

# HOUSE . . . . . No. 4501

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 4, 2024.

The committee on Telecommunications, Utilities and Energy, to whom was referred the petition (accompanied by bill, House, No. 3187) of Adrian C. Madaro and others relative to energy facilities siting improvement to address environmental justice, climate, and public health, and the petition (accompanied by bill, House, No. 3215) of Jeffrey N. Roy for legislation to expedite permitting for electric decarbonization infrastructure projects, reports recommending that the accompanying bill (House, No. 4501) ought to pass.

For the committee,

JEFFREY N. ROY.

**HOUSE . . . . . No. 4501**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to expedite permitting for electric decarbonization infrastructure projects.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 69G of Chapter 164 of the General Laws is hereby amended by  
2 inserting after the definition of “electric company” the following: -

3           “Energy storage system”, a commercially available technology that is capable of  
4 absorbing energy, storing it for a period of time and thereafter dispatching the energy and which  
5 may be owned by an electric distribution company; provided, however, that an energy storage  
6 system shall (i) reduce the emission of greenhouse gases; (ii) reduce demand for peak electrical  
7 generation; (iii) defer or substitute for an investment in generation, transmission or distribution  
8 assets; or (iv) improve the reliable operation of the electrical transmission or distribution grid;  
9 and provided further, that an energy storage system shall: (1) use mechanical, chemical or  
10 thermal processes to store energy that was generated for use at a later time; (2) store thermal  
11 energy for direct heating or cooling use at a later time in a manner that avoids the need to use  
12 electricity at that later time; (3) use mechanical, chemical or thermal processes to store energy  
13 generated from renewable resources for use at a later time; or (4) use mechanical, chemical or

14 thermal processes to capture or harness waste electricity and to store the waste electricity  
15 generated from mechanical processes for delivery at a later time.

16 SECTION 2. Chapter 164, Section 69K1/2 of the General Laws is hereby amended in  
17 line 1 by inserting after the word “facility” the following: - by striking the first sentence and  
18 replacing it with the following:

19 “Any applicant that proposes to construct or operate within the commonwealth a  
20 generating facility or an energy storage system designed for or capable of operating at a gross  
21 capacity of 100 megawatts or more as defined in section 1 including associated buildings,  
22 ancillary structures, and transmission interconnections that are not otherwise facilities, may  
23 petition the board for a certificate of environmental impact and public interest with respect to  
24 such generating facility or energy storage system.”

25 Chapter 164, Section 69K1/2 of the General Laws is further amended by inserting the  
26 phrase “or energy storage system” after the phrase “generating facility” in each instance that it  
27 occurs, and replacing the word “facility” in the last sentence of paragraph one with the  
28 following: “generating facility or energy storage system”.

29 SECTION 3.

30 Chapter 164, Section L1/2 of the General Laws is hereby amended by inserting the  
31 phrase “or energy storage system” after the phrase “generating facility” in subsection (a)(1) and  
32 (a)(2), and by inserting at the end of subsection (a)(3) the following: “and, further provided, that  
33 no such filing shall be required with respect to an energy storage system.

34 SECTION 4.

35 Chapter 164, Section 69O1/2 of the General Laws is hereby amended by striking the first  
36 sentence and replacing it with the following:

37 “As expeditiously as possible, but in no event later than 180 days from the date of filing a  
38 petition for a certificate pursuant to section 69K.5 with regard to a generating facility or to an  
39 energy storage system the board shall, by a majority vote, render a decision upon the petition  
40 either by denying the petition or by granting the petition, or by granting the petition subject to  
41 such terms and conditions as the board may determine.”

42 Chapter 164, Section 69O1/2 of the General Laws is further amended by inserting “or  
43 energy storage system” after each instance of the phrase “generating facility”.

#### 44 SECTION 5

45 The General Laws are hereby amended by inserting after chapter 164B the following  
46 chapter 164C:

#### 47 CHAPTER 164C: EXPEDITED PERMITTING FOR ELECTRIC 48 DECARBONIZATION INFRASTRUCTURE PROJECTS

##### 49 Section 1. Definitions.

50 As used in this chapter the following words shall, unless the context clearly requires  
51 otherwise, have the following meanings:

52 (1) “Advisory Opinion”, A written recommendation from a state and local governmental  
53 authority that would otherwise have jurisdiction over the permittee, or as provided at the request  
54 of the Office, regarding the siting of a proposed electric decarbonization infrastructure project,  
55 including its impacts and any methods or conditions to minimize such impacts. Advisory

56 opinions of the state and local authorities are not final decisions and are not subject to judicial  
57 review or other delays in the Office’s review.

58 (2) “Agency”, an agency, department, board, commission or authority of the  
59 commonwealth, and any authority of any municipality which is specifically created as an  
60 authority under special or general law.

