through the project, they can start with their 7 status update checklist, and we'll get a sense that 8 they are midway through the project. We also 9 understand what they've complied with in that 10 duration, and we will get a sense of when they're 11 planning to submit their prefilling notice to the 12 Board. 13 So it provides a lot of flexibility, in 14 terms of the timeline that an applicant can take to 15 conform with all the requirements. 16 I definitely like the suggestion of 17 using a pretend project to lay out all of the 18 timelines not only for prefilling but across the 19 permitting process. 20 SECRETARY TEPPER: I just want to make 21 sure that I understand what projects would go 22 through this process. So it would be large storage 23 projects, large solar projects, transmission and 24 distribution projects that choose to go through the</p>	<p style="text-align: right;">Page 185</p> <p>1 be really helpful to hear from people who are doing 2 the work. 3 MS. DHARMARAJ: We wanted to use this 4 opportunity to get further comments from people who 5 are here today as well as I think the date that was 6 mentioned was the 28th -- by the 28th. And once we 7 have that, we'll definitely post the regulations on 8 our website as soon as possible, the draft 9 regulations. 10 SECRETARY TEPPER: Any questions from 11 the Commission members? 12 Any questions from SPAG? 13 Any questions from the public, or 14 comments? 15 Thank you. Let's move on to the 16 cumulative impact analysis. 17 MR. KELEHER: Daniel Keleher, attorney 18 with the Siting Division. 19 So cumulative impacts: The 2024 Climate 20 Act requires the Board to implement cumulative 21 impact analysis. A natural starting point is the 22 definition, our proposed definition, of cumulative 23 impact, which is the combined effect of past and 24 present projects, likely future projects, and the</p>

<p style="text-align: right;">Page 186</p> <p>1 proposed energy project on, one, public health; two, 2 natural environment; three, resilience to climate 3 change; and four, the built environment, all within 4 a specific geographic area.</p> <p>5 So that definition combines a lot in 6 there. But the central feature that I want to point 7 out is the combination. We're not just looking at 8 the impact from the present project. We're 9 considering impacts that already occurred from past 10 projects -- what's the cumulative impact.</p> <p>11 So in essence, the cumulative impact 12 analysis is the process of assessing the cumulative 13 impact and then appropriately responding to it.</p> <p>14 The Board has to issue regulations by 15 March 1st, and it's based on guidance from the 16 Office of Environmental Justice and Equity. That 17 process, their guidance is being formulated at the 18 same time as the draft regulations are being 19 formulated, so they are both adjusting -- ours -- 20 the draft regulations are continuing to adjust as we 21 adapt to the guidance.</p> <p>22 So the Act lays out -- at the heart of 23 the Act is the cumulative impact analysis report, a 24 written report, and the Act defines what that report</p>	<p style="text-align: right;">Page 188</p> <p>1 The first concept is this specific 2 geographical area, also known as SGA. And that is 3 that the Act indicates that this is the area around 4 the project that is expected to be impacted by the 5 project. We are contemplating, though the Act 6 doesn't specifically require this -- we are 7 contemplating that this area will be determined by 8 distances and those distances will vary from project 9 to project.</p> <p>10 So right now we have some proposed 11 distances, but that's certainly an aspect that needs 12 to be further evaluated to determine the appropriate 13 distances.</p> <p>14 No. 2, existing environmental and public 15 health burden: So the Act requires that the 16 applicant assess the existing environmental burdens 17 and public health consequences, but it also gives 18 latitude for having the assessment go further than 19 that. Right now we are proposing looking at two 20 other consequences. One was climate change, 21 essentially resiliency to climate change; and then 22 also pollution sources in the built environment. 23 But ultimately our proposal will need to match up 24 with the guidance that's provided from the OEJE.</p>
<p style="text-align: right;">Page 187</p> <p>1 has to include. And that definition ends up 2 creating the framework, essentially, for the 3 cumulative impact analysis.</p> <p>4 The report at the beginning considers 5 unfairly burdened areas; baseline conditions in 6 project areas; impacts of the project; whether the 7 project impacts are disproportionate; and proposed 8 mitigation of such disproportionate impacts.</p> <p>9 So that's what's required by the Act. 10 The staff, the Board staff, is proposing also 11 incorporating a scoring system, or applying a 12 scoring system, to the cumulative impact analysis. 13 So the scoring system would quantitatively evaluate 14 each of the candidate routes or sites, and that 15 score would become part of the CIA report, and that 16 score would be a basis -- not a definitive basis, 17 but a basis -- for determining which route or site 18 is better than another.</p> <p>19 So in a lot of ways the Act, it provides 20 a framework. It provides a framework, and then a 21 lot of the details are left to be determined by the 22 Board. This chart points out a number of concepts 23 that are critical to the framework laid out by the 24 Act.</p>	<p style="text-align: right;">Page 189</p> <p>1 No. 3 is this assessment looking at the 2 potential impacts or consequences for the proposed 3 project that would increase or reduce the effects of 4 climate change. So that's been covered.</p> <p>5 Now I'm on Row 4. We've identified what 6 types of characteristics -- or what kinds of burdens 7 we have to look at, and then the question is whether 8 the existing burdens are unfair or not. And that 9 determination of unfairness is in the works as well, 10 but it looks like it has to do with the relative 11 comparison essentially of how burdened is this area 12 compared to other parts of the state.</p> <p>13 And then finally here, another important 14 concept from the Act is disproportionate adverse 15 impact. This arises basically if you determine that 16 the area around the project -- or around the 17 particular site that you're considering -- if you 18 determine that it is unfairly burdened, then there 19 has to be an analysis of whether the impact or 20 impacts from the proposed project will 21 disproportionately affect that already unfairly 22 burdened area.</p> <p>23 This chart, which takes up this slide 24 and the next slide, has a breakdown between the</p>

<p style="text-align: right;">Page 190</p> <p>1 scope of the proposed CIA comparative scoring 2 process and the site suitability scoring process. 3 This chart largely illustrates that when 4 the CIA scoring process applies, the site 5 suitability scoring process doesn't, and vice versa. 6 For this we really have to look at the 7 chart S in the left-hand column -- so this chart is 8 all about projects to which the CIA scoring applies. 9 So in the left-hand column are the different types 10 of facilities that trigger CIA. 11 So the first one is clean transmission 12 and distribution. In the second column the question 13 is, is a CIA report required? Yes is the answer, 14 because that's what this chart has to do with, is 15 CIA-required projects. 16 The third column asks is Board 17 cumulative impact mitigation required? Yes if the 18 project imposes a disproportionate impact. 19 So again, CIA, the full analysis is only 20 triggered if the project is expected to impact an 21 unfairly burdened area, and then if it is expected 22 to impact that, then yes, you have to look at 23 whether there will be a disproportionate impact. 24 So then we move over to the fourth</p>	<p style="text-align: right;">Page 192</p> <p>1 clean transmission and distribution site suitability 2 generally will not be required. And the reason is 3 that site suitability doesn't apply where the 4 project takes place in an established public right- 5 of-way, and that is the case most of the time with 6 clean transmission and distribution. 7 The next two rows, the clean energy 8 generation and the clean energy storage, yes, 9 generally there will be site suitability scoring 10 required, but the exception is if the site is near 11 one of these unfairly burdened areas. And I think 12 this is just what has been discussed between the two 13 different entities that are creating these 14 regulations, and they're making that -- we're 15 proposing that dividing line, where if a site is 16 near an unfairly burdened area, then the CIA scoring 17 will apply, and if it's not near an unfairly 18 burdened area, then the site suitability will apply. 19 This next slide is the same idea, and it 20 just deals with three other types of facilities. 21 They are all non-clean energy facilities. In none 22 of them does the site suitability scoring apply. 23 For all of them except generation, unless there's 24 more than one site being proposed, CIA comparative</p>
<p style="text-align: right;">Page 191</p> <p>1 column, second from the right. This is the CIA 2 comparative scoring. The question is does it apply. 3 For the first row, clean transmission and 4 distribution -- 5 I mean, I should just say in general the 6 CIA comparative scoring is going to apply if you 7 have more than one proposed site or route. If there 8 is only one route or one site, which certainly may 9 be the case, especially with sites, then there's not 10 going to be any comparative scoring. 11 So with clean transmission and 12 distribution, you normally would have multiple 13 routes that you would be comparing. So in general, 14 yes, CIA comparative scoring will apply. 15 On the other hand, with the clean energy 16 storage or clean energy generation, most of the time 17 only one site is being proposed, so in that case 18 you're not going to have comparative scoring. And 19 the chart indicates that there is an exception if 20 there is more than one site proposed. 21 And then finally, if we look at the last 22 column, that is about when site suitability scoring 23 is required. 24 And in the first instance, where the</p>	<p style="text-align: right;">Page 193</p> <p>1 scoring does apply. 2 I don't think I have another slide after 3 this, but can you go to the next slide just to be 4 sure? 5 So Tim Reilly, my colleague, is going to 6 give more details to this framework. 7 MR. REILLY: Hello, everybody. I hope 8 you're doing well, and being on in the middle of the 9 afternoon is not an easy gig, so I will try to make 10 this informative and useful. Thank you, Daniel. 11 I'll discuss really the mechanics. This 12 is the how-to, how does this work, for CIA. It's 13 still very much a draft in the life cycle of 14 developing cumulative impact analysis, and this is a 15 unique tool. We looked around the world, how CIA 16 works. We are borrowing from a lot of what we 17 thought were the particularly good ideas, but there 18 are some new tools, too, and we wanted to talk a 19 little bit about that. 20 We see an opportunity, as Daniel pointed 21 out -- we see an opportunity to not only comply with 22 the requirements of the Act, the CIA report, but 23 also as a useful adjunct is to use a scoring tool 24 that helps us quantitatively compare different</p>

