COMMENTS ON 225 CMR 29.00: SMALL CLEAN ENERGY INFRASTRUCTURE FACILITY SITING AND PERMITTING

Submitted by Michael DeChiara
Shutesbury, MA
Sept. 26, 2025

29.01 Purpose
While the Commonwealth's primary goal is efficient and timely deployment of clean energy, if the purpose is not more inclusive of additional goals, the entire regulation will be interpreted with a narrow lens, either practically, regulatorily or legally. The purpose should be worded as follows: "for the efficient and appropriate siting and permitting of…

29.02: Definitions

Abutter – why not use the standard definition used by many municipalities in regards to zoning that also includes: "owners of properties within 300 feet and abutters to abutters"?

De Novo Adjudication – I very much appreciate that any appeal may include information submitted to the Local Government as part of the application. I would suggest that this should be a "shall" rather than a "may" since in order to arrive at an informed decision about the municipality's decision, the Director needs to understand the basis for that decision, i.e. the underlying information.

Key Stakeholders – it is excellent that federally recognized, state-acknowledged, or state-recognized tribes are specifically noted.

Local Government Representative – this might be worth reconsidering. The current language reads "*A decision-making entity within a Local Government*". Miriam Webster defines a representative as a person, which is my understanding, rather than an entity. Further, reading through the subsequent parts of this proposed regulation, especially in regards to the model bylaw, is that DOER's intent is to identify a human being rather than an entity. The reference to a Local Government Representative appears throughout this regulation so clarification is important.

Minimization – It is very significant and greatly appreciated that this is not qualified but some cost-related caveat.

Mitigation – Similarly, it is very significant and greatly appreciated that this is not qualified but some cost-related caveat.

Site Suitability Score Reviewer – while this is likely also covered by EEA's Site Suitability Guidance, I appreciate that there will be an objective, government designated individual that will calculate the Criteria-specific and Total Site Suitability Scores.

29.05 Concurrency and Transition Periods
It is appreciated that local standards and practices may be used by a municipality through Nov. 30, 2026.

I think the regulations should explicitly state two things. First, that local standards and practices include but may not be limited to local bylaws and regulations that are currently in place (or adopted prior to Nov. 30, 2026). Second that based on statute and this section, the use of these local bylaws and regulations up to Nov. 30, 2026 shall be considered fully compliant with MGL Ch.40A Sec 3 paragraph 9 commonly referred to as the Dover Amendment. This explicit mention will result in needed clarity to avoid legal delays; I believe that was the intent of statute and the regulations should do the same.

29.06ublic Health, Safety and Environmental Standards

1. I look forward to seeing and reviewing the draft Public Health, Safety and Environmental Standards since the details of siting will be addressed in these.

2. It should be made clear if by "standards" DOER means bylaws, ordinances and/or regulations. Additionally, it should be made explicit that these additional/supplemental standards can be in place beyond Nov. 30, 2026. Very important, these regulations should reiterate what was made plain in statute – that municipalities that comply with DOER regulations will be deemed to be compliant with the Dover Amendment - Ch40A Sec 3 para 9. I see the DOER regulations as an umbrella that provides legal protection for municipalities that are allowed to use compliant supplemental bylaws operating under the approved processes of DOER.

Additionally, it would be important to clarify if conditions that may be put on a permit based on these supplemental standards/bylaws are allowed. I would suggest they should be.

29.07 Application of Site Suitability Guidance

2a. It is good that the estimated Site Suitability scores shall be shared with Key Stakeholders. However, sharing out is only half of the necessary dynamic. If Key Stakeholders have objection to the estimates, where do they take that information? A process is suggested by EEA in the Site Suitability Process and should be incorporated here by reference. I would suggest that the best process would be that Key Stakeholders should be able to share feedback with the applicant AND with the person designated to make the Formal Score Determination. This person and their contact information should be provided to Key Stakeholders along with the estimated scores. If this feedback is provided to the official Scorer, that person will be able to engage with the applicant about whether modifications have been made based on the local feedback.

2b. I would assume and definitely request that once the Site Suitability Report is submitted to local regulators, that it be made available to the public and Key Stakeholders as a matter of course, not requiring a public records request. This should be stated in these Regulations.

3. The Site Suitability Report should require not only (a) the Total Site Suitability Score and (b) all the Criteria-specific Suitability Scores, but the DOER guidelines should require a breakout of these scores into their contributing factors, so that the basis of the scoring is known and the underlying assumptions are clear. This is essential if 29.07 (4), Request for Score Review, is to be possible. Without the underlying information, an informed Request will be limited.

5b. The fact that the Minimization and Mitigation must meet the specifications of the Guidelines for Minimization and Mitigation Measures, makes review of this guidance very essential.

5c. If highly suitable facilities are going to be exempt from Minimization measures, this will provide an incentive for applicants to game the system to get the best score. While this concept is reasonable, safeguards and very clear measures, especially in regards to Modifiers , are necessary. And it is important to note that a facility might get a favorable Total Score but have a poor Criteria-Specific score which should trigger a need for minimization or mitigation conditions. While addressed in (6), it is important to highlight.

6. Compensatory Environmental Mitigation. The Guideline on Minimization and Mitigation Measures needs to require that compensatory mitigation be closely associated with the harms that generated a highly unsuitable score. The local government regulators should be discouraged by DOER regulations from receiving compensatory payments that can be used for purposes not related to the harms, for example to meet other municipal budget needs such as roads, school, capital improvements, etc. The focus is on site suitability and DOER should insist on laser focus on this as a priority. Perhaps (7b) addresses this but again, this is important enough to be highlighted.

29.08 Pre-Filing Requirements

1. I like the fact that an application submitted without completing all pre-filing requirements will be automatically denied. However, there should be some consequences to discourage applicants from doing this. This might be that the applicant is prohibited from re-applying for a period of time, perhaps 60-120 days. Otherwise, there is no downside to trying to skip steps.

2a. It is safe to assume that all or most applicants will minimize the negative impacts of the facility on the community. There should be more stringent guidance in these regulations to require objective analysis rather than the anticipated fluffy language and subjective analysis.

2b. Scale is essential in these documents for adequate regulatory review. Two types of maps are required in regard to scale. One are maps that provide the context of the site within the community and adjacent location. Additionally, maps that provide adequate detail to identify environmental, cultural and historic features and proximity to residences, businesses, etc. This detail must include known water systems, wetlands, and slopes.

2d. Excellent requirement. The Applicant should be required to provide fire, police and emergency management with written detailed documentation to backup and explain the Emergency Response Plan. If there are financial implications to the municipality regarding

emergency response, proposed solutions should be included that perhaps can become permit conditions.

2e. The Pre-Filing Engagement Certification Checklist should include a required statement that the applicant understands that if it does not satisfy the requirements of pre-filing engagement, it may not submit an application. This checklist should require a signature of an accountable party.

Additionally, I suggested in OEJE's guidelines for Community Benefits Plans and Agreement that the statement of principles be converted into a document that the applicant must sign and submit as part of the application. This will mean that the applicant is committing to a state-recommended approach to engagement.

This section refers to a Community Engagement Plan. This is addressed in OEJE's document but it is not required, nor is it required by DOER. Given the time and effort necessary to do this well, a Community Engagement Plan should be required with the intent being a subsequent submission of a Community Benefit Plan, or preferably an Agreement.

2f. Public Notice Requirements – this is good. It does beg the question of where a meeting recording will be posted. EFSB is requiring applicants to develop and maintain a project website that is easily accessible to the public and can serve as a repository for all materials pertaining to the project. I think DOER must do the same.

4. On its face the 30-day requirement for Local Government to determine if the applicant completed all the Pre-Filing requirements seems reasonable but given the consolidated nature of the permit and the multiple permitting boards, it is unclear that if all local regulatory bodies need to do their due diligence to determine application completeness, if the municipality as a whole, can achieve this deadline. While the upcoming DOER model bylaws indicate that a local process needs to be developed for boards to confer and for the municipality to speak on multiple board's behalf, this will not invalidate Open Meeting Law. It is important to note that a group comprised of one representative from each board is still considered a public body whether it is called a working group or subcommittee, and as such must comply with OML. If it is the municipality as a whole rather than each committee that must attest to completeness, 45 days is more practical given the limitations of Open Meeting Law and meeting notification requirements. This time would also be necessary if the boards/town seeks to query stakeholders before affirming completion.

4a. What is the means for communicating pre-filing deficiencies – certified mail, email, etc?

4a1. If the Applicant may re-apply without prejudice, there is no penalty for rushing the process and risking an incomplete process. There should be a required period whereby an applicant cannot re-apply – at least 90 days, so as to ensure the process is done right the first time.

29.09 Consolidated Local Permit Application

1. The use of consultants by the permitting body should be not covered by the filing fee but should be allowed by a municipality's adoption of Ch. 44 Sec 53G, whereby the permitting body secures the services of professionals at the applicant's expense.

2a. The content of the Guideline on the Consolidated Local Permit Application is vital to transparency and accurate understanding of the proposal.

2b. It doesn't seem like the proposed PILOT should be in the initial materials since this is usually not agreed to by the permitting body but rather by the Executive branch of the municipality such as the Select Board. Is DOER now including non-regulatory bodies, like Select Boards, as part of the consolidated process since they negotiate the PILOT. Further, Town Meeting, where it exists, is the body that approves a PILOT for the Town but I would not assume a Town Meeting vote is also now under the Consolidated Umbrella; this seems unreasonable. And it should be made explicit that the 12-month window for a decision should for a regulatory decision and not for a financial decision regarding taxes.

Further, if the Guideline on the Consolidated Local Permit Application does not specify the types and scale of submitted maps, then this section must. As stated earlier, maps must include both large area information to create the context for siting within the community and detailed information to illustrate local features. Residents, businesses, all bodies of water, wetlands, and slope.

e. Are these materials limited to municipalities that require Site Plan review; these materials should also be required for Special Permits. Also are these materials defined by local bylaws or will DOER be further defining?

f. While this is good, the proposed mediation, restoration or replanting can only be tentative until review by the regulatory body, likely the Conservation Commission. It is also worth noting that local wetland bylaws are usually accompanied by local wetland regulations that provide necessary detail. Local regulations should be referenced as allowable.

g. This is good but does seem to preclude subsequent requests for relief that may emerge as part of the regulatory review process. If additional requests are allowed, they should either follow local standards or should only be allowed, in writing, while the relevant public hearings are open to allow for comment. Written decisions by the regulatory body should be required if relief is provided.

j. Mentioning these other local permits or decisions is good. Do these fall under the consolidated permit and what officially triggers these processes, the Notice of Intent?

k. I like the need to document DEI. Is there a reason past commitment is required rather than statement of intent going forward, for example in promoting workforce or economic development. In today's landscape, such a commitment is important in Massachusetts.

3. A digital copy of the Consolidated Local Permit Application should also be submitted to all relevant permitting bodies and the Executive of the municipality (Mayor, Town Council, Select Board, etc). While this may be implied it is not stated elsewhere. A copy should also be posted to a publicly accessible project website that I recommend DOER require for each project, thereby consolidating all project information so the public/stakeholders have ready access. Given the limited capacity of many municipalities, requiring the applicant to do this makes sense.

29.10 Consolidated Local Permit Application Review Process

1. While this timeline and process is determined in statute, these regulations remain vague on who exactly the Local Government is under a consolidate permitting process with multiple boards and commissions. While DOER will be proposing model bylaws that are supposed to address this, as we know from DOER's 2015 model solar bylaw, these are not legally binding like a regulation is. So this regulation should establish whether each permitting body is responsible for communicating completeness to the applicant or if the Local Government Representative (however defined) is responsible. Given the short turnaround, to avoid constructive approval, this clarification is crucial.

a. If an application is rejected without prejudice, the applicant can begin the process anew. I would suggest the starting point for a renewed application process should be at the Pre-Filing stage, not the Application stage.

d. The statement "The Local Government or the Department shall make efforts to make the Consolidated Local Permit Application available to the public" is woefully inadequate and runs counter to the intention of community engagement by EEA/OEJE. I do think DOER must require this but does not have to implement this itself. Rather I would suggest that DOER follow the example of EFSB in regards to requiring a project website and online distribution of information. By requiring the applicant to have a project website, it is meeting the Departmental requirement of making information available. A project website is essential for access to information for stakeholders and the general public and can serve as an easily accessed central information hub. The responsibility of providing this information, especially given the volume of documents, should fall to the applicant rather than the municipality. Information about Pre-Filing activities and all Application materials should be required to be posted on this easily accessible public website.

The statement "shall make efforts" is woefully inadequate!

2. As mentioned earlier, it is worth reminding DOER about subcommittees or working groups under Open Meeting Law. Even a group comprised of one member of each permitting body, meeting to collaborate is deemed a public body and therefore must comply with Open Meeting Law. This is the problem with the statute's 12-month limitation; legislators are not under the same constraints. I would welcome the legislature or the AG taking action to change this in order to facilitate more responsive local government action.