61 (3) “Applicant”, an electric company or developer of a RPS Class 1 project, as  
62 defined in section 11F of Chapter 25A, that applies for a consolidated permit pursuant to this  
63 chapter.

64 (4) “Best management practices”, broadly accepted industry practices that have been  
65 determined by the office pursuant to this chapter to be the most effective and practical means of  
66 avoiding, minimizing, or mitigating adverse environmental impacts caused by electric  
67 decarbonization infrastructure projects similar to the qualifying project.

68 (5) “Board”, the energy facilities siting board.

69 (6) “Consolidated permit”, a permit issued by the office pursuant to this chapter 21P  
70 and the rules and regulations promulgated by the office.

71 (7) “Cumulative impact analysis”, a written report that assesses whether the proposed  
72 facility is necessary to meet local energy use needs and that such need cannot be accomplished  
73 through less harmful means and considers the potential for harmful exposure, public health or  
74 environmental risk, or other effect occurring in a specific geographical area, including from any  
75 environmental pollution emitted or released routinely, accidentally, or otherwise, from any

76 source, and assessed based on the combined past, present, and reasonably foreseeable emissions  
77 and discharges affecting the geographical area;

78 (8) “Department”, the department of environmental protection.

79 (9) “Director”, the director of the office.

80 (10) “Distributed generation”, means as defined section 1 of Chapter 164.

81 (11) “Distribution”, means as defined in section 1 of Chapter 164.

82 (12) “Distributed energy resources”, means as defined in section 1 of Chapter 164.

83 (13) “Electric company”, means as defined in section 1 of Chapter 164.

84 (14) “Electric decarbonization infrastructure project”, electric sector infrastructure  
85 projects that: (i) improve grid reliability, communications, and resiliency; (ii) enable increased,  
86 timely adoption of and interconnection to renewable energy and distributed energy resources;  
87 (iii) deploy energy storage and electrification technologies necessary to decarbonize the  
88 environment and economy; (iv) prepare for future, climate-driven impacts on the transmission  
89 and distribution systems; (v) accommodate increased transportation electrification, increased  
90 building electrification, and other potential future demands on distribution, interconnection and,  
91 where applicable, transmission systems; (vi) accelerate the retirement of fossil fuel infrastructure  
92 assets including natural gas distribution systems; or (vii) otherwise facilitate or expand the  
93 commonwealth’s capacity to realize its statewide greenhouse gas requirements and goals.

94 (15) “Electric-sector modernization plan”, a plan required by and approved pursuant to  
95 section 92B of Chapter 164 of the General Laws.

- 96 (16) “Energy storage system”, means as defined in section 1 of Chapter 164.
- 97 (17) “Environmental impact report”, means as defined in section 62B of chapter 30.
- 98 (18) “Environmental justice community advocate”, the environmental justice community  
99 advocate established under Section 14 of this chapter.
- 100 (19) “Executive office”, the executive office of energy and environmental affairs.
- 101 (20) “Generation facility”, means as defined in section 1 of Chapter 164.
- 102 (21) “Host community”, any municipality within whose jurisdictional boundaries a  
103 qualifying project is proposed.
- 104 (22) “Municipality”, a city, town, or other political subdivision of the commonwealth.
- 105 (23) “Non-renewable energy”, means as defined in section 1 of Chapter 164.
- 106 (24) “Office”, the electric decarbonization infrastructure permitting office created by  
107 this chapter.
- 108 (25) “Permittee”, an electric company that has received a consolidated permit pursuant  
109 to this chapter.
- 110 (26) “Qualifying project”, an electric decarbonization infrastructure project
- 111 (27) “Ready for load date”, the first date when the applicant can operate the project at the  
112 proposed capacity.
- 113 (28) “Renewable energy”, means as defined in section 1 of Chapter 164.
- 114 (29) “Secretary”, the secretary of the executive office.

115           (30) “Standard conditions”, permit conditions designed to avoid, minimize, or mitigate  
116 potential adverse environmental impacts from the siting, design, construction, and operation of  
117 electric decarbonization infrastructure projects, which are codified in the office’s regulations and  
118 shall be applicable to all projects that receive a consolidated permit pursuant to this chapter 21P.

119           (31) “Special conditions”, permit conditions deemed necessary by the office to avoid,  
120 minimize, mitigate, or offset any potential significant site-specific adverse environmental  
121 impacts that may be caused or contributed to by the siting, design, construction, or operation of a  
122 qualifying project and are unable to be addressed by standard conditions and best management  
123 practices.

124           (32) “Total project costs”, all project costs incurred by the applicant up to the ready for  
125 load date.

126           (33) “Transmission”, means as defined in section 1 of Chapter 164.