<p style="text-align: right;">Page 194</p> <p>1 sites. Why would we do that?</p> <p>2 The reason is that while things like the</p> <p>3 environmental impact reports and all the various</p> <p>4 things that we've gotten -- we get from applicants</p> <p>5 are extremely useful, but what a lot of these</p> <p>6 reports do is that they are -- implicit to the</p> <p>7 report are scores and scores and scores of</p> <p>8 assumptions that are implicit, that are not really</p> <p>9 clearly articulated. And the quantification we</p> <p>10 think helps us -- helps make transparent the</p> <p>11 prioritization, what issues are really important,</p> <p>12 how important are they. And quantification helps us</p> <p>13 understand that. So that is really kind of the gist</p> <p>14 or the justification behind doing this.</p> <p>15 The scoring therefore helps reduce the</p> <p>16 subjectivity and defines a clear threshold for</p> <p>17 defining adverse impacts, not least of what</p> <p>18 constitutes a disproportionate impact. We're going</p> <p>19 to talk about that in a moment.</p> <p>20 As I said, scoring has been a long-time</p> <p>21 part of reviews, too. So this isn't new. This</p> <p>22 isn't new at all. We have for decades had what we</p> <p>23 now consider noncumulative impact indicators, such</p> <p>24 as constructability. How hard is it to build this</p>	<p style="text-align: right;">Page 196</p> <p>1 then looks at their project and the SGA, the buffer</p> <p>2 area, in relation to these unfairly burdened areas.</p> <p>3 The idea is that eventually there will be before</p> <p>4 July 1st next year a GIS that will have these</p> <p>5 unfairly burdened areas and what the bases for the</p> <p>6 unfairly burdened areas are, and then they'll also</p> <p>7 be able to overlay their project with the SGA</p> <p>8 buffer. They will determine does it overlap or not.</p> <p>9 If it doesn't overlap, then they can terminate the</p> <p>10 CIA report right there and issue a very quick and</p> <p>11 concise report. The CIA report is required with all</p> <p>12 of these projects. If it doesn't overlap, they have</p> <p>13 a little concise report that says, hey, look at</p> <p>14 this, there's no overlap, and that's it for CIA.</p> <p>15 However, if the project overlaps the</p> <p>16 unfairly burdened area, then a full CIA is</p> <p>17 indicated. What that basically means is this: They</p> <p>18 look at the baseline conditions of the resource,</p> <p>19 they look at what the project impacts are, and they</p> <p>20 put that together to form what is basically a</p> <p>21 cumulative impact analysis. And we're going to talk</p> <p>22 about what all of that is here in a moment.</p> <p>23 Then they can score them, because a</p> <p>24 quantification, a number comes out of that. They</p>
<p style="text-align: right;">Page 195</p> <p>1 mousetrap? Specific place-based resources, things</p> <p>2 like that -- land use.</p> <p>3 So those things are already there. What</p> <p>4 we're suggesting is, it's an adjunct, it's to add</p> <p>5 cumulative impacts to that, to make a holistic kind</p> <p>6 of comprehensive scoring strategy.</p> <p>7 If that wasn't enough, what we're trying</p> <p>8 to do, as they say in developing software, the</p> <p>9 easier the front end, the harder the back end. And</p> <p>10 what we're trying to do is, we are looking to make</p> <p>11 this extremely efficient, cost-efficient and</p> <p>12 effort-efficient, so as not to delay the production</p> <p>13 and development of applications, or energy</p> <p>14 facilities.</p> <p>15 So how does this work? And now we're</p> <p>16 getting to the mechanics. How does the engine work.</p> <p>17 The first thing is that the law says an</p> <p>18 applicant has to determine if their project overlaps</p> <p>19 the so-called unfairly burdened areas that we've</p> <p>20 been talking about all day long. And it's not just</p> <p>21 a part of the input. As Daniel indicates, it's also</p> <p>22 the associated buffer areas, the specific geographic</p> <p>23 areas. It's easier than that long phrase.</p> <p>24 The very first thing is an applicant</p>	<p style="text-align: right;">Page 197</p> <p>1 can also then -- as we said, this is an adjunct to</p> <p>2 already an ongoing route scoring rubric anyway with</p> <p>3 noncumulative impact indicated. They can add those</p> <p>4 two together, and they come up with an overall</p> <p>5 score. And those scores go into a more fulsome CIA</p> <p>6 report that the applicant would then, you know,</p> <p>7 submit as part of their application.</p> <p>8 So an important part of that, then, is</p> <p>9 what are the indicators. We have right here the</p> <p>10 types of indicators that are part and parcel to a</p> <p>11 CIA. And the types of indicators are simply this:</p> <p>12 In each one of these categories, like in Jeopardy</p> <p>13 categories, each one of those categories has a lot</p> <p>14 of population characteristics associated with it.</p> <p>15 Population characteristics: What is the resilience</p> <p>16 of the human population, the human aspects and the</p> <p>17 socioeconomic aspects of a population? What</p> <p>18 pollution is in the area, major pollution sources in</p> <p>19 the built environment? What is the resiliency, the</p> <p>20 indicators that give us an idea of the resiliency to</p> <p>21 climate change, and also at a landscape level, what</p> <p>22 are the ecological indicators that tell us the</p> <p>23 robustness of the environment.</p> <p>24 So that's different than saying we have</p>

<p style="text-align: right;">Page 198</p> <p>1 a wetland area right here and it's part of the 2 Wetland Protection Act. This is more on a landscape 3 area sort of what are the impacts. 4 So all of this takes a lot of data. 5 When we first started doing this, we thought where 6 are we going to get all this data? Luckily, our 7 state has a lot of data. In fact, this state has 8 incredible data. And also the Federal Government to 9 some extent, to an ever lesser extent, the Federal 10 Government has data. But luckily Massachusetts has 11 a lot of data. 12 So we use these data then to actually 13 put supporting information, quantitative 14 information, to each of those indicators. So we can 15 have indicators as an idea, and then we'll have all 16 those indicators basically in a one-stop information 17 system that will make it very easy, along with the 18 GIS, to compile it all for ease in conducting the 19 CIA. Again, the idea is how do we make this easy on 20 the front end for applicants? 21 How does it work? This is another 22 mechanics question. 23 Basically, in its elemental sort of 24 construct, a CIA is really composed of three things</p>	<p style="text-align: right;">Page 200</p> <p>1 And then finally, we then multiply the 2 estimated project impacts. So we basically come up 3 with an integration of baseline conditions, human 4 resiliency, and project impact, to get us a 5 so-called cumulative impact. Next slide, please. 6 Just to give you an idea: We've been 7 talking about indicators. But you can see in the 8 built environment there's a lot of pollution sources 9 for climate change resiliency. There's flooding, 10 heat, wind. Then there's big landscape, ecological 11 integrity. Next slide, please. 12 And similarly for population 13 characteristics we have different types of health 14 states. Again, these data are available from the 15 State of Massachusetts that we can combine into a 16 system. Mass GIS has already done a great job. 17 Your agency has done a great job of that. And then, 18 of course, socioeconomic characteristics as well. 19 Next slide, please. 20 So that's sort of the baseline. Another 21 key ingredient is the so-called project impact. We 22 have something we call a project impact factor, or a 23 PIF. 24 So what we do is, we basically use them</p>
<p style="text-align: right;">Page 199</p> <p>1 that are multiplied. The first is the baseline 2 conditions: what are all those indicators? What do 3 those indicators say a particular place in 4 Massachusetts is, how healthy is it? And part of 5 that -- that's quantitative. 6 There's also the qualitatively what are 7 the major activities in the area? Is this a big 8 park? Is this an industrial site? What does that 9 area look like? Is it a residential development? 10 And then speaking of that, are there 11 major future projects? We call them likely future 12 projects, that are already basically planned, that 13 are going -- that are likely -- is there going to be 14 a big residential development there? Is there going 15 to be another shopping mall? Is there going to be a 16 factory? Those things all will affect. How are 17 those affected by some big energy project? 18 The next thing, once we have kind of 19 characterized the baseline conditions, then we can 20 look at the population characteristics: again, how 21 resilient is the human population to a project. 22 Then we multiply those to give us an overall idea of 23 the resiliency of the environment, both biological 24 as well as human.</p>	<p style="text-align: right;">Page 201</p> <p>1 to describe the degree of impact. So it's not just 2 important to understand the nature of the impact, 3 but we have to know how bad is it, what's the 4 badness or goodness of it. That's what this does. 5 And we have various -- and we also 6 distinguish between construction phase and operation 7 phase, to give kind of more of a life-cycle 8 analysis. Eventually we might put in 9 decommissioning, too, but we are so early in this 10 phase and these projects go on for 50 years, that we 11 thought that was really kind of irrelevant at this 12 point. 13 But we add those together to get an 14 overall project impact factor. 15 You'll notice that some of them are 16 negative and some are positive. The reason is that, 17 again, the lower the number, just like site 18 suitability -- the lower the number, the less 19 impact. So basically we have negatives when there's 20 a benefit. Why would there ever be a benefit? 21 Well, if it's clean energy, that might stop some 22 smokestack somewhere. So that's a benefit to, for 23 example, air quality. 24 And there's also a definition of each of</p>