3. As I noted in the Definitions section, the definition of a Local Government Representative does not work given this requirement. As defined in these regulations – the representative is "*a decision-making entity within a Local Government.*" Yet it seems from the language in this section that such a Representative should be a person. Alternatively, if DOER anticipates that one permitting body is the lead and is collecting decisions from the other permitting bodies this needs more clarification. Perhaps the release of the model bylaws will help but this remains the unresolved issue at the core of the local consolidated permit process.

It is excellent that a decision on an individual application component cannot be appealed or reviewed independently.

3a. The process by which the Local Government Representative communicates a decision to the applicant needs to be specified – certified mail, email, first class mail, etc?

More importantly, assuming a tight timeframe to meet the 12-month window for a decision to avoid constructive approval, what is the official date of record for notification. Is it receipt and documentation by the Town Clerk, or receipt by the Applicant? These might be different dates and a clear receipt date is essential to avoid constructive approval.

4. If should be made explicit what forms of communication are acceptable for information requests, especially since the contact information in the Application will likely include a mailing address and an email, further that the relevant person might not be the person identified on the application material. Furthermore, it should be acknowledged whether each regulatory body may make independent requests based on its separate review of the application or if this communication is intended to come from the Local Government Representative?

5. <u>De Novo Adjudication.</u>
Who decides whether an individual or entity has been substantially and specifically effected by a proposed facility? Are there clearly eligible individuals or entities, for example abutters?

29.12 Common Conditions and Requirements for Constructive Approval
In the case of constructive approval, shall local bylaws and standards not covered by the DOER guidelines be in effect? This should be clarified since there might be situations where the common conditions established by DOER do not cover issues normally addressed by the local permitting authority.

29.13 Model Bylaw
Based on my reading of this section a municipality has two identified pathways for action – it may either adopt DOER's model bylaw or modify DOER's model bylaw. This does not address municipalities that have existing relevant bylaws and how they should proceed. Technically, a municipality could add it's own compliant parts of a local bylaw into the DOER model bylaw and that would be considered a modification, but if this is anticipated by DOER it should be stated and made allowable. There is also no mention of retaining parts of a municipality's current

bylaws that do not conflict with the DOER guidelines – something which has been repeatedly affirmed by EEA.

Another scenario that is possible but not addressed here, is if a municipality may develop its own bylaw that is compliant with the DOER guidelines? I understand that DOER may not have the organizational capacity to deem locally developed bylaws to be compliant but could that occur if a municipality wanted to do so and have it reviewed by the AG per the normal process?

Since the Local Government Representative seems to be central to these regulations, I get the impression that the only way to identify the Representative is by adopting the DOER model bylaw. Is this correct? Are there other ways a municipality might make such designation? And again, what is DOER thinking about the Local Government Representative – is it a person or an entity?

29.15 Reporting

I would suggest that DOER consider statute to be the floor for reporting frequency since waiting two years before the pace of constructive approvals is apparent is impractical. Following the guidance of statute would mean that after two years many projects will have been built in this manner, likely demonstrating that the 12-month window is too short. I would suggest that DOER can hold itself to a higher standard of determining whether 50% of projects were constructively approved by reviewing every quarter and making this information publicly available stating March 1, 2027. I would hope documenting these trends sooner would be appreciated by the legislature.

Massachusetts Association of Conservation Commissions
protecting wetlands, open space and biological diversity through education and advocacy

October 6, 2025

Via Electronic Mail
DOER.Siting.Permitting@mass.gov
Susanna Hatch
Chief of Staff
Energy Infrastructure Siting and Permitting Reforms
Massachusetts Department of Energy Resources (DOER)
100 Cambridge Street, 9th Floor
Boston, MA 02114

RE: 30-DayExtension Request to the Public Comment Period on Proposed Regulations
225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting

Dear Chief of Staff Hatch:

Thank you for the opportunity to provide comments to the Massachusetts Department of Energy Resources (DOER) on the proposed regulations: *225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting*. The Massachusetts Association of Conservation Commissions (MACC) and the Massachusetts Society of Municipal Conservation Professionals (MSMCP) respectfully request a 30-day extension for the comment period from October 17 to October 31.

These regulations are a major change in the process affecting all 351 municipalities, and it is important that DOER receive meaningful feedback from the local officials who will be charged with implementing the new consolidated local permitting process. Moreover, several key guidelines, including mitigation and public health, safety and environmental standards, have not yet been released for public review. The regulations rely heavily on these guidelines, making it difficult to comment without access to that crucial information.

MACC is a statewide non-profit organization that supports more than 2,000 volunteer conservation commissioners in their mission to preserve wetlands and open space. Each of the 351 cities and towns in Massachusetts has a conservation commission responsible for administering the state Wetlands Protection Act and municipal wetland bylaws and ordinances, as well as managing municipally owned conservation land. Our association protects Massachusetts' natural resources through our education and advocacy efforts, and we have been doing this work since 1961.

MSMCP was formed in 1984 as a non-profit organization providing technical information exchange, sponsoring scientific and management seminars and promoting the advancement of professional conservation commission staff across Massachusetts. MSMCP's membership represents conservation commission staff from 126 municipalities across the Commonwealth.

We commend DOER for the many opportunities of engagement with the former Clean Energy Infrastructure Siting and Permitting Commission members, and other related groups in the

DOER sphere of reference. However, these regulations will have a significant impact on all 351 municipalities across the Commonwealth. Combined municipal permits for the clean energy projects will require a new way of reviewing documents over a short period of time, and these regulations will be promulgated in early 2026. We want to make sure we get this right and get as many comments from municipal boards as possible.

Municipal commissions and boards are only just now becoming aware of the proposed requirements for permitting future small clean energy infrastructure projects. Time is short: there are four regional listening sessions during the week of October 6, and public hearing is set for October 15, 2025. Comments are due on October 17, 2025.

Our members are requesting additional time to better understand these new requirements and provide comments. This is especially so, since our members cannot fully understand the process, with several guidance documents that have not been published.

Thank you for your consideration of this request. Please contact us at (617) 489-3930 if you need additional information.

Sincerely,

Dorothy A. McGlincy
Executive Director
Massachusetts Association of Conservation Commissions

Donald Cooper, Esq.
President
Massachusetts Association of Conservation Commissions

John Keeley, President
Massachusetts Society of Municipal Conservation Professionals

cc: Governor Maura Healey
Rick Collins, DOER, Director, Division of Clean Energy Siting & Permitting
Rebecca Tepper, Secretary, Executive Office of Energy & Environmental Affairs (EEA)
Michael Judge, EEA, Undersecretary of Energy
Stephanie Cooper, EEA, Undersecretary for the Environment
Kurt Gaertner, EEA, Assistant Secretary for Environmental Policy

PUBLIC COMMENTS ON 225 CMR 29.00

Guideline on Uniform Set of Baseline Health, Safety, Environmental and Other Standards

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 8, 2025

Background and Purpose

I appreciate the scope over the life of a project. – "*The Baseline Standards apply throughout the design, construction, operation, maintenance, and decommissioning of a SCEIF*"

It is helpful and good that DOER is acknowledging that this document does not constitute an exhaustive list of all relevant factors.

Good that the Baseline Standards will be incorporated into a Constructively Approved project.

2. Standards that Apply to All Clean Energy Infrastructure Facilities (CEIF):

Air Pollution. How will this work for biomass installations which the legislature included in the clean energy definition? Would this make biomass ineligible given its particulate matter releases?

Archeological Resources. Unfortunately, this is a very narrow approach and western civilization oriented. There is only passing acknowledgement in Massachusetts Historical guidance and practice, and in MGL about Indigenous sites of cultural importance (not historical importance). Given the siting of clean energy facilities in certain rural areas, the possibility of disturbing areas of Indigenous importance is significant. Please refer to two documents I shared with EFSB regarding this matter developed by Shutesbury Historic Commission in relation to solar development.

Areas of Critical Environmental Concern. This makes no sense. If areas are designated as Areas of Critical Environmental Concern by the Commonwealth because of the natural or cultural resources located within them, they should be protected and development of clean energy should be prohibited. Don't these designations matter?

Article 97 Land Disposition. Again, these lands are designated to "*protect state and municipal lands acquired for natural resource, conservation, and recreation purposes*". If the Commonwealth thinks these are important to protect, they should be protected and clean energy development should be prohibited.

Chapter 91 Land – At least here, DOER is stating that these lands should be protected and preserved however there is no statement of prohibition on development or any specific limitations for these lands.

Decommissioning/Abandonment – this is good.

Excavation and Trench Safety – this does not address earthmoving during construction which should be minimized to reduce the risk of erosion. This should be stated.

Forest Cutting Practices.
Citing DCR forest cutting practices is not protective given the active tree cutting that DCR undertakes with on public lands and that is controversial. DCR tree cutting guidance is also very pro-logging rather than focused on conservation and carbon sequestration; this is the wrong source for guidance.

It is very concerning that the first bulleted item of values not to be jeopardized is "*continuation or increase of supply of forest products*". This guidance should be about protecting forests and carbon sequestration NOT ensuring the continued commercial viability of logging on land where clean energy facilities are sited. Deeply concerning! In fact this statement seems contrary to some of the following stated values like improvement for wildlife and prevention of soil erosion. This is contradictory and seems like the fingerprints of the forest product industry.

Emergency Response. It is good that an emergency response plan will be developed in consultation with local public safety officials but this can be an expensive unfunded mandate. I would recommend as the Applicant be required to pay for/provide training and equipment that the municipality would need for an effective emergency response. Telling local officials what they need but cannot afford or have to expertise in, is a burden on the locals.

Hazardous Waste – This has no place on site of a clean energy facility and should be outright prohibited. There is no reason for it to be present or allowed.

Herbicides/Pesticide Application. The one large ground mounted solar facility in Shutesbury has been in operation for approximately seven years and has never used herbicides or pesticides. These should be prohibited with a waiver in the rare instance a rationale can be provided.

Historic Places. Similar to Archeological Resources, this is a weak statement that likely applies a narrow view that does not include Indigenous sites of cultural importance. Archaeological perspective is not the same as Indigenous perspective. Please see or request cited documents I mentioned above.

Lighting. Requiring (shall) dark-sky friendly lighting solutions is very good.

Mass. Endangered Species Act. Good to know we are protecting something that the state has designated as important.

Noise – it is good that facilities will be required to comply with local noise regulations.

Pollinator Friendly Practices. This is good. So why are you allowing herbicides and pesticides given this approach?

Stormwater Management. Minimizing runoff is vital however not all runoff is from impervious surfaces. Depending on the grade and design, runoff can occur on dirt driveways, etc. Equally important, stormwater management elements should be consistent with the context of the site – especially in rural areas which should limit industrial construction elements. A hydrology analysis should be required.

Surface Water Quality Standards. The cited regulation, 314 CMR 4.00 does not seem to address private drinking water wells and their sources. The focus is on public water supplies and coastal waters. If this is accurate, then this provision is inadequate.

Visual Impacts. The Applicant needs to develop and submit a landscaping plan as part of its application, not 30 days prior to construction. This information is needed for review in regards to a permit and especially important during public hearings for abutter input.

Wellhead Protection. This is inadequate. The cited regulation, 310 CMR 22.00 addresses public water supply; there is no mention of protection for private drinking water that can be impacted by a clean energy facility. I notice there are additional requirements below for storage only, but it is worth noting here that given the siting of energy storage as an accessory use to solar, siting on Zone II and maybe Zone A should be prohibited to protect against possible contamination resulting from an emergency.

3. Standards that Apply to All Clean Energy Infrastructure Facilities (CEIF), Except for Clean Transmission and Distribution Infrastructure Facilities (LCTDIF and SCTDIF)

Slope – 15% limit is good.

Fire Safety.

Compliance with NFPA 855 is good; the national standard that will evolve over time.

Use of PFAS in fire fighting should be prohibited.

There should be a requirement for water containment onsite to collect any water that is used in fighting a fire/ containing thermal runaway.

Setbacks. Setbacks should be required from tree lines and other flammable structures that would expand a fire beyond the project perimeter.

Wellhead Protection. It is good that municipalities will be able to restrict siting of energy storage on Zone II.

5. Standards that Apply Only to Ground-Mounted Solar Facilities

Glare. This is good.

Setbacks. This seems confusing. On the one hand this states setbacks normally no more than 25 feet but then it says municipalities can modify the model bylaw to establish different setbacks. Please clarify. Also 25 setbacks, especially on the side are TOO small. Would you want your home 25 feet from the border of a large ground mounted solar facility?

6. Standards that Apply Only to Wind Generation Facilities

SF6. Municipalities should be able to prohibit SF6. In addition to being a potent greenhouse gas it can also be a nose and throat irritant which could impact abutters.