127           Section 2. Establishment of Office; Authority.

128           (a) No later than 90 days after the enactment of this chapter, the board shall establish  
129 the office, consisting of a director appointed by the board and such staff as are necessary to  
130 undertake the duties of the office under this chapter.

131           (b) The office shall exercise its authority by and through the board and director as  
132 specified in this chapter. The director and staff shall collectively have expertise in electric  
133 sector decarbonization, permitting requirements for electric infrastructure projects, technical and  
134 engineering expertise in electric decarbonization infrastructure projects, community engagement



135 and environmental justice policy, and such other areas as are necessary to carry out the purposes  
136 of this chapter.

137 Section 3. Funding of the Office.

138 (a) The office shall establish fees for any review of an application for a consolidated  
139 permit under this chapter or a violation of this chapter or regulation promulgated hereunder.  
140 Such fees shall be set such that they are reasonably expected to cover such reviews and the costs  
141 of salaries, services, equipment or other expenses that are incurred by the office including the  
142 salaries of the director and all staff, during such review. The application fee shall be sufficient to  
143 pay for an expert independent of the applicant or applicants to investigate, evaluate and render an  
144 opinion on the appropriateness and need of the site or sites proposed by the applicant or  
145 applicants, on any site or sites alternative to those proposed by the applicant or applicants and on  
146 compliance with standard conditions and any special conditions applicable to the project and the  
147 site. Such an expert shall be engaged by the office unless there is no objection to the proposed  
148 site or sites by any person during the public comment period and in any event at the request of  
149 any other person who timely filed comments during the public review process or of any other  
150 person who timely filed comments during the review of a consolidated permit and who can  
151 demonstrate substantial adverse impact from the issuance or denial of a consolidated permit  
152 unique from any such impacts on the general public.

153 (b) There shall be established and set up on the books of the commonwealth a  
154 separate fund. The office shall be the trustee of the fund and shall expend monies to finance  
155 operational activities of the office. The fund shall be credited any appropriations, bond proceeds  
156 or other monies authorized by the general court and specifically designated to be credited

157 thereto, application fees for permits issued under this chapter and such additional funds as are  
158 subject to the direction and control of the office. All available monies in the fund that are  
159 unexpended at the end of each fiscal year shall not revert to the General Fund and shall be  
160 available for expenditure in the subsequent fiscal year. The office shall record all expenditures  
161 made by the office on the Massachusetts management and accounting reporting system  
162 according to regulations established by the state comptroller.

163 (c) The office shall, for the purposes of compliance with state finance law, operate as  
164 a state agency as defined in section 1 of chapter 29 and shall be subject to the provisions  
165 applicable to agencies under the control of the governor including, but not limited to, chapters 7,  
166 7A, 10 and 29; provided, however, that the comptroller may identify any additional instructions  
167 or actions necessary for the office to manage fiscal operations in the state accounting system and  
168 meet statewide and other governmental accounting and audit standards. Unless otherwise  
169 exempted by law or the applicable central service agency, the office shall participate in any other  
170 available commonwealth central services including, but not limited, to the state payroll system  
171 under section 31 of said chapter 29 and may purchase other goods and services provided by state  
172 agencies in accordance with comptroller provisions. The comptroller may chargeback the office  
173 for the transition and ongoing costs for participation in the state accounting and payroll systems  
174 and may retain and expend such costs without further appropriation for the purposes of this  
175 section. The office shall be subject to section 5D of chapter 29 and subsection (f) of section 6B  
176 of chapter 29.

177 (d) In addition to the foregoing, the office shall annually seek funding from state  
178 appropriations to fund a dedicated reviewer at the Massachusetts Historical Commission who

179 shall conduct reviews of qualifying projects pursuant to section 106 of the National Historic  
180 Preservation Act, when applicable.

181 (e) An electric company shall provide to each municipality within its service area a list of  
182 all electric decarbonization infrastructure projects and their sites under consideration within that  
183 municipality and abutting municipalities, which list shall be updated every six months. The  
184 municipality shall within 90 days of receipt of the list provide to the electric company any  
185 objections to each such project or site. Upon receipt of any such objections, the municipality and  
186 electric company shall undertake to resolve such objections within 90 days thereafter. No  
187 application by the electric company in its own name or by any person acting for, at the behest of,  
188 in coordination with, as a proxy for or on behalf of the electric company for a consolidated  
189 permit for a specific project or a specific site shall be filed before the 90-day resolution period  
190 for such project or site has ended.