<p style="text-align: right;">Page 202</p> <p>1 these. Now, we actually borrowed this from the 2 Bureau of Ocean Energy Management, and they use the 3 same kind of system for siting renewable energy 4 offshore -- or at least they did. And we basically 5 are going to do it like they did. They do it for 6 every single indicator. So every single indicator 7 is going to have these levels of impacts here. What 8 that does is, it makes it easier for industry to 9 then look at this rubric in a very detailed way and 10 see where the level of impacts are for their 11 facility. So it will help them. Again, the idea of 12 being very detailed in the back end will make it 13 easier on the front end.</p> <p>14 Next slide, please. So what's an 15 application of this? This is an example that we 16 have where we have the indicators and then we have 17 the baseline and vulnerable population levels that 18 we get from various Federal and State data sources. 19 These are in percentiles in this case. They don't 20 have to be, but they are in this case.</p> <p>21 And the baseline value is an actual raw 22 number. The vulnerable population is an averaging 23 of all of those different socioeconomic and public 24 health indicators. So that gives us kind of a</p>	<p style="text-align: right;">Page 204</p> <p>1 That's not quite finished.</p> <p>2 Next slide, please. And also, this is 3 nuanced. This is really quite nuanced. We've given 4 a very simple example. But there are a number of 5 factors that are going to really affect sort of what 6 the weight of those factors are and the CIA factors. 7 For example, not everybody agrees on what's an 8 important indicator, and they change. Ptown might 9 care a lot about flooding, but, you know, inland in 10 some city may care more about cancer rates.</p> <p>11 So different towns and different 12 locations and different projects will bring up 13 within people different priorities. The idea here 14 is that there would be -- during that outreach that 15 Veena was talking about, there could be a 16 facilitated discussion of what's a priority to you, 17 community x, and they can then basically come up 18 with, you know, what's a priority ranking?</p> <p>19 And then we also, we averaged that, also 20 with subject matter expertise, so it's an arithmetic 21 average of community input and subject matter 22 expertise to give us an indicator weighting.</p> <p>23 And then population and area are 24 important weighting factors because the basic unit</p>
<p style="text-align: right;">Page 203</p> <p>1 general idea of what the vulnerability of the 2 population is.</p> <p>3 So we multiply the baseline that's 4 vulnerable, and then we have the project impact. 5 Again, the public impact uses that BOEM-like rubric 6 to factor in what impacts there are. And in some 7 cases we have adverse impacts in PM2.5 because it's 8 positive. We have no impacts for wastewater 9 discharge because it just didn't affect it. And in 10 this particular example, but if we're drinking water 11 not compliant because some sites are cleaned up, 12 that actually helped the environment in that case 13 because some hazardous waste sites were cleaned up 14 in the area, so that helped it.</p> <p>15 Multiplying all those three -- the 16 baseline, the vulnerable population, and the project 17 impact -- gives us a so-called disproportionate 18 impact index. One of the things that the law says 19 is we have to figure out what's disproportionate.</p> <p>20 So what this does is, it gives us a 21 value that we can then use to determine if it's 22 disproportionate or not. Right now what we're 23 working on is what level is that? Where's that line 24 for disproportion? We're working on that right now.</p>	<p style="text-align: right;">Page 205</p> <p>1 is the census block group that we generally leave, 2 with some exceptions, in terms of a geographic unit 3 that we look at, where routes go through. Well, not 4 all census blocks are created equal. Some are 5 really big in an area, some are really small. Some 6 have really high populations, some have 30 people in 7 them.</p> <p>8 So we weight them accordingly to the 9 number of people and the areas, too. And that makes 10 the whole thing comparable for different routes.</p> <p>11 And then we also have what we call a 12 shared total score. Remember that we have 13 cumulative and noncumulative impacts. So we need to 14 balance what is the relative proportion to the total 15 score, that we will talk about here in a moment, of 16 cumulative versus noncumulative indicators. That 17 could potentially happen through outreach efforts, 18 too.</p> <p>19 So here we have a case study that we 20 did, and this is really useful in refining our 21 approach. We've done a couple of case studies so 22 far of sites as well as this is a linear route. 23 Just very briefly, this is an eight-, nine-mile 24 route between Sudbury and Hudson. It's actually a</p>

<p style="text-align: right;">Page 206</p> <p>1 case that was approved in 2019 by the Board.</p> <p>2 There are a couple of different routes,</p> <p>3 just really quickly. They connect from a Sudbury</p> <p>4 substation to a Hudson substation.</p> <p>5 And the blue route is an old railroad,</p> <p>6 the Mass. Central Railroad, that the preferred</p> <p>7 alternative was to bury it. The noticed variation</p> <p>8 was to put it overhead. And then there was also a</p> <p>9 noticed alternative of just putting it all in the</p> <p>10 street. This was evaluated. One of the big --</p> <p>11 there's a very interesting case because there were</p> <p>12 really big human-use and recreational benefits. The</p> <p>13 blue line would connect, then, a rail trail from</p> <p>14 Metro Boston all the way out to Amherst. So this</p> <p>15 had a lot of interest for a lot of reasons.</p> <p>16 However, some of the people who lived</p> <p>17 along that blue line were not happy about that idea.</p> <p>18 So it ended up in front of the Supreme Judicial</p> <p>19 Court, who sided with the Board. So you guys won</p> <p>20 that one.</p> <p>21 So we wanted to look at -- we wanted to</p> <p>22 try a linear route and determine, you know, how does</p> <p>23 our process work. All we did was this: We</p> <p>24 Balkanized all of the area where the routes are. We</p>	<p style="text-align: right;">Page 208</p> <p>1 effort on the back end to make things easier for</p> <p>2 applicants and the public use. We're developing all</p> <p>3 of these mapping tools, developing spreadsheets with</p> <p>4 embedded algorithms to come up with the cumulative</p> <p>5 and noncumulative impact indices.</p> <p>6 The idea is that this is really a</p> <p>7 desktop exercise. Once all the data are in, once</p> <p>8 all the data are in, it can be readily used and</p> <p>9 conducted. So it does not have to in any material</p> <p>10 way delay the development of an application.</p> <p>11 And also, one of the things that was</p> <p>12 really helpful in doing the case studies, and that</p> <p>13 is that we are also developing a detailed guidance</p> <p>14 document. We're going to propose that training</p> <p>15 should occur, too, for both the public as well as</p> <p>16 the power industry.</p> <p>17 Next slide, please. So the Act does</p> <p>18 require this so-called CIA report. And again, if</p> <p>19 there is no unfairly burdened areas in your project</p> <p>20 footprint, in your SGA buffer area, it's a very</p> <p>21 short report. "We did the analysis. No overlap."</p> <p>22 However, again, if there there are</p> <p>23 unfairly burdened areas, then we recommend that you</p> <p>24 do that for the candidate routes, especially if it's</p>
<p style="text-align: right;">Page 207</p> <p>1 overlaid all the census blocks. Without showing it,</p> <p>2 there's about two dozen census blocks that cover</p> <p>3 this whole area basically.</p> <p>4 Then the first question is, are there</p> <p>5 unfairly burdened areas or not? And there were.</p> <p>6 There were unfairly burdened areas in downtown</p> <p>7 Hudson. So because of that, we couldn't just write</p> <p>8 a little report that says no unfairly burdened</p> <p>9 areas. We had to go through the whole analysis. We</p> <p>10 did. We used State and Federal data and we looked</p> <p>11 at the baseline. We used the BOEM rubric to come up</p> <p>12 with project impacts.</p> <p>13 And then next slide. We came up with</p> <p>14 kind of what we call the cumulative indicators. We</p> <p>15 have an index that adds all the indicators along the</p> <p>16 route, and for each of the routes. And then we also</p> <p>17 have the traditional noncumulative indicators --</p> <p>18 again, constructability, historic resources. Then</p> <p>19 we simply add. The lowest score has the least</p> <p>20 impacts, the highest score has the most impacts.</p> <p>21 So what we found was, you all did --</p> <p>22 were spot on in 2019, even when we added the</p> <p>23 cumulative impacts. So nicely done, Board.</p> <p>24 Next slide. So again, the idea of more</p>	<p style="text-align: right;">Page 209</p> <p>1 a preferred alternative with noticed alternative</p> <p>2 routes. And then you then evaluate the baseline</p> <p>3 conditions, the processes and procedures, the</p> <p>4 assumptions, and the results.</p> <p>5 And again, as we're discussing, if</p> <p>6 there's an exceedance of a threshold for</p> <p>7 disproportionate adverse effects, we call that a</p> <p>8 potentially disproportionate adverse effect, or a</p> <p>9 PDAE. So we are currently working on that right</p> <p>10 now. I didn't come up with that acronym.</p> <p>11 Next slide please. And these are just</p> <p>12 simply discussion questions. Again, we are early in</p> <p>13 the life cycle of the development of this. We</p> <p>14 actively solicit everybody's input, and we welcome</p> <p>15 them. And these are just some example questions to</p> <p>16 get the ball rolling.</p> <p>17 I thank you and welcome any questions.</p> <p>18 CHAIR VAN NOSTRAND: Thank you, Mr.</p> <p>19 Reilly. Secretary Tepper had to leave and take a</p> <p>20 phone call.</p> <p>21 Any questions or comments from members</p> <p>22 of the Board?</p> <p>23 MR. GUTRO: Good afternoon. I'm Doug</p> <p>24 Gutro, EOED.</p>