7. Standards that Apply Only to Land-Based Wind Generation Facilities

Noise is a particular concern with wind turbines. It should be emphasized that local noise regulations can be enforced beyond the DEP statewide regulation.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:37 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comment on Small Clean Energy Infrastructure Siting and Permitting Draft Regulations

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

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Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Abigail Mahoney <amahoney@tewksbury-ma.gov>
Sent: Thursday, October 9, 2025 4:03 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comment on Small Clean Energy Infrastructure Siting and Permitting Draft Regulations

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

I am the Conservation Agent from the Town of Tewksbury; I have several comments for the draft regulations.

First and foremost, my concern is that it is not specified weather an NOI filing through the Conservation Commission will be required at any point in this process. Would that be delt with at the State Level? It is required that con com issue OOCs or the state. Is there a prevision in WPA I am unaware of that allows for other town boards to issue these OOCs in the case that this is a step in the condensed permit. Would these projects be considered exempt from filing an NOI, even if the project is in jurisdictional area? This was not clear in the draft. In addition to this the pre-filing requirement being called a Notice of Intent to File Application may be very confusing both for applicants and key stakeholders. Assuming that the NOI application is separate from this process, would the OOC be held to the same expectation of the Scope and Type of Minimization and Mitigation measures based on site suitability. It is my belief that it would be a detriment to the process if the commission is unable to condition the project at their discretion.

Secondly, I am concerned that the ANRAD requirement in pre-filing may cause undue frustration. Is this only a requirement for areas where there are unclear wetland boundaries? It is my understanding that NOI filing with wetland delineation can also be accepted for defining the wetland boundary. Would this be in replacement of an NOI filing? In the case that DEP appeals the resulting ORAD would that extend the process indefinitely, and would this extension be included in the 12 month period?

Overall, I would love to see more clarification on the Conservation Commissions role in this process.

Thank you,

Abigail Mahoney
Conservation Agent
Town of Tewksbury

PUBLIC COMMENTS ON 225 CMR 29.00

Pre-Filing Guidelines

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 10, 2025

Stakeholder Engagement Plan

The statement that the plan should be "inclusive, transparent, and culturally relevant" is excellent.

In regards to the purpose, I appreciate the mention of cultural concerns which goes beyond just the usual historical. This is important both in regards to Indigenous sites and to community values regarding community identity and land use.

1.1 Project Information

Tools
In regards to tools, all those suggested look good. What works will depend on the community.

I look forward to DOER finding a platform that is used for all applications so there is a centralized, project-oriented website. As I commented on long ago, this platform could host pre-filing information and materials, as well as application related information. Until then, requiring each project to have a publicly accessible website with all relevant information is something I strongly support, in fact I feel it is essential.

In addition to the elements required for the website, a good addition would be a feedback or comment form as well as listing a contact email.

Assessment of Outreach
I really appreciate that a Local Government will need to assess if outreach is sufficient. And the questions to gauge the success of the outreach efforts are good. One minor addition to the following question - *"Was the outreach sufficient so that a reasonable stakeholder likely would have been made aware of the project**, know how and be easily able to** find additional information?"* Part of access is knowing where to find it but in today's world being able to access it is equally important. For example, an older adult might be unable to access information if a flyer only has a QR code and they don't know how to use a smartphone to get the link; they might not even know what a QR code is.

1.2 Pre-Filing Engagement Certifications

As I mentioned in other comments, I would suggest that the two Pre-Filing certification documents include a statement whereby the Applicant affirms that these forms and the stated activities are necessary in order to proceed with an application submission. And it should include a signature of the person responsible for the application process. This will avoid a scenario where an Applicant can claim it didn't know these were prerequisites for application, creating confusion and possibly resulting in an incomplete application.

1.2.1 Pre-filing Engagement Certification Checklist

I would suggest additional information be included. This is in part so DOER and the local government can be confident that sufficient outreach will occur and also to prompt the Applicant to undertake activities it might otherwise overlook or avoid:

- Names and roles of Key Stakeholders that the Applicant anticipates meeting with and an rough timeline for such a meeting. Each Stakeholder should be listed separately. This will demonstrate the range and depth of Key Stakeholder engagement will take place. It will also force the Applicant to undertake some due diligence about Key Stakeholders.
- When listing the multi-media outlets, I would require the Applicant to state why these were chosen. This will indicate if the Applicant knows what will work in the community rather than simply placing ads, for example, with no insight into whether these will be seen.
- I would qualify the requirement for three public buildings, as when available, since some small towns only have a library and a town hall as public spaces. No everyone has a school, and public safety buildings and DPWs don't make sense. But I support pushing for broad public posting.
- The URL for the Applicant's project website should be required.
- Other Applicant's contact information that will be distributed through outreach so that DOER is aware of what is being shared – email addresses, snail mail, phones, X accounts, Instagram or Facebook accounts, et.

1.2.2 Pre-Filing Engagement Completion Checklist

I would suggest adding to the required supporting evidence:

- While mentioned later under 1.4.1 Meeting Structure, the following should be made explicit in this section. Notes from public meetings that capture community comments should be included a evidence to be submitted with the Checklist. As I have noted elsewhere, who takes these notes and who pays for them determines the content, so I think DOER should explore requiring a third party notetaker that submits the notes to both the Local Government and the Applicant for ground-truthing. The Regional Coordinator could help with identifying the notetaker. DOER should explore ways to pay the note-takers so that these individuals are not beholden to the Applicant.
- Included in the sign-in sheets, the Applicant should collect affiliations of public meeting participants, so the breadth of involvement is known.
- Submission of copies of emails sent to the Applicant is a good requirement.
- The supporting information should also have a list of the Key Stakeholders, including municipal officials that the Applicant met with and the dates of those meetings. Names

and roles should be included. This will help the local government be confident that the key players were communicated with.

1.3 Pre-filing Meeting with Municipal Officials
I think the proposed timing, meeting with muni leaders before a public meeting makes sense.

I think using this meeting to confirm Key Stakeholders is important but not sufficient. The Applicant must also do its due diligence to understand the community using its outreach to identify likely informal stakeholders that should be engaged. Not all stakeholders engage with municipal government, especially depending on the size of the municipality, so these people may not be known to government officials. This is why community outreach is important. Additionally, government perspectives can certainly be different than community perspectives and if the Commonwealth wants quicker deployment, understanding all perspectives that could create hurdles, should be known sooner than later.

While it is sound to request that local government officials should act in good faith, so too should Applicants be required to do so. In particular, if there are issues that are identified by local government that could complicate the application process, the Applicant should address these prior to applying and starting the 12-month clock towards Constructive Approval. For example, in the Town of Shutesbury, our elected Town Clerk just left the position. Even though Town Meeting used a Special TM to change this position from elected to appointed to facilitate ease of hiring, state law requires a second vote at Annual TM in the spring. In the interim, the Town is hiring an abutting town's Clerk who is working 5 hours a week. So this will create administrative slowdowns that are anticipated and known. If conveyed to the Applicant prior to application during the Pre-Filing meetings, this should be factored in before an application is submitted. Using this example, if DOER were to continue to suggest the Town Clerk to be the Local Government Representative (again, I think this is not a good idea), this would result in almost certain Constructive Approval without additional measures being taken.

1.4 Public Meeting with all Key Stakeholders
I appreciate the points DOER makes about the importance of time and location of public meetings. It is worth noting that to "*consult*" with Local Government officials is a minimum; what DOER should expect is that the Applicant make all efforts to follow the recommendations of Local Government Officials and/or Key Stakeholders – there should be the stated expectation of responding to the input. Oftentimes consultation does not mean adapting to recommendations, but rather being present to hear feedback. For example, it is easy to imagine an Applicant getting poor turnout because they used WebEx rather than Zoom because it is what the corporate staff use internally as opposed to what residents are used to and town officials recommended.

DOER's suggestions about determining the location and time of a public meeting are strong!

In terms of meeting format, there is one suggestion I think would make a huge difference. There is a tendency for developers to present their plans in a manner that makes them seem finalized and leaves the community wondering what they can do to improve or modify anything. I note that DOER has included "Explain how stakeholders can provide input on the project during and

after the meeting, including directing attendees to project website" which is good. But since DOER is using the Pre-Filing phase as a way to capture Key Stakeholder and municipal input before an application is submitted with the intent being that local knowledge should be incorporated into the design and siting, this opportunity should be its own required section of the presentation and the Applicant should be required to explicitly explain the Pre-Filing dynamic, the purpose and to state that input is encouraged for improvement and modification; that decisions are not final despite time and expense already being committed by the developer. We should want this to be highlighted so input is invited and understood as possible rather than the Applicant simply stating the required steps and implying much work has been done on presenting a solid plan.

It is excellent that the Applicant will be responsible for recording (documenting) community comments. These should be posted along with the video, to ensure greater access (not everyone can video videos due to bandwidth, devices or technical skills). It is good that these will be submitted as engagement evidence. As mentioned earlier, it would be a good option if the Regional Coordinator could be involved in ensuring this task occurs and with some objectivity.

The suggestion that the Applicant is encouraged to attend meetings of municipal boards should be stronger. In Shutesbury for example, our zoning bylaws encourage a pre-application meeting to consult with the Planning Board. This is a mini-version of pre-filing engagement. While DOER is requiring meetings with board and committee chairs, this is not a substitute for an entire board which will be the regulatory body reviewing and deciding on an application. So this pre-filing consult with relevant decision-making boards should be required to avoid the delays the Commonwealth is interested in. These meetings should be documented in the pre-filing checklist.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Julia Adams
Sent: Friday, October 10, 2025 3:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

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I appreciate the work the state is doing to clean up our electricity supply. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our natural and working lands provide our communities with services -- carbon sequestration, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable.
The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We need to enhance the electric grid's capacity, but in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those required from solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, state support of municipal requirements needs to be strong enough to actually change where utilities and developers propose new projects. The state could take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mrs. Julia Adams
90 Stoney Brook Circle
Duxbury, MA 02332
(781) 452-7304
adamsjuliab@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
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Rick Collins (he/him)
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Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Allen Altman
Sent: Friday, October 10, 2025 3:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Dr. Allen Altman
PO Box 441
Gt Barrington, MA 01230-0441
(413) 229-3461
abu.altman@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Joseph Andrzejewski
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mr. Joseph Andrzejewski
18 Wenham Rd
Topsfield, MA 01983
(215) 622-0777
andrzjoea@msn.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Ginny Ansbergs
Sent: Friday, October 10, 2025 3:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
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Sincerely,

Ms. Ginny Ansbergs
133 East Main St.
Plainfield, MA 01070
(413) 634-8076
ginny.rose@verizon.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:39 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Allison Argo
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Allison Argo
157 Owl Pond Road
Brewster, MA 02631-2111
(508) 240-1955
argofilms@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Nina Ashurst
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Nina Ashurst
184 Captain Eames Circle
Ashland, MA 01721
(508) 881-6474
nnashurst@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
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Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Sarah Avery
Sent: Friday, October 10, 2025 4:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Sarah Avery
22 Surry Drive
Cohasset, MA 02025
(781) 383-6043
dandsavery@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:42 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Cindy Babaianf
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

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We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

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Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Cindy Babaianf
88 Tremont Street
Braintree, MA 02184
(781) 267-1308
littleblueheron@icloud.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Judy Belaval
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mrs. Judy Belaval
58 Orchard Street
Boston, MA 02130
(203) 623-9659
notophthalmus@snet.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of steven bellin
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Dr. steven bellin
89 Morton St
Newton, MA 02459-1029
(617) 965-1013
bellinfamily@juno.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Melissa Bird
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Melissa Bird
111 Depot Road
Harwich, MA 02645
(774) 237-0881
nursebird@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Susan Boudreau
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Susan Boudreau
716 LaGrange St
West Roxbury, MA 02132-3124
(617) 549-5365
boudsa@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Spyros Braoudakis
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Dr. Spyros Braoudakis
110 Storrs Ave
Braintree, MA 02184-4018
(781) 848-3887
sbraoudakis@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Margaret Cain
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Ms. Margaret Cain
1550 Beacon Street
Brooklind, MA 02446
(617) 359-5349
margaretjcain@verizon.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Jennifer Cameron
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Jennifer Cameron
9 walnut st
Wilmington, MA 01887
(781) 771-3082
jeni@jenicakesnutfree.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Darlene. Carpenter
Sent: Friday, October 10, 2025 3:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Darlene. Carpenter
205 Linden Ponds Way Unit 614
Hingham, MA 02043
(781) 385-7125
dkcarpenter7@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of David Cash
Sent: Friday, October 10, 2025 2:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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Sincerely,

Mr. David Cash
153 Broadway
Haverhill, MA 01832
(617) 785-8899
dwcash@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of John Chapin
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Dr. John Chapin
303 Third St
Cambridge, MA 02142
(802) 578-8943
jchapin29@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Patricia Chory
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Patricia Chory
5 Joy Street
Boston, MA 02108
(781) 929-8202
chorys@verizon.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Linda Connelly
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Ms. Linda Connelly
56 Pleasant St
Hopkinton, MA 01748
(508) 308-4656
birdsilove@mac.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:39 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Mark Cram
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Mark Cram
114 Turner Rd
Townsend, MA 01469-1311
(978) 512-0606
bdmcram@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Karen Crosskill
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Ms. Karen Crosskill
105 Boston St.
Middleton, MA 01949
(978) 777-4874
kcrosskill@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Maureen Curley
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Maureen Curley
32 Tyler Ave
Medford, MA 02155-2112
(617) 947-8755
maureenfcurley@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:39 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Lin Deats
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Lin Deats
35 Sippewissett Rd # MA02540
Falmouth, MA 02540
(774) 361-4603
lindeats13@gmail.com

PUBLIC COMMENTS ON 225 CMR 29.00

Guideline on Uniform Set of Baseline Health, Safety, Environmental and Other Standards

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 8, 2025

Background and Purpose

I appreciate the scope over the life of a project. – "*The Baseline Standards apply throughout the design, construction, operation, maintenance, and decommissioning of a SCEIF*"

It is helpful and good that DOER is acknowledging that this document does not constitute an exhaustive list of all relevant factors.