191 Section 4. Board and Office Responsibilities; Objectives.

192 (a) The board shall be charged with:

193 (i) developing and promulgating rules and regulations to implement this chapter,  
194 including by codifying standard conditions that shall apply uniformly to permitted qualifying  
195 projects, including, without limitation, by adopting by reference such standard conditions as have  
196 been developed by other agencies;

197 (ii) adopting best management practices that may be incorporated by reference into  
198 consolidated permits issued under this chapter, including, without limitation, best management  
199 practices that have been developed by an electric company and incorporated into their permits  
200 before the enactment of this chapter, and applicable best management practices utilized by

201 agencies in permitting similar electric decarbonization infrastructure projects prior to the  
202 enactment of this chapter;

203 (iii) approving and issuing consolidated permits

204 (iv) ensuring said standard conditions and best management practices comply with  
205 environmental justice principles as established in sections 62 through 62L, inclusive, of chapter  
206 30;

207 (v) developing model host community agreements for qualifying projects that reflect  
208 said best management practices, standard conditions, and environmental justice principles,  
209 publishing said materials in a publicly-accessible manner, and distributing said materials to  
210 applicants and municipalities upon receipt of an application;

211 (b) The office shall be charged with:

212 (i) receiving, reviewing, and promptly acting upon applications for qualifying  
213 projects in accordance with this chapter and the rules and regulations promulgated by the board;

214 (ii) submitting recommended consolidated permits to the board for approval;

215 (iii) transferring, as necessary, consolidated permits;

216 (iv) monitoring projects permitted pursuant to this chapter and enforcing compliance  
217 with all terms and conditions therein; and

218 (v) conducting public hearings, inter-agency consultations, and other procedures  
219 incident to the permitting process that are necessary to effectuate this chapter's purposes.(c)

220 The board shall, within one year of the enactment of this chapter, promulgate regulations  
221 which:

222 (i) establish the consolidated permit application form and application fee for  
223 qualifying projects;

224 (ii) codify the consolidated permit application process and timeline for qualifying  
225 projects;

226 (iii) codify a process for applicants to submit cumulative impact analysis and  
227 environmental impact reports for all qualifying projects;

228 (iv) establish classes of electric decarbonization infrastructure projects based on  
229 common features, including structure and typical environmental impacts and develop a general  
230 permit for each class that includes (a) standard conditions that shall apply uniformly within the  
231 class and (b) uniform best management practices for each class that will be incorporated in the  
232 consolidated permit, by reference;

233 (v) develop and publish model host community agreements that include standard  
234 conditions, best management practices, estimated compensatory mitigation, and other  
235 community benefits for each class of electric decarbonization infrastructure project;

236 (vi) establish criteria for the review of special conditions proposed for inclusion in the  
237 consolidated permit;

238 (vii) establish an in lieu fee program for compensatory mitigation;

239 (viii) establish regulations that result in implementation of fire safety provisions related to  
240 battery and electric vehicle charging and attached home battery storage;

241 (ix) establish a process and timeline for the review of requests for the modification of  
242 consolidated permits previously granted;

243 (x) establish a protocol for monitoring and compliance enforcement, including any  
244 applicable penalties for noncompliance; and

245 (xi) establish such additional rules and procedures as necessary to implement and  
246 effectuate this chapter.

247 (d) In developing the general permit for each class of electric decarbonization  
248 infrastructure project, the board shall consult with electric companies, the environmental justice  
249 community advocate, municipalities, the department, the executive office, the department of  
250 public utilities, the energy facilities siting board, the environmental justice council, the executive  
251 office of public safety and security, the department of fire services, and other relevant state  
252 agencies with applicable subject matter expertise.

253 (e) Prior to the adoption of the general permit for each class of electric  
254 decarbonization infrastructure project, the board, in consultation with the environmental justice  
255 council, shall hold two public hearings to solicit comments from the public.

256 (f) The board shall ensure that its activity pursuant to this chapter provides for and is  
257 consistent with the objectives enumerated in this subsection. The board shall also ensure that all  
258 general permits advance:

259 (i) public safety;

260 (ii) protection of the environment and vulnerable natural resources;

261 (iii) electric sector decarbonization;

- 262 (iv) minimization or mitigation of land use impacts;
- 263 (v) protection of environmental justice populations and environmental justice
- 264 principles as defined in section 62 of chapter 30;
- 265 (vi) progress toward the commonwealth's emissions reduction goals; and
- 266 (vii) minimization or mitigation of impacts on the ratepayers of the commonwealth.

267 (g) Notwithstanding the foregoing, land and areas subject to Section 40 of Chapter 131  
268 and subject to rules and regulations promulgated thereunder or by a conservation commission  
269 established pursuant to Section 8C of Chapter 40 shall be exempt from a consolidated permit  
270 unless the applicant establishes by a preponderance of the evidence that there is no feasible route  
271 or alternative site for the proposed electric decarbonization infrastructure project, and, in that  
272 event, such project shall be located and constructed in a manner that is least intrusive on  
273 wetlands values as determined by the board under Section 4.

