

Environment & Energy Insights

October 2025 Edition

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

- **The Massachusetts Energy Facilities Siting Board Issues Draft Regulations for Permitting Clean Energy Projects**

In mid-September, the Massachusetts Energy Facilities Siting Board released [proposed siting regulations](#) in its continued efforts to implement the 2024 Climate Act (Act). [As we have discussed in prior posts](#), the Act requires streamlined permitting processes for the development of Clean Energy Infrastructure Facilities (CEIF) by the Siting Board or a local government issuing a single consolidated permit that will grant all state, regional, and local approvals. Here are the key aspects of the new and revised regulations:

Proposed New Regulations

- **980 CMR 13.00: Consolidated Permits for Clean Energy Infrastructure Facilities**

- Perhaps at the heart of the proposed regulatory changes, this regulation implements the process for obtaining a Siting Board consolidated permit. The Board will determine whether to issue a consolidated permit for all necessary state, regional, and local approvals to construct and operate large CEIFs. The Siting Board will issue a decision on a consolidated permit within 15 months for all large facilities.
- The final decision of the Board on any application may provide conditions that the applicant must comply with for approval.
- The Board's draft application guidelines, issued in July and [discussed in a previous update](#), give more detail on how consolidated permit applications should be prepared. The new regulations establish a process for determining application completeness.

- **980 CMR 14.00: De Novo Adjudication of Consolidated Local Permits**

- Upon request from a local government, project proponent, or person "substantially and specifically affected" by a decision, the Siting Board Director may conduct a de novo adjudication for consolidated local permit decisions for small projects decided initially by local governments. Such decisions must be issued within 6 months. The regulation also describes the process for the Director to adjudicate small project applications in lieu of local review in certain cases (such as when the local government requests it). In those cases, the decision will be issued within 12 months.

- **980 CMR 16.00: Pre-filing Consultation and Engagement Requirements**

- This regulation requires applicants to engage with key stakeholders, including state and local authorities, as well as community members, before submitting an application. This will be confirmed through self-attestation and other evidence showing the pre-filing public process that the applicant conducted.

- **980 CMR 17.00: Constructive Approval**

- If the Siting Board does not timely issue a consolidated permit within the 12 or 15 month timeframes established by the Act, this regulation confirms that the application will be deemed constructively approved.
- A consolidated permit obtained via constructive approval grants all of the same state, regional, and local approvals as a consolidated permit obtained by the Siting Board's actual approval. In short, this provision gives teeth to the timing requirements of the Board's permitting process.

Proposed Revisions to Existing Regulations

• **980 CMR 1.00: Rules for the Conduct of Adjudicatory Proceedings**

- In addition to making changes needed to implement the Act, these revisions seek to make Siting Board proceedings more accessible and efficient. For example, (1) all filings must be made electronically and in a searchable format; and (2) hearings will be conducted in hybrid remote/in-person form, while evidentiary hearings may be held virtually.

• **980 CMR 2.00: General Information and Conduct of Board Business**

- These revisions implement the Act's provisions on the Siting Board's authority and update some of the mechanics of the Siting Board's business:
 - The Siting Board will continue to be authorized to issue exemptions from local zoning bylaws.
 - Actions of the Siting Board are exempt from MEPA review.
 - The Siting Board's total membership is increased to 11 members, with a quorum requirement of five members.
 - Establishing an online permitting dashboard to provide information on its proceedings and the status of outstanding applications.

- Before the Act, Siting Board decisions were appealable directly to the Supreme Judicial Court (SJC). The revisions now make conforming changes to confirm that all decisions by the Siting Board and Director under the new regulations will continue to be appealable directly to the SJC.

Looking Ahead

Between October 27 and November 5, the Siting Board will hold four public comment hearings on the proposed regulations. Final written comments will be accepted until November 7. Click for [instructions for attending the public comment hearings or submitting written comments](#).

Other regulations to implement the 2024 Climate Act are still being drafted. For example, the Department of Energy Resources will issue regulations to establish a process for local governments to issue consolidated permits for small projects, as well as to implement the Intervenor Support Grant Program. Also, the Department of Public Utilities will issue regulations setting revised application filing fees.

Under the 2024 Climate Act, the regulations must be finalized by March 1, 2026, for projects filed starting July 1, 2026.

We will provide future updates on the final regulations as they become available.

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