Good that the Baseline Standards will be incorporated into a Constructively Approved project.

2. Standards that Apply to All Clean Energy Infrastructure Facilities (CEIF):

Air Pollution. How will this work for biomass installations which the legislature included in the clean energy definition? Would this make biomass ineligible given its particulate matter releases?

Archeological Resources. Unfortunately, this is a very narrow approach and western civilization oriented. There is only passing acknowledgement in Massachusetts Historical guidance and practice, and in MGL about Indigenous sites of cultural importance (not historical importance). Given the siting of clean energy facilities in certain rural areas, the possibility of disturbing areas of Indigenous importance is significant. Please refer to two documents I shared with EFSB regarding this matter developed by Shutesbury Historic Commission in relation to solar development.

Areas of Critical Environmental Concern. Given comments at DOER presentation, I think development in land with designation as Area of Critical Environmental Concern should be prohibited except in the case of a waiver by the local government.

Article 97 Land Disposition. Given comments at DOER presentation, I think development on Article 97 land should be prohibited except in the case of a waiver by the local government.

Chapter 91 Land – At least here, DOER is stating that these lands should be protected and preserved however there is no statement of prohibition on development or any specific limitations for these lands. If DOER thinks differently, I would suggest the same approach of a local waiver, if needed.

Decommissioning/Abandonment – this is good.

Excavation and Trench Safety – this does not address earthmoving during construction which should be minimized to reduce the risk of erosion. This should be stated.

Forest Cutting Practices.
Citing DCR forest cutting practices is not protective given the active tree cutting that DCR undertakes with on public lands and that is controversial. DCR tree cutting guidance is also very pro-logging rather than focused on conservation and carbon sequestration; this is the wrong source for guidance.

It is very concerning that the first bulleted item of values not to be jeopardized is "*continuation or increase of supply of forest products*". This guidance should be about protecting forests and carbon sequestration, NOT ensuring the continued commercial viability of logging on land where clean energy facilities are sited. Deeply concerning! In fact this statement seems contrary to some of the following stated values like improvement for wildlife and prevention of soil erosion. This is contradictory and seems like the fingerprints of the forest product industry.

Emergency Response. It is good that an emergency response plan will be developed in consultation with local public safety officials but this can be an expensive unfunded mandate. I would recommend as the Applicant be required to pay for/provide training and equipment that the municipality would need for an effective emergency response. Telling local officials what they need but cannot afford or have to expertise in, is a burden on the locals.

Hazardous Waste – This has no place on site of a clean energy facility and should be outright prohibited. There is no reason for it to be present or allowed.

PFAS should be prohibited from being included in any of the onsite equipment, especially solar arrays and energy storage.

Herbicides/Pesticide Application. The one large ground mounted solar facility in Shutesbury has been in operation for approximately seven years and has never used herbicides or pesticides. These should be prohibited with a waiver in the rare instance a rationale can be provided.

Historic Places. Similar to Archeological Resources, this is a weak statement that likely applies a narrow view that does not include Indigenous sites of cultural importance. Archaeological perspective is not the same as Indigenous perspective. Please see or request cited documents I mentioned above.

Lighting. Requiring (shall) dark-sky friendly lighting solutions is very good.

Mass. Endangered Species Act. Good to know we are protecting something that the state has designated as important.

Noise – it is good that facilities will be required to comply with local noise regulations.

Pollinator Friendly Practices. This is good. So why are you allowing herbicides and pesticides given this approach?

Stormwater Management. Minimizing runoff is vital however not all runoff is from impervious surfaces. Depending on the grade and design, runoff can occur on dirt driveways, etc. Equally important, stormwater management elements should be consistent with the context of the site – especially in rural areas which should limit industrial construction elements. A hydrology analysis should be required.

Surface Water Quality Standards. The cited regulation, 314 CMR 4.00 does not seem to address private drinking water wells and their sources. The focus is on public water supplies and coastal waters. If this is accurate, then this provision is inadequate.

Visual Impacts. The Applicant needs to develop and submit a landscaping plan as part of its application, not 30 days prior to construction. This information is needed for review in regards to a permit and especially important during public hearings for abutter input.

Wellhead Protection. This is inadequate. The cited regulation, 310 CMR 22.00 addresses public water supply; there is no mention of protection for private drinking water that can be impacted by a clean energy facility. I notice there are additional requirements below for storage only, but it is worth noting here that given the siting of energy storage as an accessory use to solar, siting on Zone II and maybe Zone A should be prohibited to protect against possible contamination resulting from an emergency.

3. Standards that Apply to All Clean Energy Infrastructure Facilities (CEIF), Except for Clean Transmission and Distribution Infrastructure Facilities (LCTDIF and SCTDIF)

Slope – 15% limit is good.

Fire Safety.

Compliance with NFPA 855 is good; the national standard that will evolve over time.

Use of PFAS in fire fighting should be prohibited.

There should be a requirement for water containment onsite to collect any water that is used in fighting a fire/ containing thermal runaway.

Facilities that include energy storage should be prohibited where there is no municipal water supply adequate to be used for fire fighting and fire containment.

Setbacks. Setbacks should be required from tree lines and other flammable structures that would expand a fire beyond the project perimeter.

Wellhead Protection. It is good that municipalities will be able to restrict siting of energy storage on Zone II.

5. Standards that Apply Only to Ground-Mounted Solar Facilities

Glare. This is good.

Setbacks. This seems confusing. On the one hand this states setbacks normally no more than 25 feet but then it says municipalities can modify the model bylaw to establish different setbacks. Please clarify. Also 25 setbacks, especially on the side are TOO small. Would you want your home 25 feet from the border of a large ground mounted solar facility?

6. Standards that Apply Only to Wind Generation Facilities

SF6. Municipalities should be able to prohibit SF6. In addition to being a potent greenhouse gas it can also be a nose and throat irritant which could impact abutters.

7. Standards that Apply Only to Land-Based Wind Generation Facilities

Noise is a particular concern with wind turbines. It should be emphasized that local noise regulations can be enforced beyond the DEP statewide regulation.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Lorri Devlin
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mrs. Lorri Devlin
53 Seconsett Island Rd
Mashpee, MA 02649
781-956
lorridevlin@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Sandra Diener
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Sandra Diener
31 Wood St Unit 1
North Cambridge, MA 02140
(617) 868-9235
sandydiener@verizon.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Tim Donner
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mr. Tim Donner
11 Grove Street
Easthampton, MA 01027-2419
(503) 841-8687
timothydonner@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
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Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Christine Erb
Sent: Friday, October 10, 2025 2:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I'm a grandmother, and I want our state to play a leading role in protecting our climate. Solar, energy storage, and other clean energy resources are more important than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, too many high-value natural and working lands have been used for new clean energy projects, while also impacting communities already hosting many energy projects. The inclusion of new environmental criteria for evaluating sites for proposed energy projects is very important, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

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Sincerely,

Ms. Christine Erb
729 N. Main St.
Lanesborough, MA 01237
(413) 439-5284
chris.erb.ma@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Liz Field
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Liz Field
16 Windingwood Ln, Acton, MA
Acton, MA 01720
(978) 263-1440
ejefield16@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Katherine Darcy Fuguet
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mrs. Katherine Darcy Fuguet
134 Coolidge Hill
Cambridge, MA 02138
(617) 661-0547
dfuguet2@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:39 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Judith Glixon
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Judith Glixon
2 Aerial Street
Lexington, MA 02421
(781) 521-0353
jglixon@verizon.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Miranda Grace
Sent: Friday, October 10, 2025 3:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

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Sincerely,

Ms. Miranda Grace
96 Albion Street
Somerville, MA 02144
(617) 833-0874
gngrkid546@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Lorraine Gray
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Dr. Lorraine Gray
16 Symmes StApt. 3
Roslindale, MA 02131
(617) 816-4587
llgray@umich.edu

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Melissa Grondin
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Ms. Melissa Grondin
8 Fairview Ave
Malden, MA 02148
(781) 321-7448
melissajgrondin@yahoo.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Cornelia Hoskin
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Cornelia Hoskin
325 Pond Street
Jamaica Plain, MA 02130-2445
(617) 945-3599
corneliahoskin@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Eric James
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Eric James
13 Slocum St.
Acushnet, MA 02743
(508) 496-8181
ewjames1@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Martha Jorz
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I personally do not want the forests above my home felled to put in solar panels. Experience in Western Massachusetts has showed us that doing so has a long term negative effect on downstream neighbors do to flooding and erosion of hillsides.

I also think developers should be required to put solar panels on buildings and parking lots that all ready have an enormous amount of space available for these projects. Just look at all the shopping malls available to put solar panels on.

Please consider adding in these ideas for large clean energy projects.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Martha Jorz
497 E Pleasant St Apt 25
Amherst, MA 01002-3734
(413) 695-8166
mjjorz@protonmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Emily Kellndorfer
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Emily Kellndorfer
152 Two Ponds Road
Falmouth, MA 02540
(734) 645-9549
emily@kellndorfer.us

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:42 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Miriam and Mike Kurland
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Miriam and Mike Kurland
566 East St
Williamsburg, MA 01096
(413) 268-7529
mimbck@yahoo.com

Ground-Mounted Solar Installation Siting: Soils and Slopes

Comments of Jeff Lacy, Conway, MA (413) 230-9693

Studies have shown there to be no lack of appropriate locations for ground-mounted solar installations in the Commonwealth, yet many are proposed and built on forested or agricultural lands simply because the owners are financially incentivized to do so in the moment. But, as contrasted with appropriate sites, forest and agricultural lands have other public social, environmental, and financial benefits (e.g., habitat, water quality, recreation, carbon capture, food production, etc.) that are compromised when developed out of current use. These lands have acquired their desirable soil characteristics over hundreds if not thousands of years. Without careful attention these attributes can be lost without hope of renewal in any timeframe meaningful to humans.

Forest and farmland should be a last resort choice for ground-mounted solar installations, especially state-listed areas and the better agricultural soils. However, if proposed for conversion, these lands should be regarded as "borrowed" from our children to meet current needs, but later to be returned intact.

The following conditions should be required:

• Ground Slope: Solar installations, including their access roads, parking, staging areas, and battery pads, if located on steep slopes, are prone to erosion and sedimentation which can seriously harm nearby wetlands, floodplains, vernal pools, and waterways. Levelling and smoothing steeper slopes through mass grading is problematic due to the propensity for disturbed soils and introduced fill to become unstable when rained upon. It is best to leave the existing soil profile intact, especially forest soils, so that rain and runoff can continue to harmlessly infiltrate through the leafy duff, organic, and root zones without erosion and sedimentation occurring. That is why a requirement that solar installations not be sited upon **original** slopes of greater than **15%** is a recommended standard. This ground slope limitation need not apply to adjacent shade management areas provided tree stumps (and their root systems) are left in place and successional shrub and tree growth are allowed to occur over time.

• Grading: Soils are the lifeblood of the Massachusetts landscape. Grading that substantially disturbs the existing soil profile and structure, other than what is necessary to remove tree stumps and fill the resulting voids, smooth very slight undulations, and install access drives, is prohibited. Suitable sites shall be selected where construction may be accomplished without such earth work. Sites that

require extensive mass grading, especially steeper ones, are not suitable for large-scale solar installations.