274 Section 5. Consolidated Permits; Transfer and Modification.

275 (a) Upon approving a qualifying project, the board shall issue the consolidated permit  
276 to the applicant which encompasses all state, regional, and local authorizations and  
277 authorizations needed for the exercise of eminent domain for underground easements and  
278 associated access for underground transmission, subject to article 97 of the Constitution, as may  
279 be necessary for electric decarbonization infrastructure siting, construction, upgrades, and  
280 operation.

281 (b) The consolidated permit shall be enforceable by the office in the manner provided  
282 in Section 10 and any applicable rules and regulations promulgated pursuant to this chapter. All

283 standard conditions, special conditions, and best management practices identified in a  
284 consolidated permit shall constitute enforceable provisions of the consolidated permit.

285 (c) After consideration of the recommendations of the Advisory Opinions, the board  
286 shall have sole and final discretion over the terms and conditions of the permit, including  
287 standard conditions, special conditions, and best management practices; provided, however, the  
288 board shall comply with subsection 4(e) of this chapter in selecting applicable standard  
289 conditions, special conditions, and best management practices.

290 (d) A consolidated permit issued by the board may be transferred or assigned, subject  
291 to the prior written approval of the office, to an electric company that agrees to comply with the  
292 terms, limitations, and conditions contained in said permit.

293 Section 6. Standard Conditions, Best Management Practices, and Community Benefits.

294 (a) The standard conditions established pursuant to this chapter shall be designed to  
295 avoid, minimize, or mitigate, to the maximum extent practicable, any potential significant  
296 adverse environmental and social impacts caused or contributed to by the siting, design,  
297 construction, upgrades to, or operation of qualifying projects. Such uniform standard conditions  
298 shall apply to those environmental and social impacts the office determines are common to each  
299 class of electric decarbonization infrastructure projects.

300 (b) The office shall promulgate regulations establishing an in lieu fee program for  
301 compensatory environmental mitigation that effectuates the restoration, establishment,  
302 enhancement or preservation of comparable environmental resources through funds paid to a  
303 government or non-profit entity. The in lieu fee program may be used at the election of the  
304 applicant to satisfy the standard of mitigation to the maximum extent practicable and advance the



305 objectives enumerated in subsection 4(f) of this chapter only to the extent that the office finds  
306 that avoidance and minimization are not practicable.

307 (c) The office shall develop and incorporate by reference in consolidated permits  
308 issued pursuant to this chapter best management practices based on best management practices  
309 that have been developed by an electric company and incorporated into their permits before the  
310 enactment of this chapter; as well as any applicable best management practices adopted by  
311 agencies in permitting similar electric decarbonization infrastructure projects prior to the  
312 enactment of this chapter. Such best management practices shall become enforceable terms of  
313 the consolidated permit when incorporated by reference therein.

314 (d) All standard conditions and best management practices shall, as applied to each  
315 qualifying project, conform to or advance the objectives enumerated in subsection 6(e) of this  
316 chapter.

317 Section 7. Applicant; Preemption.

318 (a) An electric company may, in lieu of seeking other permits or approvals as are  
319 required by the commonwealth, any department, commission, board or subdivision thereof, and  
320 any city or town, request that the office issue a consolidated permit for an electric  
321 decarbonization infrastructure project in accordance with this chapter, subject to the exemption  
322 in subsection 4(f). Any such project for which a consolidated permit is issued shall thereafter be  
323 built, maintained, upgraded, or operated in conformity with the terms, standard conditions, and  
324 special conditions, if any, contained in the consolidated permit.

325 (b) The board shall have exclusive authority over qualifying projects that seek a  
326 consolidated permit. No city or town or regional authority shall have authority over any

327 qualifying project undergoing permitting through the board nor shall any city or town or regional  
328 authority enact any bylaw, ordinance, or regulation with respect to qualifying projects  
329 undergoing permitting through the board.

330 (c) Notwithstanding any other provision of law, no other state agency, department, or  
331 authority, nor any municipality or agency thereof, may, except as expressly authorized under this  
332 chapter or the rules and regulations promulgated under this chapter, require any approval,  
333 consent, permit, certificate, contract, agreement, memorandum of understanding, or other  
334 condition for the development, design, construction, upgrades to, or operation of qualifying  
335 projects for which a consolidated permit has been granted in accordance with this chapter. This  
336 chapter shall supersede and replace all permitting and authorization requirements for qualifying  
337 projects for which a consolidated permit has been granted that would otherwise be required by  
338 the commonwealth, any department, commission, board or subdivision thereof, and any regional  
339 authority, city or town.

340 (d) Nothing in this chapter shall exempt any qualifying project granted a consolidated  
341 permit from compliance with all applicable federal laws and regulations.