<p style="text-align: right;">Page 210</p> <p>1 Quick question: The special geographic 2 area -- or the buffer, you called it -- the 3 applicant proposes it? 4 MR. REILLY: No, no. In fact, to 5 clarify, we are in the midst of right now developing 6 energy-type-specific -- 7 So a solar array may have a different 8 buffer than a pipeline or a transmission line, for 9 example. So we're making them more energy-type- 10 specific, and we're developing rationale for each 11 one to sort of defend that, to put out for comment. 12 MR. GUTRO: That will all happen before 13 next -- 14 MR. REILLY: Well, I don't sleep much 15 any more. 16 MR. GUTRO: And if someone chooses to 17 appeal? 18 MR. REILLY: I think people are going to 19 make a lot of comments. So this isn't cut in stone 20 in any way. 21 MR. GUTRO: So it's categorical, 22 basically. It will be around in a different 23 category? 24 MR. REILLY: Yes.</p>	<p style="text-align: right;">Page 212</p> <p>1 facilitated discussion of prioritization of what's 2 important to you kind of thing. It's almost like a 3 ranked-choice voting kind of a thing, that would 4 give then the applicant a good idea of what's 5 important in Ptown versus what's important in 6 Springfield. 7 So that's one of the big ways, besides 8 the normal outreach -- that's one of the big points, 9 I think, where communities will have real input. 10 COMMISSIONER RUBIN: And I would like to 11 make sure that our materials are clear about the 12 fact that we want to be encouraging an applicant to 13 be engaging in community conversations to inform the 14 CIA process. 15 MR. REILLY: Right. 16 COMMISSIONER RUBIN: My second question 17 is just about the relationship between what's going 18 to be in regulations versus what's going to be in 19 guidance. I know we haven't put up on our website 20 our detailed materials yet. But we'd love to hear 21 staff's thinking about how we're making the 22 determination between what's in the regulations 23 versus what's going to be in our guidance documents 24 and subsequent tools.</p>
<p style="text-align: right;">Page 211</p> <p>1 MR. GUTRO: Not the geography 2 necessarily. 3 MR. REILLY: It's not really geography. 4 I think applicants may come in and say, well, this 5 is supposed to be a quarter mile, because but 6 there's a cliff right there or something and we're 7 going to cap it -- we asked for a single SGA. I can 8 see that I would do that. 9 CHAIR VAN NOSTRAND: Any other questions 10 or comments? 11 COMMISSIONER RUBIN: Thank you so much, 12 Mr. Reilly and Presenting Officer Keleher. 13 So a couple of questions: Can you just 14 talk about your thinking about how a community may 15 be involved in the early process of a cumulative 16 impact assessment? 17 MR. REILLY: Sure. What I see is, 18 pursuant to what Veena was talking about, there 19 obviously are always a lot of outreach efforts that 20 industry will make during the preapplication period. 21 One of the things that we were particularly 22 interested in -- this is something that Georgia 23 Power and EPRI, Electric Power Research Institute, 24 have developed over the years, which is kind of a</p>	<p style="text-align: right;">Page 213</p> <p>1 MR. REILLY: I think it's a very good 2 question. I think the things that are certainly 3 more quantum, that we can very clearly state will go 4 into the regulations -- 5 Most of the things that are regulations 6 will go into the guidance. The question is what 7 goes into the guidance that doesn't go in the 8 regulations. I think that's the specific question. 9 So I think some of the things that are I 10 would call them squishier, that are a little more 11 difficult and involved to describe, those will 12 definitely go into the guidance document, because I 13 think it just becomes difficult to language -- I've 14 had difficulty with regulations in the past 15 languaging squishy stuff. I know that sounds a 16 little bit vague. But it's true, especially with 17 technical things like this. Some things are a 18 little bit more complicating that require more 19 discourse and discussion. 20 MS. EVANS: I'd like to just supplement, 21 because this is a question that is involved with all 22 the regulations we're putting out. Obviously you 23 need to find a balance. Being more prescriptive in 24 the regulation provides more transparency. However,</p>

<p style="text-align: right;">Page 214</p> <p>1 as we all know, regulations are kind of set in 2 concrete and they're very difficult to change. So 3 you want to have the flexibility of being able to 4 have a lot of the details in a document that you can 5 more easily change maybe by a Board vote, changing 6 the guidance by a Board vote. 7 I will say, there's also some added 8 complications, because there was recently an SJC 9 decision that talked about a particular agency that 10 put all of their work in guidance, because that's 11 what the legislature told them to do, and they did 12 it, and then the SJC disagreed. 13 So we understand that there's a line 14 between the two. As a general matter, if it's a 15 mandatory-type requirement, usually it's more in the 16 regulations, the mandatory requirements, whereas the 17 detail to help you decide how to comply with the 18 mandatory requirement can be in the guidance. 19 So that's a generalistic way we're going 20 to split this up. Some of the regulations you've 21 seen already do not have guidance with them. For 22 instance, procedural regulations, there wasn't 23 really a necessity to add guidance to them. But 24 certainly CIA will have guidance. The 13 regs that</p>	<p style="text-align: right;">Page 216</p> <p>1 analyses are done or not. So there are specific 2 ideas, specific requirements for should one conduct 3 a CIA or not. That's one thing. 4 In terms of the other thing, you know, 5 in terms -- what we're looking at doing, as I think 6 some of our slides were indicating, we are looking 7 at the baseline, what is the project's but-for -- 8 what is the condition of the environmental quality 9 and the human population but for the project. And 10 by the way, that's not just at the very beginning. 11 That's not necessarily at time zero. That's really 12 through the pendency of the project. 13 So that's why you start caring about 14 things like what are likely future projects? These 15 projects go on for a long time. So you look at 16 what's going on for other projects in the area and 17 other major activities, too. So you look at that, 18 and then we -- again, we're suggesting borrowing 19 from the Bureau of Ocean Energy Management, their 20 sort of impact rubric, where that's indicator- 21 specific, so that we can fit basically impacts 22 within this indicator-specific rubric of what's a 23 minor impact, what's a major impact. And then we 24 have an assigned numeric value to that.</p>
<p style="text-align: right;">Page 215</p> <p>1 Connor presented earlier, because there's so many 2 details that go with the applications, there needs 3 to be guidance on those. Thank you. 4 MR. REILLY: In the past guidance is 5 particularly helpful where there's just the 6 potential for wide interpretation to clarify. 7 That's one of the things I think will be very 8 important in this guidance for sure. 9 CHAIR VAN NOSTRAND: Any other questions 10 from the Board? Commissioner Mahony? 11 COMMISSIONER MAHONY: Thanks. 12 Recognizing we don't have anything in writing 13 besides these slides, can you talk to us a little 14 bit about major future projects and how it is that 15 you intend to -- how projects can identify them? 16 Will guidelines identify them? How are we asking 17 projects to predict the future? 18 MR. REILLY: In terms of project impacts 19 or in terms of if they should do a CIA or not? 20 Let me address both of them. From a 21 should I -- I'm an applicant. Should I do a CIA? 22 There are specific -- and I think some of the slides 23 that Daniel was presenting kind of discussed, you 24 know, there are certain situations where full CIA</p>	<p style="text-align: right;">Page 217</p> <p>1 MR. GREENE: Can I jump in, just to add 2 a good example, perhaps, that might clarify this 3 concept? 4 We had a project that we actually had a 5 Board meeting on about a year ago for the South 6 Coast wind project at Brayton Point. And one of the 7 interesting things happening at the site while we 8 were reviewing that project was that there was a 9 collocated major industrial facility proposed on the 10 Brayton Point site to manufacture cable for offshore 11 wind projects by Prysmian, an Italian cable company. 12 At our public comment hearings we heard 13 a lot more about the factory than we did about the 14 actual project that we were reviewing. That's both 15 a good example of sort of the major future projects 16 and also a cautionary tale that you can't predict 17 the future, because that project has been canceled. 18 So if we had, let's say, incorporated 19 that into our analysis, we probably would have 20 gotten it wrong. And that's the danger of trying to 21 assume that you can predict the future. 22 MR. REILLY: Absolutely. It's fraught. 23 You try to do the best job you can do, and you try 24 it with things like having real discussion -- the</p>