• Loss of Agricultural Land: When solar installations are proposed for productive agricultural land, dueling state priorities come into play. The DOER standards should consider greater protection for land that is Prime Farmland, of Statewide Importance, of Unique Importance, has a history of active crop production, or is subject to an Agricultural Preservation Restriction. These better lands with deeper, stone-free soils should not be taken out of crop production or degraded. Solar development adjacent to such agricultural land serves the purpose of creating clean energy resources on land that is historically underutilized due to its lesser agricultural value (yields) as well as providing a revenue stream for financially struggling farm operations. Solar installations should be designed where robust agriculture may continue for generations and where supplemental energy generation can occur, both uses coexisting.

The conversion out of crop production on the soils described above to the raising of livestock under and around solar installations should be recognized as a reduction in productivity, not allowed by DOER. Agricultural lands of lesser quality may be developed for solar installations, as agrivoltaics, but with animal pasturage instead of crop production in mind. In all cases, the underlying soil structure must be preserved to ensure a potential for a future return to pure agricultural use. Toward this end, racking and panels should be mounted on poles screwed into the ground rather than on concrete pads. As above, the soil profile must be maintained.

It is also important to note that in Massachusetts, forestry is considered an agricultural use. But due to the invaluable carbon sequestration, ecological/habitat functions, or the water quality benefits of a forest, these lands should not be considered agricultural for purposes of solar installations.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Joseph LaFond
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

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Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. Joseph LaFond
325 Commandants Way
Chelsea, MA 02150
(303) 815-5450
jlafond1732@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Ruth Lawrence
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Ruth Lawrence
7 DEWEY AVE
MILLBURY, MA 01527-2001
(508) 865-9015
ruth.e.lawrence52@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Kathleen Lewis
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Miss Kathleen Lewis
250 Furnace Brook Pkwy
Quincy, MA 02169-2274
(617) 847-8941
katcat108@netzero.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Cynthia Lovell
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Ms. Cynthia Lovell
74 Pearl St
Charlestown, MA 02129-2095
(617) 241-5357
sailnkd@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Frederick Lucies
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Frederick Lucies
125 Connors St Apt 509
Gardner, MA 01440
(239) 834-7451
flucies@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Rhonda Lyons
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Rhonda Lyons
11 Winifred Road
Framingham, MA 01701
(508) 380-1573
rab426@msn.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of charles maguire
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. charles maguire
one george leven drive
North Attleboro, MA 02760
(508) 695-6655
chipnalaw@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Arthur McClelland
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Dr. Arthur McClelland
26 Albion St
Somerville, MA 02143
(734) 660-3756
artmcclelland@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Maurene McGrain
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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Sincerely,

Mrs. Maurene McGrain
164 Washington Street
Gloucester, MA 01930
(978) 239-6020
rmdesigngroup1@gmai.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Kathleen Mireault
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Kathleen Mireault
116 East Howard Street #221
Quincy, MA 02169
(617) 481-4485
kathymireault2012@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Sofia Montemayor-Thomas
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Sofia Montemayor-Thomas
21 Seneca Rd
Acton, MA 01720
(512) 688-9473
cheetahsprinter@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Daniel Montesinos
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Daniel Montesinos
41 County Road
Andover, MA 01810
(978) 886-1649
danm.82@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Deirdre Morris
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Deirdre Morris
39 Russell Street
Medford, MA 02155
(781) 381-1696
kittyhawk12348@earthlink.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of James Nagengast
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. James Nagengast
15 Wesleyan St
Shrewsbury, MA 01545-2911
(508) 472-6071
jamesnagengast@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Al Nierenberg
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mr. Al Nierenberg
38 Herrick Road
Boxford, MA 01921
(617) 921-2536
alnierenberg@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Nancy Nolan
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Nancy Nolan
199 Lexington Street
Auburndale, MA 02466
(781) 866-1978
busterseyes@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Maureen O'Dowd
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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DOER Commissioner Elizabeth Mahony

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mrs. Maureen O'Dowd
327 Howe St.
Methuen, MA 01844
(978) 685-9870
dkmod@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Alan Papscun
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Alan Papscun
40 Glendale Rd.
Stockbridge MA, MA 01262
(413) 298-7260
alan@papscun.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Anita Parker
Sent: Friday, October 10, 2025 3:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Anita Parker
18 Boxwood circle
Yarmouthport, MA 02675
(617) 610-6871
parkeranita4@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:48 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Angela Potts
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Angela Potts
17 Michael Road
Maynard, MA 01754
(734) 558-8523
angelampotts25@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Gary Powsner
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Dr. Gary Powsner
296 Falls Rd
Sunderland, MA 01375
(413) 665-5011
bluemoon@crocker.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Nancy Preis
Sent: Friday, October 10, 2025 3:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Nancy Preis
Po Box 380324
Cambridge, MA 02238-0324
(617) 492-0177
npreismusic@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Kelsey Quinlan
Sent: Friday, October 10, 2025 2:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Kelsey Quinlan
153 Spruce Rd
Norwood, MA 02062
(508) 208-4071
kelseyq27@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Leonard Rabinow
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I am certainly no expert in construction, but I simply don't understand why we can't prioritize roof-top or parking-lot solar rather than green-field sitings. It would make far more sense to me to use all the available areas already developed rather than simply developing more open-space.

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Sincerely,

Dr. Leonard Rabinow
43 Bowdoin St
Newton, MA 02461
(617) 969-2532
maisonorsay@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Thomas Rarich
Sent: Friday, October 10, 2025 4:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. Thomas Rarich
100 Newbury Court Apt 223
Concord, MA 01742
(978) 505-0790
tomrarich@alum.mit.edu

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Wrenn Reed
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

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Sincerely,

Ms. Wrenn Reed
1550 Beacon St
Brookline, MA 02446
(617) 232-4807
reedthenns@aol.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Peter Sadlier
Sent: Friday, October 10, 2025 3:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Peter Sadlier
204 Springs Road, Apt #37
Bedford, MA 01730
(978) 973-1985
psadlierbosox@yahoo.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Luke Salsich
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Luke Salsich
79 North Street
Shelburne Falls, MA 01370
(774) 364-4156
luke.salsich@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Lynn Small
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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DOER Commissioner Elizabeth Mahony

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Sincerely,

Ms. Lynn Small
545 Centre Street #104
Jamaica Plain, MA 02130
(310) 597-1520
bostonredsoxrule@rocketmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of susan snow
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. susan snow
79 Crescent Hill Avenue
Arlington, MA 02474
(781) 929-7090
susansnow@youvilleplace.org

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Vicky Sohn
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Vicky Sohn
54 Main St
Vineyard Hvn, MA 02568
(860) 887-8102
vickysohn@icloud.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Nancy Solomon
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mrs. Nancy Solomon
10 Birchwood Cir
Sharon, MA 02067-2353
(781) 784-9477
nancysolomon2018@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Deborah Spencer
Sent: Friday, October 10, 2025 2:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Deborah Spencer
12 Newport Drive
Billerica, MA 01821
(617) 771-7968
dspencer21661@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Richard Stafford
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. Richard Stafford
30 Boardman Street
Salem, MA 01970
(978) 745-7718
rwjsteacher@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:50 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Liam Sullivan
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. Liam Sullivan
59 Fulda Street
Roxbury, MA 02119-1408
(617) 276-2463
liamothemts@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Dominick Tammaro
Sent: Friday, October 10, 2025 2:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Dr. Dominick Tammaro
69 Londonderry Way
Uxbridge, MA 01569-1265
(508) 278-0613
frypanninja@charter.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Lisa Taranto
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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Sincerely,

Ms. Lisa Taranto
32 Newman Rd #1
Malden, MA 02148
(978) 201-1033
lisapaulinet@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Judy Taylor
Sent: Friday, October 10, 2025 1:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mrs. Judy Taylor
135 Coles Neck Rd
Wellfleet, MA 02667-7022
(508) 349-3527
parrisjt@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:40 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Christina Taylor
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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Sincerely,

Ms. Christina Taylor
7 Wilson St
Natick, MA 01760-4724
(978) 333-9788
christinaay5@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:52 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Mark Tracy
Sent: Friday, October 10, 2025 3:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

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Sincerely,

Mr. Mark Tracy
706 Annursnac Hill Road
Concord, MA 01742
(617) 417-7163
markatracy@aol.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:51 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Cheryl Turgeon
Sent: Friday, October 10, 2025 3:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

I believe that Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

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Sincerely,

Ms. Cheryl Turgeon
3 Hunt Club Way
Pepperell, MA 01463
(978) 621-1546
cat92395@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Eileen Velez
Sent: Friday, October 10, 2025 2:28 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

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Sincerely,

Mrs. Eileen Velez
1153 Hyde Park Ave
Hyde Park, MA 02136
(617) 694-0444
rockynook@hotmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:43 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Glenna Waterman
Sent: Friday, October 10, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 10, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

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Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Glenna Waterman
134 Argilla Road
Ipswich, MA 01938
(617) 872-4438
amiezuni7@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:53 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Gayle Weiss
Sent: Friday, October 10, 2025 4:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Ms. Gayle Weiss
10 Village Green LN
Holden, MA 01520
(774) 364-7694
flandersg@icloud.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:49 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Chris Wheeler
Sent: Friday, October 10, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Chris Wheeler
624 Osterville West Barnstable Rd, Unit C Marstons Mills, MA 02648
(617) 590-9091
wheelsonthecoast@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:39 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Christina Wiseman
Sent: Friday, October 10, 2025 11:18 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Christina Wiseman
8 Argyle St.
Melrose, MA 02176
(781) 266-8336
c.e.mcde@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:41 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Debby Young
Sent: Friday, October 10, 2025 1:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mrs. Debby Young
43A Flanagan Drive
Framingham, MA 01701
(508) 877-3677
debby.dscribe@gmail.com

Answers to DOER Questions Posed at Information Sessions Regarding Clean Energy Regulations

Submitted by Michael DeChiara
Shutesbury, MA
Oct. 13, 2025

Public health, safety and environmental standards

What health, safety, environmental standards are important to include?
The most important in my opinion is related to lithium-ion battery storage especially since the draft DOER regs, the EEA Siting Suitability guidelines, nor the Model BESS bylaw addresses my concerns. In particular, there should be a prohibition of siting a lithium-ion ESS anywhere where there is insufficient water to be used in firefighting, specifically to reduce heat of batteries during an emergency to prevent thermal runaway. If a municipality does not have municipal water system or if the system is inadequate given the needs identified by the NFPA, siting of these energy storage systems must be prohibited.

Related to this, and again, none of the three sets of regulations or guidance address this (it is only reflected in DOER minimization and mitigation guidance),is the need to provide containment system for water that is applied to a lithium-ion ESS that is on fire The water applied to the facilities will in all likelihood be contaminated and must be captured in a designated collection basin that is large enough to hold the anticipated water coming off the BESS. A protocol must be in place for removing this water so that it does not enter the ecosystem.

Are there standards for project elements such as setbacks, lighting, and screening that you would want to see included?

DOER seems to be asking about post-construction elements.
Addressed so far, thank you –

- 15% slope to reduce likelihood of erosion or instability of the site
- Dark Sky Friendly solutions for lighting is excellent to minimize light impacts. I am not sure all munis can be Dark Sky compliant; Dark Sky friendly solutions and best practices should be preferred and recommended but perhaps variations allowed to be consistent with local zoning.
- Compliance with local noise bylaws/regulations is good in addition to DEP regulation.

To include or improve:

- Setbacks should be much larger than DOER is currently recommending. Should be consistent with a municipalities zoning – local setbacks for other uses are determined for a reason and are deemed reasonable if the zoning bylaw was approved by the AG (which they all are). 25 feet is much to small for setbacks for an industrial use in zones that are not industrial.

- Should allow at least 1:1 set aside of either contiguous land or land within the boundary of the municipality. As DOER noted, the AG found 1:1 conservation requirement acceptable under Dover Amendment. This should be at discretion of the municipality.
- There needs to be protections regarding roads leading to the facility which are unpaved – this poses a financial impact to the muni and a public safety risk
- Stormwater – should be designed to minimize runoff from the site, both from impervious and pervious surfaces. This should include going beyond state or local wetlands regulations.
- Herbicides and Pesticides should be prohibited except by waiver by the municipality; at least stated preference for mechanical maintenance
- All replantings should be native

Site Suitability and Minimization/Mitigation

Should a community have the right to deny an application if the suite suitability score is too high?
YES – OF COURSE! Otherwise the entire exercise of Site Suitability is meaningless. And I would argue that if a project cannot be denied by a local government, in effect the Commonwealth would taking away any regulatory discretion from municipalities; which may not be legal and could possibly result in legal challenges. The Dover Amendment says that municipalities cannot unreasonably regulate, it does not say that municipalities cannot regulate solar. The entire purpose of the law and the complementary regulations and guidance is to determine how to regulate. Core to this, as a land use issue, is site suitability.