342 (e) This section shall not apply to normal repairs, maintenance, replacements, non-  
343 material modifications and non- material improvements of electric sector infrastructure,  
344 whenever built, which are performed in the ordinary course of business and which do not  
345 constitute a violation of any applicable existing permit, including but not limited to projects  
346 otherwise exempt under Section 40 of Chapter 131 of the General Laws, Chapter 91 of the  
347 General Laws, or Section 61 of Chapter 30 of the General Laws.

348 Section 8. Application Review Process; Permit Issuance.

349 (a) Applicants shall initiate the application process for a consolidated permit by  
350 submitting a single application to the office in such form and detail as the board shall prescribe  
351 in its regulations promulgated pursuant to this chapter. Applications shall include, at a minimum  
352 the following information, in addition to any other information the office may require:

353 (i) a cover sheet listing all substantive local and state permits and authorizations that  
354 the applicant would have otherwise been required to obtain prior to commencing the electric  
355 decarbonization infrastructure project;

356 (ii) a description of the proposed project;

357 (iii) an explanation of why the applicant's project should be considered a qualifying  
358 project pursuant to this chapter;

359 (iv) proof of consultation with the host community with respect to the project and its  
360 potential impacts;

361 (v) documentation that all Massachusetts Environmental Policy Act requirements for  
362 advance notification to environmental justice populations, as defined in section 62 of chapter 30,  
363 have been met by the applicant, in accordance with Massachusetts Environmental Policy Act  
364 regulations;

365 (vi) an outreach plan for engagement with environmental justice populations, in  
366 accordance with Massachusetts Environmental Policy Act regulations;

367 (vii) documentation of compliance with any other pre-application substantive or  
368 procedural requirements of the Massachusetts Environmental Policy Act and its regulations;

369 (viii) an environmental impact report and cumulative impact analysis for all projects  
370 located in host communities with identified environmental justice populations; and

371 (ix) an application fee in the amount specified by the office in its regulations promulgated  
372 pursuant to this chapter.

373 (b) Within thirty days of receiving an application, the office shall determine whether  
374 the proposed electric decarbonization infrastructure project is a qualifying project. If the project  
375 does not qualify, the director shall deny the consolidated permit and issue a written explanation  
376 of its determination to the applicant within thirty days of receiving the application. Within fifteen  
377 days of receiving notice that an application for a consolidated permit has been denied, an  
378 applicant may request reconsideration by the board. The board shall review the application and  
379 office's determination and may issue a superseding determination that the project qualifies  
380 within fifteen days of receiving the request for reconsideration. Applicants may elect to have a  
381 pre-application meeting with the office to determine the eligibility of proposed electric  
382 decarbonization infrastructure projects.

383 (c) If the office confirms that the applicant's proposed project is a qualifying project,  
384 the office shall, within thirty days of receiving an application, publish public notice of  
385 availability of the application. Concurrently with the publication of notice of availability of an  
386 application, the office shall forward the application to the environmental justice community  
387 advocate and all state and local agencies that would otherwise have jurisdiction over any  
388 authorization required for the proposed project.

389 (d) Upon receiving notification of availability of an application for a consolidated  
390 permit from the office, such state and local agencies and the environmental justice community

391 advocate shall review the proposed electric decarbonization infrastructure project and identify  
392 potential significant site-specific adverse environmental impacts, if any, that may be caused or  
393 contributed to by the siting, design, construction, or operation of the project which are unable to  
394 be addressed by standard conditions and best management practices. Each agency and the  
395 environmental justice community advocate may, but shall not be required to, propose special  
396 conditions that avoid, minimize, or mitigate, to the maximum extent practicable, such impacts,  
397 and shall submit an advisory opinion containing its recommendations to the office within the  
398 public comment period.

399 (e) A sixty day public comment period shall commence on the date of publication of  
400 notice of availability of an application. The office may require a site visit if a site visit is  
401 requested by any local or state agency or public commenter within the first thirty days of the  
402 public comment period.

403 (f) The office may consult with any agency recommending special conditions during  
404 the public comment period. At the request of the office, an agency may provide support to the  
405 office within the scope of their respective statutory expertise, provided, however, that the  
406 director shall have sole discretion over which special conditions to include, if any, in the  
407 recommended consolidated permit submitted to the board.

408 (g) During the sixty-day comment period, a public hearing shall be held by the office  
409 if the electric decarbonization infrastructure project is proposed within five miles of an  
410 environmental justice population or if requested by twenty-five or more residents of the  
411 commonwealth within thirty days of public notice. All hearings conducted pursuant to this  
412 chapter shall conform to the procedures established by the office in its regulations promulgated

413 pursuant to this chapter. All hearings initiated under this section or pursuant to rules or  
414 regulations promulgated pursuant to this section may be conducted by the director or any person  
415 to whom the director shall delegate the power and authority to conduct such hearings or  
416 proceedings in the name of the office at any time and place.