<p style="text-align: right;">Page 218</p> <p>1 applicant would have real discussion with the 2 planning department and say, "Really, what's on the 3 blocks? What is quite likely? What is really 4 squishy?"</p> <p>5 COMMISSIONER HEIPLE: Do we have the 6 ability to give folks some general direction on what 7 might qualify as a major project, though -- like, 8 for instance, something that would require MEPA 9 review, certain types of permits to be granted by a 10 state agency? Just some sort of determinant -- 11 maybe not totally prescriptive criteria, but some 12 way of trying to cabin the universe, not just based 13 on the opinion of a planning board member, expert as 14 they may be, of what they need to be taking into 15 account in conducting this analysis?</p> <p>16 MR. GREENE: Since you're looking in 17 this general direction, I'm going to answer your 18 question. I would think -- and this should 19 resonate, since you're the Commissioner for DEP -- 20 if the project we're talking about has gone through, 21 let's say -- a major future project has gone through 22 a DEP cumulative impact analysis because it is a 23 major air source, that probably is the sort of 24 facility that we need to be taking account of in</p>	<p style="text-align: right;">Page 220</p> <p>1 is.</p> <p>2 MR. REILLY: That's right.</p> <p>3 COMMISSIONER MAHONY: Do you intend to 4 offer a framework for what that cutoff will be in 5 regulations, or is that all going to happen in 6 guidelines?</p> <p>7 MR. REILLY: I'm very happily handing 8 the mike off.</p> <p>9 MS. EVANS: He knows the details of the 10 mechanics better than I do. If I understand your 11 question correctly, what is considered -- the kind 12 of cutoff that's considered disproportionate versus 13 what's not disproportionate?</p> <p>14 My sense of that is that might be 15 something that would go in regulations. That seems 16 to be a major point about what kind of analysis is 17 required, and it is a defined term in the statute. 18 I would guess that we would probably put that in 19 regulations. That is my sense of it.</p> <p>20 CHAIR VAN NOSTRAND: Any other questions 21 from the Board? Any questions or comments from 22 members of the Commission?</p> <p>23 MS. MATTHEWS: I have two or three. The 24 first one was, you spoke earlier about how the CIA</p>
<p style="text-align: right;">Page 219</p> <p>1 terms of the cumulative impact for an energy project 2 that we might be reviewing. That is not the same 3 one that DEP might have looked at.</p> <p>4 So major point sources, however you want 5 to define that, based on tons of emissions or 6 general emission levels of other kinds, I think 7 those are telltale signs of major future projects 8 that we should take note of, because they will 9 affect these baseline values that feed into the 10 whole cumulative impact quantification process.</p> <p>11 But that's open to discussion and 12 something that we really do need to figure out in 13 any type of future regulation.</p> <p>14 MR. REILLY: That's right. And that's 15 an example of a thing that I think would most likely 16 go into the guidance document, because I think 17 that's going to take some discussion.</p> <p>18 COMMISSIONER MAHONY: In developing the 19 cumulative impact analysis, you were talking about 20 the core concept and sort of the multiplication 21 table that you've got there to get to the 22 disproportionate impact index. But you noted that 23 you haven't gotten to the point where you have 24 decided what the sort of threshold cutoff for that</p>	<p style="text-align: right;">Page 221</p> <p>1 analysis would not be applied to clean transmission 2 and distribution if there was only one route being 3 proposed. Did you mean a noticed alternative route, 4 or did you mean candidate routes in a routing 5 analysis?</p> <p>6 MR. KELEHER: Whatever the routes are 7 called. If it's a noticed alternative route, 8 however it's proposed, however it's labeled, if the 9 applicant proposes multiple routes for clean energy, 10 then the CIA comparative scoring would apply.</p> <p>11 MR. GREENE: If I could just put a 12 little finer point on this, because I know exactly 13 where you're coming from in that question. We're 14 not talking about sort of early-stage analysis 15 candidate routes where you start off with a universe 16 of routes, there could be dozens and dozens of 17 possibilities and doing a cumulative impact analysis 18 on each and every one of those.</p> <p>19 If at the end of the route selection and 20 development process the company feels that there's 21 really only one logical route to look at because 22 it's between two existing substations on an existing 23 corridor and there's really nothing even close that 24 has come out looking competitive, let's say, in that</p>

<p style="text-align: right;">Page 222</p> <p>1 candidate evaluation process, then there would most 2 likely be one proposed route, and that would be the 3 one that gets the cumulative impact analysis -- 4 which may still include quantification to answer the 5 question that Mr. Reilly was posing of this 6 disproportionate impact index, which is a measure of 7 these, quantified where it would be on some scale 8 where we define hopefully what a disproportionate 9 impact is.</p> <p>10 MR. REILLY: And adequacy of mitigation.</p> <p>11 MS. MATTHEWS: Because that seems to be 12 the key point of the cumulative impact analysis, at 13 least as I read the statute, is the absence of 14 mitigation.</p> <p>15 The second question is when do you 16 anticipate that this framework will be available? 17 And I ask this because we are currently working on 18 at least two applications that will be filed under 19 69T.</p> <p>20 MR. GREENE: Well, we have a case study, 21 and really the case study has given us an 22 understanding of the whole system and helped us 23 refine the concepts and develop good data sources to 24 feed into the sort of calculations spreadsheet.</p>	<p style="text-align: right;">Page 224</p> <p>1 not measurable.</p> <p>2 So what you're suggesting might be a 3 reasonable intermediate strategy to not bog down the 4 whole approach with perhaps the most difficult part 5 of it.</p> <p>6 MR. REILLY: I'd like to add to that, if 7 that's okay. The other thing is that, again, the 8 quantification takes into account the numeric value 9 that's in the baseline, and then the project 10 impacts. The idea of other major activities in the 11 area -- is it industrial, is it residential, likely 12 future projects, things like that -- those are more 13 qualitative discussions that go into the CIA part, 14 for the very reason that Mr. Greene is indicating, 15 that it's really hard to tell the future. I wish I 16 could. I wouldn't probably be here right now.</p> <p>17 So because of that, it's more 18 qualitative, and it's a consideration that goes in 19 the report -- not the quantitative analysis.</p> <p>20 MS. MATTHEWS: That's useful 21 clarification. But I do kind of urge the Board to 22 stick to what you absolutely have to do between now 23 and next June and save some of the extras for later.</p> <p>24 MS. EVANS: Just one followup on</p>
<p style="text-align: right;">Page 223</p> <p>1 So we're pretty close to being able to, 2 let's say, have a webinar or some kind of a tech 3 session where we could explain the methodology that 4 was summarized in brief today and get more in depth. 5 Some may not want that, but we can provide that 6 understanding, and we'd like to do that. We have 7 time constraints, obviously, because of the 8 regulatory calendar. But we know that this is very 9 important and very, you know, poorly understood 10 right now, because we haven't explained it yet, 11 really. Today is almost the first serious 12 discussion of this whole system.</p> <p>13 MS. MATTHEWS: And then my third and 14 last question was: Would you consider looking at 15 future projects as a separate -- would you consider 16 first doing a CIA which does not require looking at 17 future projects, because the statute doesn't require 18 that? And I have a question about which future 19 projects you should look at for a later date.</p> <p>20 MR. GREENE: As I was saying with that 21 example of Prysmian down at Brayton Point, we 22 understand that this can be a very dangerous area. 23 It's very difficult to make sound judgments about 24 future projects that are not in the ground and are</p>	<p style="text-align: right;">Page 225</p> <p>1 Diedre's comment about currently putting together 2 applications. We've heard a number of times that we 3 need a transition plan. Quite frankly, we needed to 4 get these regs off of our plates to be able to even 5 think about that. It's been a lot of work.</p> <p>6 So these need to go up into interagency 7 review shortly, and then I think we will tee up a 8 meeting or a proposal or something to address that 9 question, about what to do with the projects that 10 are in the pipeline now and the projects that will 11 be in the pipeline after July 1st, shortly after 12 July 1st. So we've heard that request. Thank you.</p> <p>13 CHAIR VAN NOSTRAND: Any other questions 14 or comments from members of the Commission?</p> <p>15 MR. LONG: Steve Long, with The Nature 16 Conservancy. So this is a laudable effort and a 17 really big challenge. I just had a couple of 18 different thoughts that came to mind, and I'm 19 offering these in the spirit of getting to yes, and 20 not being difficult or confrontational.</p> <p>21 So the first thing I want to offer is: 22 When we're talking about siting, I think we're 23 really talking about siting design and operation of 24 a facility, because design and operation can really</p>