In my town's very recent experience, a developer was looking to develop 200 acres of forest to become five ground mounted solar sites in Shutesbury. Two of these were mostly located in BioMap/Core Habitat. Another two were mostly located in BioMap/ Critical Natural Landscape. At least one had ESS located near a stream feeding into a local reservoir that serves UMass Amherst. Another had ESS near wetlands. These sites were proposed presumably because through the lens of the Dover Amendment a municipality could not deny, just mitigate. DOER would be recreating this terrible situation again if it did not allow projects with high Site Suitability score, Total or Criteria-Specific to be denied. This decision would make this entire process an irresponsible farce.

What minimization or mitigation measures should qualify in instances where the applicant has a high site suitability score?
As stated in the regulations and EEA guidelines, minimization and mitigation measures should be tied to the impacts that are causing a high Site Suitability score. It is not for DOER to determine what is appropriate or not; that is at the discretion of the local regulators based on local knowledge and project-specific situation. The list of options DOER provides in its guidance are mostly reasonable but not completely so, but it will be site specific in all cases.

How should a municipality calculate how much mitigation is enough to offset poor scores?
This is an art not a science and it cannot be measured in a regulation or guidance. DOER has stated that mitigation should be relative to the amount of impact; I agree. I would also add the

type of impact will inform the type of mitigation For example risks to drinking water are more important than noise or lighting. DOER needs to let local regulators do their job. Circuit riders can be a resource for ideas and feedback but this question cannot be answered through policy.

Pre-Filing Requirements

What methods of community outreach would be beneficial during this stage of the process?
I think the broad list of options identified in the Pre-Filing Guidance is good. It is presented as a list of options but a developer can do more. Bottom line, each community is different. The key is for the Pre-Filing documentation to be required so that DOER and or the local regulators can determine if the efforts that were tried were sufficient. The focus should not be on what types of outreach occurred but rather on how deep and broad the outreach the outreach was and whether it was enough for residents and stakeholders to be adequately informed and engaged. This too will depend on the community.

What types of abutters and key stakeholders should be noticed and involved at this stage of the process?
Abutters should be defined using the standard that most munis use for zoning and that I believe Green Communities uses in the Model bylaw. This is: *owners of properties within 300 feet and abutters to abutters.* Key Stakeholders is broad enough in the draft regs but should not be limited to one mile from the facility – I have commented on why this limitation undermines the access for other community members, abutting munis and Indigenous stakeholders living elsewhere. Key Stakeholder should include all residents and business in a municipality, abutting communities, and Indigenous communities with historic ties to the site.

I commend and very much support DOER for its inclusion of federally recognized, state-acknowledge, or state recognized tribes as stakeholders. It is important to know, as referenced above, that some tribes have ancestors buried in one part of Massachusetts but they may be represented by other tribes in the state OR the tribes themselves may have been forced to leave the eastern US by the federal government and now are located in other states. Regardless of location and distance, these tribes are key stakeholders.

How should the process be different for smaller projects versus larger projects?
The full process should be required for all Large projects from 251kw to 25MW. Minimal requirements should be in place for Small, less than 25kw projects. Medium projects are still basically small and likely being built to support a primary use, lesser requirements can be explored for these if they are accessory use. In all situations however, transparency and accountability should be required. In terms of ESS, only Tier 1 should be allowed lesser requirements.

What type of outreach do you find useful and helpful?
In a small rural town like Shutesbury, communication is not easily accomplished by any single means. We have no central meeting spot – no gas station, no general store. When our new library is finished this winter, it will likely be a place for some people to gather. We have no cable service so local TV spots don't work. There are no billboards or public transit. The effective

communication to residents are emails from the Town government which is sent to about 300-400 households and social media (NextDoor Shutesbury) which has overlapping membership. We have an active town website but that requires people visiting it, which most do not. While we have 97% enrollment in our town-owned broadband, the folks not enrolled are likely less technologically savvy. Hard copy mailings to the home are important but must be official looking.

In terms of meetings, we have found somewhat more attendance at regular meetings of town committees using Zoom since people who cannot attend at night find it easier to participate. In person, regular annual town meetings on a Saturday in the spring and special town meetings at night are often we attended reasonably well but always a minority of the residents. Word of mouth, while not always accurate, remains strong.

Bottom line: all of the above because effective and timely communication is challenging.

Consolidated Permit Process

What tools would be helpful to ensure municipalities meet the 12-month timeframe?
As I suggested, the Local Government should be allowed to hire a consultant to serve as an Administrative Lead to coordinate. This person would be hired by the Town but paid for by the Applicant. This would address the lack of capacity that all municipalities face but especially small ones. It would also facilitate the issue that the state commonly ignores – the limitations of Open Meeting Law. If one does not need to abide by it, one forgets or never knew it existed. OML is the primary barrier to local government efficiency. This is only worsened by requiring committees to coordinate. As I mentioned in another comment, the AG has determined that working groups and subcommittees are public bodies that must comply with OML. This would include a group of committee chairs or designees meeting to address a clean energy facility permitting process. However, staff are not included in OML so if a consultant serves as an Administrative Lead, that person can legally communicate with the various boards.

Notably, a consultant Lead should not be a decision-maker; they are in place to capture the decisions of permit granting authorities, to coordinate efforts, and to communicate to the Applicant on behalf of the town where DOER requires the Local Government to act. The consultant should not be a content expert. If DOER adopted this approach, I can imagine a group of people across the state would develop the necessary expertise. I could also suggest that DOER establish a group similar to how it offers names for MVP consultants.

Additionally, while not in statute, which I think is a major omission, there is no mention of mutually agreed extensions. If DOER were to allow both the Applicant and the Local Governent to agree to an extension so that a denied application or a constructive approval could be avoided, that would be a huge tool to address the too-short 12-month deadline. I believe that DOER could do this using my concept of an ‘umbrella of allowance”, meaning that if DOER regulations state that a muni could take this action, it would be considered compliant with the Dover Amendment.

What criteria should officials use to judge if application is complete?
This should be straightforward since DOER is using existing permitting authorities to achieve a consolidated permit. All the requirements, either identified by DOER or that already exist for a committee, must be achieved. Requirements for a local committee, independent of DOER, are either statutory or locally approved – but in both cases well established. All requirements should be met. Aside from the DOER and statutory requirements, the state of completeness may vary slightly based on local regulations BUT these will be known to the Applicant, just as all previous applicants will have been aware of them before Consolidated Applications were required. There is no mystery here if the Applicant does its basic due diligence.

Clean Energy Circuit Rider

Would you want the regulatory circuit rider to provide assistance with other aspects of this process, such as pre-filing?
I think the role of the Circuit Rider (CR) will vary based on the needs of the town and the size of the project. The CR should definitely be providing guidance and ensuring compliance during the Pre-Filing phase since doing this well is neither a usual practice of Applicants nor a priority; it is likely seen as a hoop to be jumped through. Applicants are much better at the technical and financial compliance since they have engineers, lawyers and financial teams. I also think the CR will be invaluable in helping a muni identify a Local Government Representative consultant (if you adopt my idea) and making sure that person is in place early in the process. Once in place, the CR should make it a priority to work with the consultant and with the permitting authorities to make sure they understand the steps of the process, the likely bottlenecks, and to avoid the risk of constructive approval.

Where do you think a Circuit Rider would be most helpful in this process?
See above

Common Conditions if Constructive Approval Occurs

What conditions would be important to include?
Conditions are put in place to make sure the project is safe, fiscally responsible and well designed and implemented. Therefore, I would suggest that Common Conditions should be directly and strongly tied to both the Site Suitability standards and by performance and design standards established by DOER. I think the guidance DOER has established is solid, if not complete.

In terms of Site Suitability, DOER should want a project that has a low Criteria-specific score in each category and the Common Conditions should be designed to minimize or mitigate this score to protect the various elements especially regarding fire risk, protection of water, stormwater and erosion. Operationally, the conditions should similarly minimize or mitigate these risks during construction – keeping earthmoving at a minimum, reasonable hours of operation, protection of unpaved roads, use of hazardous chemicals, stormwater and erosion, noise and emissions (lots of trucks idling) and lighting. Importantly, in regards to ESS, the Applicant must be required to

provide training and equipment to local emergency responders, commit to being onsite during and emergency and dealing with any waste water or contamination that result.

Furthermore for the long-term protection of the town decommissioning requirements MUST be in place – both a decommissioning fund of 125% held in escrow and requirements about return of the site to close to original state otherwise a financial burden to the Town.

Enforcement

Are there other topics related to enforcement these regulations should address?
The SMART 3.0 regs get it right and DOER should replicate its example for all clean energy facilities. Specifically, there needs to be an environmental and compliance monitor assigned to each project, hired by the muni and paid for by the Applicant. This monitor must be given explicit rights in DOER regulation to make site visits, with at least three required – pre-construction, during construction, and post-construction, with more at the discretion of the monitor to ensure compliance. An important note based on Shutesbury's experience, is that DOER must require the Applicant to allow other parties that are designated to assess and monitor the land, including Indigenous representatives, to have full access to the site although monitors can be required to be accompanied by representatives of the Applicant. If this is not in place, the landowner can deny access which therefore undermines assessment and monitoring, removing the "eyes and ears" for the permitting bodies.

Further enforcement is only good if there are teeth – some penalties to be avoided. Rather than struggle with what the right amount of a penalty is, I would suggest that if there are breaches in enforcement, that the monitor be able to temporarily halt work on a project, increasing in duration with repeated instances. In the field of development, time is money so halting work for a few days due to non-compliance is likely the most flexible but effective stick DOER can provide to keep Applicants from straying. Penalties will be at the discretion of the monitor but DOER can provide guidance at a later date.

If a successor wants to change the terms of a permit issued through these regulations, does it trigger another 12-month review period? Is the review period shorter? Is the petition only to the single board who issued the condition?

I support DOER in its statement that modification of an existing permit by a new owner is at the discretion of the local government. I do strongly think however that just like a Consolidated Permit requires approval of all permitting bodies, that the same is true for a modification. For example if the Planning Board is inclined to change a condition, all other permitting bodies such as the ConComm also need to approve, even if the condition is outside the bounds of its purview. Basically a modified set of conditions should require a fully signed off amendment permit by all relevant parties.

I do not think there is the need for a full 12-month review period for proposed changes. However, since this is not an obligatory process and it is not required statutorily, there needs to be flexibility granted to a municipality willing to entertain modification. A timeline can be

mutually agreed to by the permitting bodies and the Applicant with the understanding that if the Applicant does not agree to reasonable terms, the modification can simply be denied.

Concurrency and Transition Period

What do you think of this timeline? Would you face any challenges?
There are two parallel timeframes in play and both offer different challenges. One timeline is that facing municipalities to adopt or update local bylaws to comply with the new small clean energy facility regulations. The other is in response to the changes put in place by the federal government by which commercial solar installations can receive tax credits.

The new federal law passed in July 2025, establishes July 2026 as the cut-off for projects to receive the four-year "safe harbor" protections during which a project can be completed and still receive the 30% tax credit. Further the law establishes that for projects begun after July 2026, these projects would need to have construction completed and be put in service by July 2027 to receive the tax benefit.

In reality, it seems impossible for any new solar project to start construction by July 2026 if the regulations will not go into effect until March 1, 2026. This is only a three month period. I see no way that an application can be submitted, review and permitting can be completed, even if expedited, so that construction can start in three months time. Practically, this means that for any new solar project to receive the 30% tax credit (assuming construction starts after July 2026), it would need to be completed and put into service by July 2027; a period of one year. While possible, this is unlikely. What is likely is that construction may be begin, perhaps even by completed but given interconnection waits, being put into service seems unrealistic.

In my opinion then, the Commonwealth should not try to speed up the concurrency period in order to help facilitate solar deployment for projects chasing the tax credit. It is highly unlikely and certainly would be an exception, if it happened.

This brings us to the municipally-relevant timeline, which is based on the annual Town Meeting schedule which most municipalities in the Commonwealth follow. Town Meeting season is springtime, usually April 1 through June 30. If the DOER regulations and related guidance will not be completed until March 1, 2026, there is a very low likelihood that most municipalities could adopt new or amended regulations to comply with DOER before June 30, 2026, the end of that year's Town Meeting season. To meet DOER's currently proposed concurrency deadline of December 1, municipalities would likely need to hold a Special Town Meeting in fall 2026. More likely the majority of municipalities in the Commonwealth will probably need to or choose to wait for the next regular Town Meeting scheduled in Spring 2027 in order to adopt or amend bylaws; this Town Meeting season would end on June 30, 2027. It is at this date that DOER could expect all municipalities to be in compliance.

What this means in summary is that since it is almost impossible for most solar projects to begin construction within 3 months to meet the July 2026 deadline, and that only the exceptions will be able to be complete and put in service within twelve months to meet the July 2027 deadline, what

the Commonwealth should focus on is an orderly process by which municipalities can adopt or amend the new regulations for the long-term. This has been a heavy lift by the Commonwealth and it should be put in place correctly. Since we can expect all munis will miss the 2026 Town Meeting season, and many will not conduct a Special Town Meeting, the appropriate focus should be on 2027 Town Meeting schedule.