417 (h) At any time during the public comment period and within thirty days of closure of  
418 the public comment period, the office may request information from the applicant that is  
419 necessary to identify appropriate standard conditions and best management practices, and to  
420 assess any agency recommendations for special conditions. The applicant shall respond to the  
421 office's request for information within thirty days. Failure to respond within thirty days may  
422 result in a proportional delay in the office's period for issuing a decision on the application.

423 (i) No later than one year from the date of public notice, plus any additional time as  
424 provided in subsection (h) of this section, the office shall submit to the board a recommended  
425 consolidated permit either approving or approving with special conditions a qualifying project.  
426 The recommended consolidated permit shall specify the state and local permits and  
427 authorizations that are encompassed therein and identify enforceable standard conditions and  
428 best management practices for the project in accordance with the regulations established under  
429 this chapter, except that if a qualifying project is recommended with special conditions, such  
430 special conditions shall replace or supplement standard conditions and best management  
431 practices, as stipulated in the consolidated permit. If an environmental impact report and  
432 cumulative impact assessment are required, the office shall only issue permits for projects where  
433 the environmental impact report demonstrates a finding of environmental and energy benefits to  
434 the impacted environmental justice populations without significant environmental or energy

435 burdens and the cumulative impact assessment demonstrates that there is no adverse public  
436 health, environmental, or climate impact to the impacted communities.

437 (j) Within one month from the date the office submits the recommended consolidated  
438 permit to the board, the board shall issue a final consolidated permit either approving the  
439 recommended consolidated permit or approving the recommended consolidated permit with  
440 changes to the special conditions. The board shall only change the special conditions in a  
441 recommended consolidated permit if those special conditions do not meet the regulatory criteria  
442 established for special conditions under subsection 4(c).

443 (k) If the board fails to issue a consolidated permit for a qualifying project within one  
444 month from the date the office submits the recommended consolidated permit to the board, the  
445 permit will be deemed approved and subject to all standard conditions and best management  
446 practices identified for electric decarbonization infrastructure projects of that class in the office's  
447 regulations promulgated pursuant to this chapter; subject to such delays caused by the applicant's  
448 failure to timely comply with the agency's request for information, per subsection 10(h). In the  
449 event that the permit is approved pursuant to this subsection, the office shall inform all  
450 participants in the public hearing and public comment process of their right to seek judicial  
451 review under section 11 within 7 days of approval.

452 (l) The board and office shall conform to the regulations established under  
453 subsection 6(c) and the objectives enumerated in subsection 4(f) of this chapter in reviewing an  
454 application and selecting applicable standard conditions, special conditions, and best  
455 management practices.

456 Section 9. Expedited Appeals Process.

457 (a) Any person aggrieved by the issuance or denial of a consolidated permit or other  
458 final decision of the board may seek judicial review of such decision as provided in this section.

459 (b) For purposes of this section, “person aggrieved” shall mean: (i) an applicant for a  
460 consolidated permit, or (ii) any other person who timely filed comments during the review of a  
461 consolidated permit and who can demonstrate substantial adverse impact from the issuance or  
462 denial of a consolidated permit unique from any such impacts on the general public.

463 (c) Appeals shall be limited to those filed within thirty days of permit issuance or  
464 denial, or other final decision of the board.

465 (d) The Supreme Judicial Court, or, at the discretion of the Court, a single justice  
466 thereof, shall have jurisdiction over appeals pursuant to this section and shall have the power to  
467 grant such relief as it deems just and proper, and to make and enter an order enforcing,  
468 modifying and enforcing as so modified, remanding for further specific findings, or setting aside  
469 in whole or in part such decision of the board. The jurisdiction of the Supreme Judicial Court  
470 shall be exclusive and its judgment and order shall be final. All such proceedings shall be heard  
471 and determined by the court as expeditiously as possible and with lawful precedence over all  
472 other matters.

473 (e) The appeal shall be heard on the record and upon briefs to the court in the same  
474 manner as appeals heard pursuant to sections 14 through 16 of Chapter 30A of the General Laws.  
475 The findings of fact on which such decision is based shall be conclusive if supported by  
476 substantial evidence on the record considered as a whole and matters of judicial notice set forth  
477 in the opinion. The grounds for and scope of review of the court shall be limited to whether the  
478 decision and action of the board is:



- 479 (i) in conformity with the constitution, laws and regulations of the commonwealth  
480 and the United States;
- 481 (ii) supported by substantial evidence in the record and matters of judicial notice  
482 properly considered and applied in the opinion;
- 483 (iii) within the board's statutory jurisdiction or authority;
- 484 (iv) made in accordance with procedures set forth in this chapter or established by rule  
485 or regulation pursuant to this chapter;
- 486 (v) arbitrary, capricious or an abuse of discretion; and
- 487 (vi) made pursuant to a process that afforded meaningful involvement of citizens  
488 affected by the facility regardless of age, race, color, national origin and income.