<p style="text-align: right;">Page 226</p> <p>1 have an impact on a community, people, and nature. 2 So I think we just need to be a little more clear in 3 our language, all of us, the whole day today -- not 4 particularly your presentation. 5 I think also it's important to figure 6 out how we weave and knit all this together: the 7 community engagement, the site suitability criteria, 8 and the cumulative impact analysis. And my gut 9 reaction is that we kind of look at the site 10 suitability criteria first and then weave in the 11 cumulative impact analysis. It seemed like there 12 were some overlaps between the two, and I'd be 13 concerned about how those overlaps are influencing 14 the scoring. 15 And then finally, there are so many 16 chickens and eggs here. Really, where the 17 connection points go, where the substations go, is 18 going to influence where the energy generation goes. 19 So if there's any way to think about how we foster 20 the siting of that infrastructure, where we connect 21 to first, I think in the best ideal world that would 22 be the way to go. 23 So just a few random thoughts on the 24 CIA. I appreciate all the work that's going into</p>	<p style="text-align: right;">Page 228</p> <p>1 MR. REILLY: Yeah. We did use the 2 scoring. In fact, those were the so-called 3 noncumulative indicators. So we expressly used that 4 as well. And we wanted to see -- it was kind of an 5 experiment. We wanted to see what did the Board say 6 in 2019 and what was their finding, what was their 7 ranking. And then, if we did it the way that the 8 law is asking us to plus this sort of ranking and 9 scoring, how did it change? 10 It actually turned out that it was 11 consistent. But it was kind of an experiment that 12 we were doing. 13 MS. BUCKLEY: Thank you. That's helpful 14 to know. So I'm kind of wondering just how you 15 weighed the different factors. We don't have to go 16 into this now, but these are questions I have in 17 terms of what specific factors did you look at based 18 on the unfairly burdened area, and then how did you 19 weight those? Obviously engagement is a really 20 significant consideration in all of the process. 21 So in Sudbury-Hudson I'm really curious: 22 How did you manage kind of getting feedback? If you 23 had gone back and got feedback, what kind of 24 feedback would you have gotten and how would you</p>
<p style="text-align: right;">Page 227</p> <p>1 this. It's not easy. It's a lot of science and a 2 lot of social science. 3 MR. REILLY: Could you expand on that 4 last point? I'm not sure I understood that last 5 point. 6 MR. LONG: Solar developers are only 7 going to put their solar arrays in places where they 8 can connect. So if we have the places to connect 9 sited first, it will help guide where the array is 10 going. 11 CHAIR VAN NOSTRAND: Thanks. Does staff 12 have any responses? One more from the Commission. 13 MS. BUCKLEY: Dierdre Buckley, 14 Eversource Energy. I'm not ashamed to say I did not 15 understand that presentation, so I'm looking forward 16 to walking through it again with you. 17 I just had a couple of questions. One 18 question is, when you did that, you basically took 19 what was proposed and you scored the different 20 alternatives? 21 MR. REILLY: Yes. 22 MS. BUCKLEY: But you didn't look -- you 23 probably did -- look at the scoring that was 24 included in the petition?</p>	<p style="text-align: right;">Page 229</p> <p>1 have handled that in terms of looking at community 2 impacts, community benefits? I'm trying to get a 3 sense of where the community is on their concerns 4 and the project impacts, but also how did you 5 specifically kind of factor that in? Because you 6 could get -- 7 So I'm thinking of, you know, one 8 scenario in Sudbury: There were a lot of people who 9 had lots of concerns with the project, and they were 10 very vocal. And then there are other people -- 11 This is my other question, is whether 12 you're really just looking at the scoring for the 13 overly burdened area, or are you looking across the 14 route in terms of evaluating the index? 15 MR. REILLY: Let me do the last one, 16 just because I will forget it before I answer the 17 first one. The last one is we looked -- the deal is 18 that if we find an overlap, an unburdened area 19 within this buffer, this project buffer, then we do 20 it for all the routes, especially if the route is a 21 preferred alternative or a noticed alternative, like 22 one of the main routes, that they overlapped, so 23 that we could rank them. So we didn't do it for all 24 of Sudbury, not just the little area of downtown</p>

