

Environment & Energy Insights

June 2026 Edition

Welcome to the June edition of Nutter's *Environment & Energy Insights*, a periodic update of current trends in environment and energy law. This month we cover:

- **Regulations for Siting Small Clean Energy Infrastructure Facilities go into Effect July 1, 2026**

For this month's *Insights*, we are taking a deeper look at the new rules for siting small clean energy projects, such as solar, wind and battery storage, which go into effect on July 1, 2026. In a future post, we will provide more detailed information about the new rules for large projects.

Background

In 2024, Massachusetts enacted comprehensive clean energy siting and permitting reforms through climate legislation designed to accelerate the development of clean energy infrastructure. Among other changes, the legislation directed the Massachusetts Department of Energy Resources ("DOER") to establish a new permitting framework for Small Clean Energy Infrastructure Facilities ("SCEIFs"). In February 2025, DOER finalized those regulations at 225 CMR 29.00.

Under the new framework, SCEIF applicants have several permitting options depending on the type of proposed project. For local approvals, small generation facilities (less than 25 MW) and small energy storage facilities (less than 100 MWh) may seek a Consolidated Local Permit through a coordinated local review process or seek some or all local approvals individually, consistent with current practice. Applicants may also seek a zoning exemption from the Energy Facilities Siting Board ("EFSB") where the requirements of M.G.L. c. 40A, § 3 are satisfied (meaning that the project is "reasonably necessary for the convenience or welfare of the public"). For state approvals, small generation projects may elect to pursue a consolidated permit before the EFSB or seek some or all state approvals separately (again consistent with current practice).

Small transmission and distribution infrastructure projects may seek a Consolidated Local Permit or, in certain circumstances, pursue an EFSB Consolidated Permit.

This post focuses on the Consolidated Local Permit process.

The local permitting authority ("Local Government") may begin accepting Consolidated Local Permit Applications on July 1, 2026, and must begin accepting them no later than October 1, 2026.

Consolidated Local Permit Application Process

Key Requirements

- Proposed facilities must comply with applicable public health, safety, and environmental standards as described in DOER's [Guideline on Public Health, Safety, and Environmental Standards](#) throughout the life of the project.
- Before filing a Consolidated Local Permit Application, an applicant generally must conduct required pre-filing outreach, including holding a municipal meeting and public information session with notice to abutters, local stakeholders, and local media, and obtain a determination that its [Pre-filing Engagement Completion Checklist](#) is complete, although applicants may cure deficiencies and certain SCEIFs identified in regulations are exempt.
- Applications must be submitted within 60 days after completion of the pre-filing process.

Application Contents

A Consolidated Local Permit [Application](#) must include, among other things:

- A project description and explanation of site selection.
- Site plans, maps, drawings, and permit-related materials.
- Requests for any required zoning, land use, wetlands, health, safety, or other local approvals.
- Proposed [mitigation, minimization, restoration, or remediation measures](#).
- Required workforce, labor, compliance, and disclosure information.

Unless exempt, applicants must also submit a [Site Suitability Report](#) evaluating the proposed site's environmental and social characteristics and identifying any avoidance, minimization, or mitigation measures. The Executive Office of Energy and Environmental Affairs has released a [Site Suitability Mapping Tool](#) to assist applicants in estimating site suitability scores.

Review Process

Local Government Option to Have EFSB Conduct the Review

A Local Government may request that the EFSB review a Consolidated Local Permit Application, if the Local Government determines that it lacks sufficient resources to issue a decision within the required timeframe. Such requests generally must be submitted within 60 days after receipt of the application unless the applicant agrees otherwise.

The following additional processes apply when a Local Government conducts the review.

Completeness Determination

The designated "Local Government Representative" (the Chief Administrative Officer of the Local Government, their designees, or any official designated in the Local Government's Small Clean Energy Infrastructure Facility Permitting bylaw or ordinance) must determine whether the application is complete before substantive review begins. Applicants may cure deficiencies identified during review. If no completeness determination is issued within 30 days, the application is deemed complete.

Substantive Review

After an application is deemed complete, the applicant must provide a digital copy to DOER. Individual application components are then reviewed by the relevant local

boards, departments, commissions, or officials with jurisdiction over the applicable subject matter.

Each reviewing authority may approve, approve with conditions, or deny the aspect(s) under its jurisdiction. Once all components have been reviewed, the Local Government Representative issues a final decision on the Consolidated Local Permit. Municipalities have up to 12 months to issue a final decision.

Approval, Denial, and Constructive Approval

If any reviewing authority denies an individual application component, the Local Government must deny the Consolidated Local Permit and explain the basis for the denial. Applicants may restart the process, including completion of new pre-filing requirements.

If all required components are approved, the Local Government Representative issues a Consolidated Local Permit incorporating all approvals and conditions.

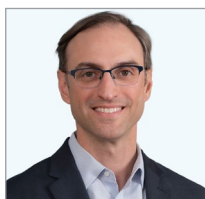
If a final decision is not issued within 12 months, the application is constructively approved and becomes subject to DOER's common conditions governing project development, construction, operation, maintenance, and decommissioning.

Appeals

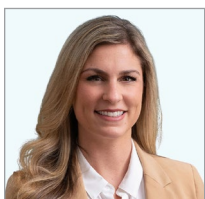
Applicants and certain affected persons may petition for de novo review by EFSB's Director following a final Local Government decision. The Director's review is limited to determining whether the local decision is consistent with the siting regulations and statute (225 CMR 29.00 and M.G.L. c. 164, § 69H). The Director must issue a decision within 6 months, after which further review may be sought before the Massachusetts Supreme Judicial Court.

We will continue to provide updates on the other aspects of the new rules and any changes as DOER and EFSB continue implementation.

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About Nutter

Nutter is a full-service law firm delivering sophisticated legal counsel to industry-leading companies, entrepreneurs, institutions, foundations, and families across the United States and globally. With offices in Boston, New York, San Francisco, Honolulu, and Orinda, and practices spanning business and finance, intellectual property, litigation, real estate and land use, labor and employment, tax, and trusts and estates, Nutter pairs deep expertise with a client-focused approach. Learn more at nutter.com or connect with us on [LinkedIn](#).

This advisory was prepared by [Matthew Connolly](#), [Michelle Kenyon](#) and [Matthew Snell](#) in Nutter's [Environment and Energy practice group](#). If you would like additional information, please contact any member of our practice group or your Nutter attorney at 617.439.2000.

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