489 Section 10. Monitoring and Enforcement; Permit Suspension and Revocation.

490 (a) The office is authorized to monitor the construction and operation of qualifying  
491 projects

492 to ensure compliance with all terms and conditions, including standard conditions, special  
493 conditions, and best management practices, set forth in a consolidated permit issued for such  
494 project.

495 (b) The office is authorized to take such actions as may be necessary in its discretion  
496 to enforce compliance with all terms and conditions, including standard conditions, special  
497 conditions, and best management practices, set forth in the consolidated permit, in accordance  
498 with its rules and regulations promulgated pursuant to this chapter; provided, however, that the

499 office must first issue a detailed notice of the noncompliance to the permittee and allow the  
500 permittee fifteen days to cure the noncompliance.

501 Section 11. Massachusetts Community Just Transition Trust Fund.

502 1. Within thirty days of the ready for load date for the project, applicants shall pay to  
503 the board a surcharge based on the total project cost of the qualifying project.

504 2. The surcharge for qualifying projects shall be one percent (1.0%) of total project  
505 cost for all projects, except that the surcharge shall be one and one half percent (1.5%) for a  
506 project that includes an element sited within an environmental justice population, as defined in  
507 section 62 of chapter 30.

508 3. The surcharge shall be deposited by the board into the fund created by this  
509 section.

510 4. There shall be established and set up on the books of the commonwealth a  
511 separate fund, to be known as the Massachusetts Community Just Transition Trust Fund. The  
512 fund shall consist of all monies received pursuant to this section, as well as any monies received  
513 by the commonwealth from public and private sources as gifts, grants and donations to further a  
514 just and equitable transition to a decarbonized electric sector.

515 5. The executive office shall be the trustee of the fund and may deposit or invest  
516 revenue from the fund in savings banks, trust companies incorporated under the laws of the  
517 commonwealth, or banking companies incorporated under the laws of the commonwealth which  
518 are members of the Federal Deposit Insurance Corporation or national banks, and any income  
519 therefrom shall be credited to the fund. Any monies that are unexpended at the end of each fiscal

520 year shall not revert to the General Fund and shall remain in the Massachusetts Community Just  
521 Transition Fund and be available for expenditure in the subsequent fiscal year.

522           6.       The expenditure of revenues from the fund shall be solely for assisting  
523 communities and environmental justice populations transition to a decarbonized electric sector  
524 and to improve the reliability and resiliency of such communities in preparation for future,  
525 climate-driven impacts.

526           7.       The secretary shall, within one year of the enactment of this chapter, establish  
527 guidelines for the expenditure of revenues from the fund. Such guidelines shall advance the  
528 objectives stated in Section 92B(a)(i)-(vi) of chapter 164 and shall conform with the  
529 environmental justice policies and principles established by the executive office.

530           8.       The executive office shall make expenditures and disbursements of revenue from  
531 this fund in accordance with subsection 13(f) of this chapter and the guidance promulgated under  
532 subsection 13(g) without further appropriation. The executive office shall record all expenditures  
533 and disbursements made from this fund on the Massachusetts management and accounting  
534 reporting system according to regulations established by the state comptroller, and shall also  
535 maintain an online list of projects and initiatives supported by this fund.

536           Section 12. Environmental Justice Community Advocate

537           1.       An environmental justice community advocate shall be appointed by the  
538 secretary, with input from and consultation with the Environmental Justice Council at the  
539 executive office.

540           2.       The salary of the environmental justice community advocate, along with such  
541 support staff as necessary to fulfill the objectives in this section, shall be funded in accordance  
542 with section 5(a) of this chapter.

543           3.       The environmental justice community advocate shall be charged with:

544           1.       determining which classes of qualifying projects shall be subject to review of the  
545 environmental justice community advocate and publishing a public list of such classes;

546           2.       reviewing applications for qualifying projects that are subject to review by the  
547 environmental justice community advocate and within environmental justice communities,  
548 coordinating comments from community groups, and recommending mitigation to be funded  
549 through the Massachusetts Community Just Transition Fund;

550           3.       meeting quarterly with electric utilities to:

551           a.       identify future projects that are subject to the environmental justice advocate's  
552 review and planned within environmental justice communities and discuss potential impacts and  
553 alternatives;

554           1.       discuss the progress of ongoing qualifying projects subject to environmental  
555 justice advocate review and ensure that communication of the project's status and benefits is  
556 consistent and continuous; and

557           2.       participate in strategic planning discussions for meeting electric sector  
558 decarbonization and modernization needs of environmental justice communities served by the  
559 utility; and

560           4.       establishing and maintaining current a list of environmental justice community groups.