



Comments of The Nature Conservancy in Massachusetts
Stakeholder Session 1
Procedural Regulations Straw Proposal
Standard Conditions Straw Proposal

April 18, 2025

The Nature Conservancy (“TNC”) is pleased to submit these comments as part of the EFSB’s Stakeholder Session process. Our comments will provide information about TNC and specifically address the Standard Conditions Straw Proposal.

TNC

TNC is a global conservation organization which uses a collaborative, science-based, and solutions-oriented approach to achieve our mission to “conserve the lands and waters on which all life depends.” We are committed to tackling the dual global crises of climate change and biodiversity loss, and to achieving ambitious renewable energy goals while also maintaining and improving the health and function of our ecological systems.

We greatly appreciate the efforts of the Healy-Driscoll administration to lead the policy reforms that provide for more expeditious, efficient, and equitable siting and permitting of renewable energy, with better outcomes for people and nature. TNC served on the Governor’s Commission on Energy Infrastructure Siting and Permitting and helped advocate to the legislature to codify the Commission’s recommendations into law. We have also been actively engaged in the stakeholder process related to the ongoing draft of the SMART regulations.

TNC recognizes the importance of site-suitability conditions and the need, as part of any siting, permitting and project development process, to preserve

and protect unique natural resources. This need to preserve and protect, e.g., limit impacts, is a fundamental part of the Commission's report and was adopted by the Legislature in the multiple requirements of the 2024 Grid Equity Act (the "Act"). Specifically, key provisions to avoid/minimize and mitigate impacts, and the need for a mitigation hierarchy were all incorporated into the Act. For example, the Act provides that the Siting Board shall establish as part of siting and permitting of large clean energy facilities:

*"standards for applying site suitability criteria developed by the executive office of energy and environmental affairs pursuant to section 30 of chapter 21A to evaluate the social and environmental impacts of proposed large clean energy infrastructure project sites and which shall include a mitigation hierarchy to be applied during the permitting process to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts of siting on the environment, people and goals and objectives of the commonwealth for climate mitigation, carbon storage and sequestration, resilience, biodiversity and protect of natural and working lands to the extent practicable."*¹

We look forward to providing detailed comments regarding these new important provisions as part of the Stakeholder Session comments, particularly as part of the Site Suitability review scheduled for May. We will continue to focus on the importance of biodiversity, carbon storage and sequestration, climate resiliency, and environmental justice. Our deep experience developing and working in similar programs in cooperation with the Commonwealth to protect key resources will be helpful as the Siting Board evaluates how best to "avoid, minimize and mitigate" and apply a "mitigation hierarchy" as required by the Act.

Comments on the Stakeholder Session

¹ See, Section 74 of the Act, amending Section 164, by adding a new Section 69 T (b). (Emphasis added). Similar language in that Section (69 T (c) and (d)) also requires, as part of the application process for large clean energy transmission and distribution projects and large clean generation and storage facilities, a detailed evaluation of alternatives and opportunities to avoid or minimize or mitigate impacts. The Board recognized the expanded mandates of the Act and referenced these requirements in Note 4 of its Standard Conditions Straw Proposal. There are other Sections of the Act which also emphasize the need to avoid, minimize and mitigate impacts and the importance of a mitigation hierarchy (check statute).

With respect to the April 10, 2025, Stakeholder Session, TNC's comments (and associated responses) as presented at that time were as follows:

- Site Suitability: TNC inquired and EFSB staff confirmed that Site Suitability will be included as a Standard Condition.
- Environmental Related Provisions: The language in the Constructive Approval Conditions, e.g., wetlands, was illustrative and additional protections and topics will be included in the next iteration
- Adjustment of Permit Review Deadlines: The Act does not allow an extension of the time for review in the event of unforeseen circumstances for large-scale consolidate permits, although there are provisions for small scale projects
- Mitigation Hierarchy: TNC noted the importance of consideration of the Mitigation Hierarchy as part of Standard Conditions.

With respect to Specific Conditions, Level 2 Constructive Approval Conditions² should include specific requirements related to Site Suitability as such may be developed following the Stakeholder process. The EFSB recognized, as noted above, that these Site Suitability related conditions would be included as Standard Conditions. Specific Constructive Approval Conditions should include, among other things, the mitigation hierarchy and the categories related thereto (biodiversity, forest carbon, resilience, and Environmental Justice) as referenced in the Act. The EFSB's draft conditions already include, as illustrative examples, consideration of environmental and mitigation factors (contaminated materials, PFAS, wetland and flood mitigation) and more specific requirements related to Site Suitability should be incorporated as well.

EFSB may wish to keep the comment process open and allow additional comments and consideration of specific Constructive Approval Conditions as part of the discussion of Site Suitability at the Stakeholder Session. TNC

² TNC assumes that Level 1 Universal Conditions would be applicable to all permits and consist primarily of procedural and ministerial requirements based upon the requirements that the EFSB's currently issues with its approvals. These conditions assume a review has occurred and are proposed to be part of every permit following that review and a substantive finding and order. Accordingly, we assume that Site Suitability will be addressed as part of the adjudication and order and therefor would not be required as part of Level 1 Conditions.

plans to comment on Constructive Approval Conditions as part of its comments on Site Conditions.

TNC appreciates the opportunity to submit these comments and looks forward to working with the EFSB as part of this important process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Long", written in a cursive style.

The Nature Conservancy

Steve Long
Director of Policy and Partnership
The Nature Conservancy in Massachusetts