<p style="text-align: right;">Page 230</p> <p>1 Hudson. So that's that.</p> <p>2 It's a great question. In terms of the</p> <p>3 indicators, what we did was, first of all, the law</p> <p>4 is kind of specific of what environmental impacts</p> <p>5 and climate change and public health states. So we</p> <p>6 knew to do that, and we looked at what data were</p> <p>7 available.</p> <p>8 And in terms of prioritization -- that's</p> <p>9 a great question -- what we did was, we read a lot</p> <p>10 about what the testimonies are and the outreach, and</p> <p>11 the community was actually -- the community was</p> <p>12 quite vocal as to what was important. So we had to</p> <p>13 do a little bit of assuming, basically, but based on</p> <p>14 what the testimonies and the comments were by the</p> <p>15 community back in 2017 and 2018 and 2019, basically.</p> <p>16 So we used that outreach information to</p> <p>17 help guide our prioritization. In the real world</p> <p>18 and going forward, there would again be facilitated</p> <p>19 outreaches to find out what the community -- what</p> <p>20 was important to the community, as well as the</p> <p>21 subject matter experts.</p> <p>22 MS. BUCKLEY: Thank you for humoring me.</p> <p>23 But I look forward to talking about it more and</p> <p>24 understanding it a bit more. There's a lot in</p>	<p style="text-align: right;">Page 232</p> <p>1 administration of fees to support Siting Board</p> <p>2 programs.</p> <p>3 So the Act requires that we develop fees</p> <p>4 through regulation. Right now our fees are in</p> <p>5 statute, but that statute is no longer effective.</p> <p>6 So we are developing a regulatory approach to,</p> <p>7 first, develop fees that represent more or less the</p> <p>8 cost of administering the different kinds of cases.</p> <p>9 They range from, as you've seen today, generation</p> <p>10 facilities, storage facilities, traditional legacy</p> <p>11 projects -- pipelines, power plants, and so forth.</p> <p>12 So we're developing a whole menu of</p> <p>13 fees, and that will be coming out in the coming</p> <p>14 weeks. That's really about what there is to say.</p> <p>15 There is also included in the statute a</p> <p>16 new siting assessment to support the work of our</p> <p>17 efforts towards consolidated permitting of clean</p> <p>18 energy facilities. The legislature did not use that</p> <p>19 assessment in the budget for FY26 for EFSB, so we're</p> <p>20 actually funded this year through general fund</p> <p>21 revenues, not through utility assessment.</p> <p>22 But they have included in the</p> <p>23 legislation a specific assessment to support siting</p> <p>24 as well as intervenor grant support, which my</p>
<p style="text-align: right;">Page 231</p> <p>1 there.</p> <p>2 MR. REILLY: There's a lot to unpack</p> <p>3 there.</p> <p>4 CHAIR VAN NOSTRAND: Any questions or</p> <p>5 comments from members of the siting practitioners</p> <p>6 group?</p> <p>7 Members of the public? Please raise</p> <p>8 your hand and we will move you up on the screen.</p> <p>9 Now is a good time to take a break, so</p> <p>10 we'll come back at 3:45.</p> <p>11 (Recess taken.)</p> <p>12 SECRETARY TEPPER: Back on the record.</p> <p>13 We are now going to talk about fees and intervenor</p> <p>14 support.</p> <p>15 MR. GREENE: I will do this one slide</p> <p>16 that we have on application fees. This is a work in</p> <p>17 progress. We do not have a menu of fees at this</p> <p>18 time. We are working on this in coordination with</p> <p>19 the Department of Public Utilities.</p> <p>20 As I think many people may know, the</p> <p>21 EFSB is supported in its administrative</p> <p>22 responsibilities and infrastructure by the D.P.U.</p> <p>23 They handle budgeting and many other overhead</p> <p>24 functions for the Siting Board, including the</p>	<p style="text-align: right;">Page 233</p> <p>1 colleague, Veena Dharmaraj, will be talking about</p> <p>2 momentarily.</p> <p>3 So stay tuned, is all I can say. I can</p> <p>4 give you a preview that it's probably unlikely that</p> <p>5 we're going to keep some of the \$50 and \$100</p> <p>6 application fees for filing. They no longer cover</p> <p>7 our costs. That I can say with 100 percent</p> <p>8 confidence. I'll leave it at that.</p> <p>9 MS. DHARMARAJ: Thank you, Director.</p> <p>10 I'm Veena Dharmaraj. I'm the Director of</p> <p>11 Environmental Justice and Public Participation at</p> <p>12 the D.P.U., and I'll be speaking about the D.P.U.</p> <p>13 and EFSB intervenor support grant program.</p> <p>14 This is not a part of the EFSB</p> <p>15 permitting and siting package, but the 2024 Climate</p> <p>16 Act required the D.P.U. in coordination with EFSB to</p> <p>17 set up this program. The Act requires us to</p> <p>18 promulgate these regulations on the same timeline as</p> <p>19 the siting and permitting regulations, which is</p> <p>20 March 1st, 2026. The intervenor support grant</p> <p>21 program will provide financial assistance to</p> <p>22 eligible entities who are unable to participate in a</p> <p>23 D.P.U. or Board proceeding because of financial</p> <p>24 hardship or because they lack procedural knowledge.</p>

<p style="text-align: right;">Page 234</p> <p>1 The program will make it possible for 2 community groups and smaller municipalities that 3 lack resources to meaningfully engage and 4 participate. 5 Through this program grantees will be 6 able to cover fees for attorneys, expert witnesses, 7 including community experts, and other eligible 8 costs. 9 Up to 10 percent of the funding can be 10 used to cover administrative costs associated with 11 participation. 12 The Act also establishes the Division of 13 Public Participation, or DPP, and thus helping 14 stakeholders such as individual -- groups of 15 individuals or community groups as well as 16 municipalities to identify opportunities to 17 intervene. It also requires the DPP to facilitate 18 dialogue among parties to a proceeding. 19 The statute authorizes the director of 20 DPP to also administer all aspects of the program. 21 Parties that are eligible for funding 22 are informed by the statute. It includes 23 organizations that advocate on behalf of residential 24 customers, low- and moderate-income residential</p>	<p style="text-align: right;">Page 236</p> <p>1 of the program. Municipalities with a population of 2 less than 7,500 people applying for the grant are 3 exempt from the first two criteria that you see up 4 on the slide. 5 Staff propose the additional eligibility 6 criteria that's in 3 to 6. The applicant would be 7 required to describe how they propose to 8 substantially contribute to a proceeding; if they 9 have an achievable, clearly stated plan; and if they 10 have a unique perspective that's not adequately 11 represented by other parties to that proceeding. 12 Finally, they're required to provide an itemized 13 budget and explain why the proposed budget is 14 reasonable. 15 Next, please. This is an overview of 16 the grant application process as well as the funding 17 that's available. The grant application request 18 form will be required to be submitted to DPP no 19 later than the deadline to intervene either in a 20 D.P.U. docket or a Board proceeding as is specified 21 in the notice for that proceeding. 22 The Division -- that is, the DPP -- will 23 review the application for completeness within ten 24 business days and then notify the applicant in case</p>
<p style="text-align: right;">Page 235</p> <p>1 populations, residents of historically marginalized 2 or overburdened and underserved communities. 3 Government bodies, such as Towns, Cities, boards, 4 and commissions, planning agencies, Federally 5 recognized tribes, State-acknowledged or State- 6 recognized tribes, are all eligible to receive 7 funding through the program. 8 A group of individuals that may be 9 specifically and substantially affected by a 10 proceeding may also request funding to intervene in 11 a docket. 12 Receiving intervenor status is a 13 prerequisite before funds can be disbursed to a 14 grantee, both in the case of D.P.U. as well as a 15 Board proceeding. And individuals are not eligible 16 to receive grant funding. 17 Next, please. The first two eligibility 18 criteria that you see up on the screen are from the 19 statute. It requires the applicant to demonstrate 20 significant financial hardship and also demonstrate 21 that they would not be able to participate without 22 the availability of the funding. 23 The applicant needs to state if they've 24 previously intervened or intervened since creation</p>	<p style="text-align: right;">Page 237</p> <p>1 there are any deficiencies or if they need any 2 additional information. All applicants will be 3 notified that the grant has been approved -- if the 4 grant has been approved, and the amount of funding 5 that is to be disbursed within 30 days after the 6 grant application deadline. 7 The director can make conditional grant 8 awards provided the grant is not disbursed until the 9 intervenor status is granted. 10 The statute also specifies the grant 11 awards for a single proceeding. So it notes that 12 for a single proceeding funding should not exceed 13 \$150,000 per applicant and \$500,000 for a single 14 proceeding. 15 Funding can be increased on 16 demonstration of good cause or if there is a novel 17 or complex issue. And what we are considering to be 18 a new, novel, or complex issue potentially -- that 19 could potentially qualify for additional funding, it 20 could be multiyear proceedings or proceedings that 21 address multiple issues or have multiple tracks, 22 requirement for additional expert witnesses, for 23 example, or when a new issue that has not been 24 described in an additional petition are identified.</p>

<p style="text-align: right;">Page 238</p> <p>1 The statute also requires DPP to 2 consider the potential for intervenors that receive 3 funding to share costs when their positions align. 4 Next, please. The grant application 5 form seeks the following information that you see on 6 the slide from an applicant. So it looks at the 7 statement -- the applicant will need to provide a 8 statement about how they plan to participate and 9 make a substantial contribution; an itemized 10 estimate of the costs for participating in the 11 proceeding, such as fees for attorneys, expert 12 witnesses, as well as community experts. They need 13 to provide the background information on their 14 attorneys, consultants, and experts that they're 15 working with; a statement describing the applicant's 16 position and the nature of interest in the case, and 17 if they were a part of the prefiling process, if 18 they raised any questions or concerns during the 19 prefiling engagement meetings. 20 The amount of funding that they seek, 21 and information about the entity seeking a grant -- 22 for example, a description of the nature of the work 23 that they're doing, a narrative to demonstrate that, 24 you know, participation poses a financial hardship.</p>	<p style="text-align: right;">Page 240</p> <p>1 intervenor status? Because that's not -- you need 2 an attorney. You need a really good justification. 3 The D.P.U. or the EFSB in the past have denied 4 intervenor status, so you need a really good 5 justification. 6 So what was kind of your thought behind 7 that, and practically speaking, how do you think 8 that that would work for potential intervenors? 9 MS. DHARMARAJ: Something that I didn't 10 mention, but we have included: We understand that 11 there might be groups that face significant 12 financial hardship and might need to work with 13 others in order to apply for a grant itself. And in 14 those cases they will be -- if they are granted 15 intervenor status -- and I understand that it 16 doesn't completely address the question that you 17 raised. But if somebody is granted intervenor 18 status, they would be reimbursed some costs for 19 writing the application. 20 I think the other question was about the 21 timing. Would they be able to get the grant funding 22 when they're intervening, because there might be a 23 slight time lag between when they apply and when 24 they get the funding?</p>
<p style="text-align: right;">Page 239</p> <p>1 An unincorporated group applying for a 2 grant would need to submit a self-attestation that 3 includes the names as well as addresses of all the 4 individuals in that group that are requesting 5 funding and the number of additional volunteers or 6 supporters they have, if it's applicable, and a 7 narrative to demonstrate the level of financial 8 hardship. 9 Next, please. So this was a brief 10 overview about the program. Staff at the D.P.U., 11 the Legal Division as well as the Siting Division, 12 have worked on this, and it's currently going 13 through internal review and will then go on to 14 interagency review. 15 I'm happy to take any questions. 16 SECRETARY TEPPER: Any questions from 17 the Board? Commissioner Mahony? 18 COMMISSIONER MAHONY: Thanks. I know 19 this is partially a chicken-and-egg problem. But 20 I'm trying to align your rules here that say you 21 only qualify for funds if you've achieved intervenor 22 status, but you have to apply before you file to 23 intervene or make a statement. How do parties who 24 don't have funding get funding to apply for</p>	<p style="text-align: right;">Page 241</p> <p>1 I think when they intervene in a docket, 2 they will be able to state that they are applying 3 for funding, and that could be taken into 4 consideration when the Board or in the case of a 5 D.P.U. docket the hearing officer and the Commission 6 are deciding if somebody needs to be granted 7 intervenor status. 8 Did that answer your question or did it 9 add to more questions? 10 COMMISSIONER MAHONY: Well, that last 11 point gives me agita, because I don't think that 12 somebody's ability to pay to intervene should be 13 considered by the Board on whether or not they 14 should intervene. So I don't think there should be 15 a connection. That's why I was getting too 16 lawyerly. That's just my personal opinion. 17 I think there's still a challenge about 18 the money risk that it takes to intervene. But 19 parties I guess will have to -- I appreciate your 20 point about there might be funding available to 21 reimburse and go back in time. Parties are going to 22 have to take a leap still. 23 MS. DHARMARAJ: I misspoke about the 24 Board deciding on the intervenor status. It's not</p>