If not 9 months, what do you think the concurrency period should be?
Based on the information and rationale provide above, my recommendation would be to set the concurrency deadline for June 30, 2027.

PUBLIC COMMENTS ON 225 CMR 29.00

Preliminary Guidelines on Common Conditions in Case of Constructive Approval

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 2025

1. Common Conditions that Apply to All Small Clean Energy Infrastructure Facilities

Phase: Administrative/Legal

Final Plan Submittals – should include a digital (pdf or equivalent) version of the final plan

Project Changes – the final submission, as proposed, would be after any opportunity for public comment. Therefore, I think it is imperative that only de minimis changes be allowed with the approval of the local government. No changes to site footprint or Site Suitability factors should be approved by local government or a building commissioner (if applicable) after final submission.

Transfer of Ownership – notice should be provided by Certified Mail not first class to ensure delivery. Notice shall be directed to the current chairs of the pertinent permitting authorities. It is safe to assume that the Local Government Representative may not be the same person who fulfilled this role for the original permit.

Bond and Fee Payments – this should also include Decommissioning escrow fund.

MISSING: Needs to include proof of approved Interconnection Agreement

Of Note: there are several items required later in this process that I believe should be included in the final submission. Doing so later does not give the permitting authorities the opportunity to look at the project holistically before approving a permit.

Phase: Construction

Pre-Construction Meeting – this should be rewritten to reflect the fact that many towns do not have professional staff, as this language assumes.

Traffic Management Plan – should include conditions to protect and preserve unpaved roads. Should include no-idle protocols (contractors show up early outside the site and idle. Semis with heavy loads wait their turn on the public way).

Provide Decision to General Contractor – DOER should state in the Common Conditions that it is the Applicant's responsibility to ensure compliance with conditions by any subcontractor and the Applicant will be held responsible for non-compliance.

Third-Party Construction Inspections – it should be stated that this includes any environmental monitoring, as required by SMART 3.0. It should also include inspections by Indigenous representatives, Tribal Historic Preservation Officers.

Community Outreach Plan – I would suggest stronger language to convey the necessary collaboration in developing the Community Outreach Plan. Despite the fact that this condition is the result of a Constructive Approval scenario, local government must have a say in how the construction occurs; perhaps veto power over approval of the Plan which would require the Applicant to seriously take into account local concerns.

This should also be named something different to differentiate if from the Outreach Plan during Pre-Filing – perhaps Construction Phase Community Engagement and Communications Plan (CPCECP)

Debris Clean-Up – this should require access to the site by the local government to assess the state of the site in terms of debris. This should occur no later than 30 days after construction is completed.

Construction Work Hours – these hours are overly generous and create a burden for abutters since the construction, which will take place over many months will involve noise and extensive vehicular traffic. I would recommend 7am to 5pm, so that residents know that starting at dinner hours there is respite. Also, Monday to Friday is reasonable, abutters should not have to deal with only one day of non-construction activities. I agree that work outside these hours should only be at the approval of the local government however since the Local Government Representative may not have the ability to approve this request (if a consultant), such requests should be made at least 72 hours in advance so the appropriate permitting authorities can be contacted (again DOER must remember that committees require 48 notice to post a meeting and a committee/board might require a formal meeting for some types of requests, especially if they are over extended period of time). This approval is not to be made by the Building Inspector.

Staging and Laydown Plan – this should be developed in consultation with Local Government which will be aware of local conditions.

Air Impacts from Vehicles and Equipment – idling limits should not just be limited to off-road vehicles. The primary impact on abutters will be vehicles delivering materials or personnel – semi-trucks, vans and contractor vehicles that are awaiting entry to the site. These should be required to not to idle which might also encourage staggered arrivals.

There is no mention of generator use which is likely the most common air impact among equipment. This should be addressed.

Noise Impacts – while it is good that municipal authorities may inspect and measure for noise, most munis do not have the expertise or equipment to do this. DOER should require that the Applicant pay for third party expertise to conduct these inspections, as determined necessary by local government, so that independent data is available. Also, it should be stated that inspections can be triggered by an abutter complaint to the local government.

Mitigation should also include turning off equipment that is not in use – i.e. generators, earthmoving equipment, trucks, etc.

Visual Impacts – a landscaping plan should be presented to the local government at least 60 days, maybe longer, before construction begins; 30 days is not enough time to review, comment and adjust.

Just as DOER is requiring Dark Sky friendly design for the facility, the same standards should be in place during construction. There is likely a tradition of keeping lights on all night to protect equipment.

Earthwork – in addition to the condition suggested, I would ask DOER to state that earthwork shall be kept to a minimum to avoid disturbing soil integrity and risking erosion or stormwater impacts. This is consistent with DOER health and safety and mitigation/minimization intent.

Lighting – as mentioned above, Dark Sky measures should be required – the parenthetical reference is not direct enough. This should also address no lights on the construction site overnight which seems like a standard practice. Security, if needed, should be achieved in a Dark Sky friendly manner – motion detectors that are adjusted to reasonable sensitivity to take into account wildlife.

Soil – this condition seems to give a "green light" to notable earthmoving. It should be affirmatively stated by DOER that earthmoving should be at a minimum and only when site conditions require it. This would, among other things, preserve topsoil from being moved.

Stormwater: Stormwater Prevention Pollution Plan - good in regards to third-party inspector. However, there is nothing about stormwater measures to prevent erosion during construction – bales, use of heavy equipment, limited earthmoving and limited slopes.

Chemicals and Hazardous Materials – it should be stated that use of hazardous materials and chemicals should be minimal and only used when there is no substitute. Data sheets are required by DOER which is good.

Phase: Operations and Maintenance

Herbicide/Pesticide Application – unless otherwise documented as necessary, the site should be maintained by mowing or other mechanical means.

Access Roads – this is good regarding unpaved roads. This is an example of where a local bylaw that is a complement to DOER regs is needed to specify a process for road mitigation. Such complementary bylaws should be affirmatively allowed in DOER small clean energy regulations.

Operations and Maintenance Plan – this plan should be submitted to the local government at the time of final submission for a permit. By the time a building permit is requested, the permitting authority may not be involved in the process. A permit to allow the facility should include consideration of an operations plan.

Insurance and Surety – proof of liability and financial surety should be submitted when the final plan is submitted for permit approval. Again, the permitting authority is no longer involved when the building permit is requested.

Phase: Decommissioning

Decommissioning/ Abandonment – good

2. Common Conditions that Apply Only to Small Clean Energy Storage Facilities

Phase: Administrative and Legal
Battery Energy Storage System ("BESS"): Emergency Response Plan ("ERP") – the annual report to the Local Government should also include all instances of potential safety concerns requiring action by the operator since it is not clear what the bar there will be for notifying local officials. It is my understanding, based on our local BESS, that these units are monitored remotely and individual batteries, etc. can be monitored for flaws or failures. This is the data a local government will also want.

The requirement to work with local emergency response regarding training is good and necessary. The Applicant must also be required to provide the local emergency responders with the equipment needed for the BESS emergency. Knowing what to do but not being able to afford the equipment or materials makes the training meaningless.

As with many requirements in these Common Conditions, the ERP should be provided as part of the submission packet for receiving a permit. After a permit is received makes this less enforceable and safety should be paramount to the decision-making process for a permit.

For an emergency incident report, the information provided should also include detailed information about the release of chemicals or fumes into the environment. This should include a detailed accounting of chemical analyses; these likely won't be unavailable within one weeks' time but is important to require in a timely manner.

In the event of an emergency, representatives of the operator should be required to be on site to provide information and to be generally available with 24 hours.

Phase: Construction

Chemicals and Hazardous Waste – excellent that non-PFAS foams will not be used in fire suppression efforts. The Applicant should also be required to provide data sheets to confirm there are no PFAS products in the BESS components.

Storage Containment – while it is good that local fire and building authorities review the battery storage container prior to installation, it is important that the plans for these be submitted along with other application materials for a permit, earlier in the process. The fire department or an outside expert should have ample time to review these and provide comment, with adequate time for modification. In the timeframe suggested by DOER, the containers will have been ordered and possibly onsite; it will be too late to change anything.

Phase: Operation and Maintenance

Repair, Augmentation, and Repowering – in the event that battery chemistry changes are made, triggering a new application should not only be for a change to the site footprint. A new application should also be triggered if there is a determination made by the fire department that the level of risk has changed. While hopefully this change will to make the BESS safer, it should be made clear that just changing the footprint is not the only reason a new application is required.

3. Common Conditions that Apply Only to Ground-Mounted Solar Facilities

Phase: Administrative and Legal

Emergency Response Plan ("ERP") – there should be a requirement for an easy-to access full shut off to disconnect the facility from the grid. This information should be made available to emergency responders.

4. Standards that Apply Only to Small Clean Transmission and Distribution Infrastructure Facilities

Phase: Construction

Nighttime Construction Mitigation Plan – again, as with other requirements, the submission of a nighttime mitigation plan is too short a deadline. This will require consultation with various entities in local government and communication with abutters. At least 60 days, if not longer should be required for effective consultation prior to local government approval.

Road Damage/Repair – given unpaved roads, the period where temporary repairs should be extended to be from November to the end of April, to account for spring rains. A 60-day allowance for repair is too long especially for rural communities that often do not have

alternative routes - I would suggest 30 days as a maximum! Also damage to land abutting a road, for example an access road to the transmission line could result in flooding, freezing or rutting on the road – this should be considered damage to the road.

PUBLIC COMMENTS ON 225 CMR 29.00

Preliminary Guidelines on Minimization and Mitigation Measures

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 2025

Background and Purpose
I generally agree with the Criteria chart that indicates the levels of minimization or mitigation that a Criteria-specific suit suitability score might require. Importantly, to follow-up on DOER's inquiry at the public information hearings, this chart makes clear that a score of 4.0 or greater may result in denial of a permit – "*if permitted, will generally require extensive minimization and/or mitigation*". This is the correct approach. There should be some scores that enable a muni to reject a project.

1.1 Score Modifiers
The statement "*Local Governments must allow Applicants to apply modifications before Qualified Minimization or Mitigation measures are assigned*." can be misunderstood as written. The Site Suitability guidance, cited immediately following this sentence reads "*Modifiers are assessed based on an SCEIF's development potential and/or social and environmental benefits agreed to by an Applicant and a Local Government*." I would suggest that the latter sentence should come first. Only modifications that are mutually agreed to by the Applicant and Local Government can be applied and once that has occurred, mitigation or minimization measures should be assigned.

1.1.1 Development Potential
I much prefer DOER's approach to Development Potential's effect on Criteria-Specific scores. EEA suggests, I believe, that all categories would score a zero. I think DOER's approach in naming the categories is better and the four categories identified make sense as they correlate. Scores should not be automatically applied across the board but should be relevant to the category.

1.1.2 Social and Environmental Benefits
It is important to recognize that by allowing a Social and Environmental Benefit to reduce a Criteria-specific score, a bad or less than good site is being granted a better score. While this is conceptually fine, I would suggest that in developing the regulations, DOER should be cognizant of not providing an easy avenue for these improved scores for bad projects; reduced scores should be for significant efforts. In particular, pollinator friendly design should be a required design element of the regulations for all clean energy facilities, not a reward, ie score modifier. Also, while I support and respect that a community will best understand its needs and therefore the possible benefits provided in an agreement, I think DOER should emphasize that it is a best practice to tie benefits to the project in some way – for example creating jobs at the facility (post construction is unlikely) as opposed to creation of an unrelated job.

I greatly support the requirement that a score modifier can only be applied "*after entering into a written agreement with the Local Government which binds the Applicant to delivering agreed-upon benefits".* It seems to me that DOER is requiring some version of a Community Benefit Agreement which is binding as opposed to a Community Benefit Plan that is not. Binding is all that can protect a community from an Applicant not following through.

1.2 Qualifying Minimization and Mitigation Measures for Criteria-Specific Suitability Scores

The concept of "no net loss" is politically and intellectually attractive but in my opinion, rarely accurate. For example, removing an acre of mature forest by planting an acre of saplings is a net loss in carbon storage. So any assessment regarding "no net loss" must be stringent to actually achieve this goal. I think it is also imperative that DOER require the replacement mitigation to be within the boundaries of the municipality since the negative impacts will be experienced locally. A developer cannot be allowed to offer mitigation elsewhere and then seek an appeal to EFSB based on the grounds that the proposed non-local mitigation was not accepted.

I support that at least one-to-one replacement ratio of impacted land area should be required. As noted above, to achieve no net loss this might require greater than 1:1 but this is a minimum.