<p style="text-align: right;">Page 242</p> <p>1 the Board. It will be the presiding officer.</p> <p>2 MS. EVANS: Maybe I could add to this</p> <p>3 just for a moment. Your sense, Commissioner Mahony,</p> <p>4 is correct as far as the intervention decision is</p> <p>5 based on what's substantially and specifically</p> <p>6 affected, and that has a long history, and that</p> <p>7 would be where that decision is made.</p> <p>8 There is a bit of a time lag. I will</p> <p>9 see, one thing in the procedural regs that we've</p> <p>10 indicated is, other than corporations, like</p> <p>11 unincorporated associations, that type of thing, do</p> <p>12 not need an attorney to intervene. So that takes</p> <p>13 away some of the cost of going ahead and proceeding</p> <p>14 with an intervention application.</p> <p>15 But I will say, yes, there's a certain</p> <p>16 legal standard, and they would need to meet that</p> <p>17 legal standard.</p> <p>18 CHAIR VAN NOSTRAND: I think it's worth</p> <p>19 pointing out, I think that we anticipate the</p> <p>20 Division of Public Participation, which Veena is</p> <p>21 heading up, will be providing assistance and</p> <p>22 guidance and templates and things to help folks</p> <p>23 through this process, which perhaps they'll make</p> <p>24 that showing to intervene without having to hire an</p>	<p style="text-align: right;">Page 244</p> <p>1 recommending conditions, just on an expedited time</p> <p>2 frame. I do think that has even increased</p> <p>3 importance for us, to be able to do that.</p> <p>4 MR. GREENE: I can speak to that a</p> <p>5 little bit, which is to say that we have heard from</p> <p>6 a number of State and local agencies that they're</p> <p>7 concerned about no longer being the recipient of</p> <p>8 applications and the fees that go along with the</p> <p>9 applications, and yet they're still on task to</p> <p>10 provide comments and to intervene or participate in</p> <p>11 these proceedings to address their interests and</p> <p>12 responsibilities.</p> <p>13 So the idea has been suggested to us</p> <p>14 that there should be some kind of at least partial</p> <p>15 flow-through mechanism, that if we're collecting</p> <p>16 fees at EFSB in applications, that the agencies who</p> <p>17 are still very involved in their review and</p> <p>18 adjudicatory process should have some ability to</p> <p>19 collect or at least benefit from that portion of the</p> <p>20 fees that relate to their function.</p> <p>21 So it's a legal question. I know our</p> <p>22 attorneys are looking into this to see how it could</p> <p>23 be developed and incorporated. It wasn't</p> <p>24 specifically dictated by the legislative language,</p>
<p style="text-align: right;">Page 243</p> <p>1 attorney. I think that's part of the public</p> <p>2 engagement.</p> <p>3 MS. DHARMARAJ: That is also one of the</p> <p>4 statutory requirements, that DPP will be creating</p> <p>5 resources to help intervenors as well as members of</p> <p>6 the public understand opportunities to intervene as</p> <p>7 well as how to intervene and what the process would</p> <p>8 look like and what they would need to submit to be</p> <p>9 able to seek funding.</p> <p>10 SECRETARY TEPPER: Any other questions?</p> <p>11 Commissioner Heiple?</p> <p>12 COMMISSIONER HEIPLE: I just have a</p> <p>13 question related to the portion of this that</p> <p>14 Director Greene covered, noting that the updated</p> <p>15 fees will include portions of existing permitting</p> <p>16 agency application fees.</p> <p>17 I would put ourselves in the same</p> <p>18 category as you, as not having raised our</p> <p>19 application fees in decades. So they no longer</p> <p>20 cover our costs, either. So I would just encourage</p> <p>21 folks to, you know, do equitable treatment between</p> <p>22 the application fees and considering that the</p> <p>23 agencies will continue to support the same functions</p> <p>24 that they do now, in terms of reviewing,</p>	<p style="text-align: right;">Page 245</p> <p>1 but it still may be within the possible scope of a</p> <p>2 fee regulation. So it is on the table.</p> <p>3 COMMISSIONER HEIPLE: Thank you. Not</p> <p>4 looking for any benefits conferred, just covering</p> <p>5 the costs.</p> <p>6 MR. GREENE: Got it.</p> <p>7 COMMISSIONER HEIPLE: Thanks.</p> <p>8 SECRETARY TEPPER: Any comments from</p> <p>9 anybody else?</p> <p>10 MS. BUCKLEY: I just wanted to -- so not</p> <p>11 on the topic, but I just wanted to note again how</p> <p>12 much we appreciate everyone being here, spending an</p> <p>13 entire day with the Board talking about these</p> <p>14 issues.</p> <p>15 So as I said, there's definitely -- you</p> <p>16 know, we can see that you're taking an input and</p> <p>17 you're taking --</p> <p>18 Thank you so much again for being here,</p> <p>19 allowing us to participate in this process,</p> <p>20 providing more information on topics that people are</p> <p>21 really interested in and want to understand.</p> <p>22 As I noted before, clearly people are</p> <p>23 listening and trying to incorporate ideas and other</p> <p>24 alternatives into proposals. I particularly wanted</p>

<p style="text-align: right;">Page 246</p> <p>1 to flag the prefiling engagement, where that was a 2 significant issue we had about having flexibility in 3 that process. So I saw that there are some changes 4 there and just really wanted to highlight that. 5 Thank you. 6 SECRETARY TEPPER: Any other comments or 7 questions? Online anyone? 8 Seeing none, before we adjourn, I'd like 9 to remind everyone that we'll be back tomorrow 10 morning at 9:00 a.m. here and on Zoom, same link, to 11 take up the Eversource Mid-Cape Reliability Project 12 change tentative decision. If time permits, we may 13 be able to continue this discussion and take 14 additional comments regarding the regulation package 15 discussed today, but that would follow the vote on 16 the mid-Cape tentative decision. 17 Any other matters we need to discuss 18 before we adjourn? Do I have a motion to adjourn, 19 please? 20 MR. BONFIGLIO: So moved. 21 COMMISSIONER RUBIN: Second. 22 SECRETARY TEPPER: A vote to adjourn the 23 meeting? 24 MR. GREENE: I'd be happy to, if you'd</p>	<p style="text-align: right;">Page 248</p> <p>1 REPORTER'S CERTIFICATE 2 3 I, Alan H. Brock, the officer before 4 whom the foregoing proceedings were taken, do 5 certify that this transcript is a true record of the 6 proceedings on July 21, 2025. 7 8 9 10 Alan H. Brock, RDR, CRR 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 247</p> <p>1 like. All in favor? 2 (All said aye.) 3 MR. GREENE: It's approved. 4 SECRETARY TEPPER: Thank you all very 5 much. I appreciate it. It was a very helpful day. 6 (4:16 p.m.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	

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