The requirement that a facility with a low site suitability score may still be required to comply with local, state and federal Minimization and Mitigation requirements is very important and I support DOER's approach.

*For the following mitigation and minimization measures, it is important to note that none of these address the siting of lithium ion batteries on a site.

1.2.1 Climate Change Resilience

Minimization Measures: Generally, I agree with this list of options DOER provides but the idea of raising the equipment height to above FEMA flood levels has two shortcomings. One is that it likely encourages significant earthmoving, which then introduces greater risks of erosion and soil disturbance. Second, with climate change and given the current federal administration's climate denial, federal flood levels are likelyl not accurate as we continue to see, with increasing frequency, 50 or 100 year floods occurring every few years.

Mitigation Measures: I find the mitigation measures offered here weak. Possibly securing land surrounding the facility can reduce flooding but that is not certain if site where the facility is located is vulnerable. Planning and funding study of strategies doesn't really help. It is better to not locate facilities in flood zones.

1.2.2 Carbon Sequestration and Storage

Minimization Measures:
It should be made clear regarding "system-based conservation agriculture" or agro-forestry that the goal is to maximize carbon storage and sequestration via soils, it is not just conservation.

A tree nursey does not make sense and is simply a nod to the forestry industry. Cutting down forest land to then replace it with a nursey where there is planned, regular tree cutting does nothing for long-term carbon sequestration or storage. This is a bad idea for mitigation.

Conversion of forest slash to biochar seems like another gift to the forest products industry. Basically DOER is saying that a developer can take all the woody debris that are left after logging the site and create a new product that can be sold. Better to leave the woody debris to degrade naturally. This is not minimization.

Avoiding soil compaction can also be achieved by limiting earthmoving that requires heavy equipment and limiting when and where large equipment can be used on the site.

Mitigation Measures:
Both suggested mitigation measures are good if they protect additional acreage within the boundaries of the municipality and best if contiguous to the site. These should be lands with significant carbon storage and sequestration potential, better or equal profile to land being developed.

1.2.3 Biodiversity

Habitat
Minimization Measures:
Pollinator design does not replicate a destroyed habitat – a meadow is not a forest. This may add biodiversity to a barren field but DOER should be clear that this is not minimizing negative impacts on existing forest lands.

Building fences seems like a very odd minimization approach. Better to design the site with natural corridors for habitat travel across the site, i.e. without fences.

Regarding construction practices – minimize earth moving and only allow targeted tree cutting rather than clear cutting in areas of habitat priority.

Mitigation Measures:
Funding research and monitoring to track wildlife, etc. does not seem like mitigation, it is a payoff that may yield no practical benefit to the site or the municipality

Native and Invasive Species
Prohibit or restrict use of herbicides and pesticides which can affect native re-growth.

1.2.4 Agricultural Resources

Soil Health
Minimization Measures:
Not mentioned is the need for maximum spacing of arrays to allow for greater sunlight and rain between and beneath the panels. Also the placement of arrays in areas where agricultural land that is less productive is an good strategy.

Of note: I still think allowing solar on Prime Farmland rather than requiring it on Non Prime Farmland is the best approach since minimal mitigation would be needed. This seems so obvious.

Mitigation Measures:
Funding of research does not seem like mitigation

Agricultural Resources
Minimization Measures:
Not sure what incorporating Agrovoltaics has to do with mitigation – this is the cause.

Like SMART 3.0, there needs to be requirement to maintain the same agricultural production types and levels of production in this guidance. Further, this should be for the life of the project not just 10 years. Otherwise, years 11-20/25 are not being mitigated.

Mitigation Measures:
Funding a training program for photovoltaic technicians has nothing to do with mitigating the impact of solar on agriculture. DOER should take its own advice and remember to apply mitigation and minimization measures to the category and related issues at hand.

1.2.5 Social and Environmental Burdens: Environmentally vulnerable or burdened communities

Minimization Measures:
This seems like a mismatch given how OEJE is interpreting "environmentally vulnerable and burdened communities". While in my opinion OEJE's interpretation is flawed since it focuses primarily on low-income and historical Environmental Justice communities, conflating these with "burdened". I think the definition should be expanded but given the narrow OEJE definition, I don't see much relevance in regards to the minimization measures suggested.

2. Compensatory Environmental Mitigation

I like that, similar to SMART 3.0, this fee is relative to the size of the project. I do want to suggest that DOER check to make sure the Site Footprint definition is for the entirety of disturbed land caused by the project, not just the perimeter of the arrays.

I strongly object to the statement that DOER may determine that an "*Applicant who is also subject to other mitigation fees under 225 CMR 28.09 satisfies the requirements of that regulation*". While on its face this may seem fair to avoid double counting of fees, it weakens the disincentive for poor siting. This is especially true for projects seeking a SMART subsidy; they pay once to both get a subsidy and to avoid permitting penalties for bad siting. That gives a developer a two-fer – do poor siting under two regulations but pay once. A great deal for the developer.

PUBLIC COMMENTS ON
Ceremonial Stone Landscapes and Traditional Cultural Landscapes
In Regards to Clean Energy Facility Siting

Comments submitted by
Michael DeChiara
Shutesbury, MA
October 2025

I am submitting this standalone public comment because it is cross-cutting for all three agencies' regulations and guidance and could easily be overlooked if not highlighted. It is in regards to respecting Indigenous rights and culture in the permitting process. The various regulations and guidelines being developed by the Commonwealth are, by definition, based on a western civilization mindset and understanding. This is to be expected. However, in the course of our solar permitting in Shutesbury, we learned things that are essential in regards to Indigenous communities in relation to permitting and siting. I would suggest these need to be incorporated into the drafts your agencies are developing.

BACKGROUND

What: Indigenous Sites Need Recognition and Protection in Permitting

Indigenous communities have sites that are of cultural or religious importance to them. These include Ceremonial Stone Landscapes and Traditional Cultural Landscapes. Definitions are at bottom of this email and in the attached document.

Who: Tribal Historical Preservation Officers

The person who is trained and recognized by the tribes and who the federal government to recognizes are called Tribal Historic Preservation Officers (THPOs). A THPO is responsible for the administration of any or all of the functions of a State Historic Preservation Officer (SHPO) with respect to tribal land. Western experts like archeologists are likely not THPOs.

ISSUES

One-Mile Limit

Tribes that were historically located in the state are not always present or represented in the region where cultural sites are located. For example, the western Mass. Nipmuc people are represented by Mashpee Wampanoag Tribe in SE Mass. Additionally, tribes that were forced to leave Massachusetts by threat of force or treaty, now are located in other states. In both instances, defining Key Stakeholders as being within 1 mile of a clean energy facility, does massive injustice to the Indigenous communities that lived in Mass. and have cultural or spiritual relevant landscapes on potential project sites here. This may be an inconvenient truth but a truth nonetheless.

Access to Land
In Shutesbury, we encountered a landowner leasing forestland for a clean energy facility refusing access to the site by a THPO as a representative of tribal people. The landowner would only allow a western certified archaeologist who did not have training or perspective necessary to assess Indigenous cultural landscapes on the site. Given the power of private landowners, this could not be overcome unless the Planning Board decided to deny the permit for lack of relevant data, which it did not do. I would suggest EEA, DOER and EFSB require full access to a proposed site in order to establish accurate assessments in regards to Ceremonial Stone Landscapes and Traditional Cultural Landscapes for all clean energy facilities.

Mass. Historical Commission Not the "Decider"
From what I understand, the Massachusetts Historical Commission has had a long-standing position that there are no Indigenous stone structures in the Commonwealth. Based on the attached document which deeply researched this issue, MHC's position has been that all stone structures are post-Contact. For example, as recently as 2021 (might still be there) the MHC's official website includes this statement:

> *"Piles or continuous walls of fieldstones are common in rural Massachusetts wherever there are rocky soils. When historians and archaeologists have conducted thorough, professional research into such stone piles, they have invariably shown that these features are not associated with the Native American settlement of Massachusetts."*

So while state agencies like EEA, DOER and EFSB will be tempted to make the MHC the "go-to" for determining Indigenous sites, I believe this would be a mistake. If one acknowledges that a non-western understanding is required to recognize these Indigenous sites, then it is inappropriate to have a state government agency with no expertise in this perspective be the entity making decisions on whether they exist or how they should be assessed. Rather, it should be up to the tribes to determine, as the federal government has long recognized. .

RESOURCES

- Introduction to Indigenous Cultural Sites in Shutesbury, Mass.
- Shutesbury 2023 Solar Bylaw that incorporates processes and documentation to ensure Indigenous protections. (attached)
- Shutesbury Historical Commission resources re: Indigenous issues

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DEFINITIONS

Ceremonial Stone Landscapes (CSLs)
A Traditional Cultural Property (TCP) is any physical property or place of significance to a culture, e.g., a district, site, building, structure, or object. A Traditional Cultural Property can be a place, a human-made structure, or a natural landscape or region. A TCP may be eligible for inclusion in the National Register of Historic Places (NRHP) based on its level of significance, as determined by its culture and community. Significance is often determined by (but not limited to): associations with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions of a living community. TCPs are rooted in a traditional community's history and are

important in maintaining the community's continuing cultural identity. The National Historic Preservation Act and the accompanying 36 CFR 800 regulations refer to "properties of traditional religious and cultural significance"

Traditional Cultural Landscape

A Traditional Cultural Landscape is a spatial area or resource area associated with a traditional community's cultural practices, beliefs, or identity. An example of a Traditional Cultural Landscape, which links human-made features to the natural environment, could be a complex of Ceremonial Stone Landscapes built around and close to water sources and wetlands. Understanding Traditional Cultural Landscapes often requires a holistic examination of the larger landscape within which a site is situated.

Comments on Suitability Criteria

1. Valuing Scenery and Nature

Naturalness and beauty are two key elements affecting the quality of life and the value of land in rural Massachusetts. Any site suitability evaluation method must reflect this fact.

While the small towns of rural Massachusetts are short on high paying jobs, thriving public education, convenient , major health facilities, public transit, and other amenities associated with denser populations they do have and do treasure their rural atmosphere, natural environment, and beautiful scenery. Residents choose to live in these towns because of these aspects of life here, and these attractions draw visitors from all over and power local economies.

While the worth of natural beauty for residents and visitors may be hard to quantify, there is evidence that it has concrete economic value. Property values reflect the presence of views and the absence of visible industrial sites. In towns even where the typical home site is surrounded by abundant forests and fields, land with views is often taxed at a higher rate than other properties. Real estate property sheets include an item for views because they are selling points. Visible fields of solar panels would negate this.

While the site suitability criteria rightly consider habitat, i.e., the effects of a development on flora and fauna, it is a mistake to not assess effects on the local human populations. It may be hard to assign an exact quantifiable value to beauty but by not considering beauty and naturalness you are already assigning them a value of zero; clearly this is wrong. If two sites receive similar scores under the current criteria, but the first is in the middle of a scenic vista while the second is largely invisible and a scrubby regrowth area, the first site should receive a more highly negative score under a more inclusive criteria. If a monetary value would help in developing criteria for establishing the value of scenic beauty and natural settings, the suitability criteria team could consult with **local** real estate agents who have a sense of the value they add to a home or site.

2. Net Benefit Solar vs. Forests

Forested sites do deserve highly negative suitability scores. While solar proponents point out that PV power plants displace fossil fuel powered generation facilities and thus produce more benefits than the forests they may displace, they often leave out many financial and environmental costs. In determining the costs as well as the net benefits of solar power the following economic and environmental costs should be included:

-Mining and transport of raw material for panels and batteries.
-Manufacturing of batteries and panels
-Transportation to site
-Installation
-Removal and disposal
- Design, siting, and financing
-Site clearing
-CO2 releases from land disturbance and from short term wood use/disposal from logging often releasing decades of sequestered carbon.

Proper assessments of how long it will take for a solar project to produce a net benefit need to address all the above factors as well as the sequestering potential of the forest being displaced.

Note that a forest left alone has none of the costs cited above and produces many benefits beyond sequestration and storage. Also, once a PV facility has displaced a carbon emitting facility of

similar productiveness it has no additional effect on atmospheric carbon, whereas an undisturbed maturing forest continues to store and sequester carbon, lowering atmospheric carbon.

Solar proponents cite an expected need for 27 GW of capacity in Massachusetts by 2050. Even using simplistic reasoning without reflecting all the factors mentioned above 27 GW of net capacity will require about 137,000 acres, about five times the area of the Quabbin Reservoir. Similar ratio of capacity per person yields a requirement of about 7,000,000 acres of panels for the nation. The feasibility of production and installation of this quantity of panels and associated battery energy storage needs to be firmly established.

I believe current panels convert solar energy to electrical energy with an efficiency of about 18 percent. Perhaps we should be putting more resources into improving panel efficiencies rather than subsidizing facilities using current models. Similar consideration applies to developing safer, less environmentally intrusive battery technologies.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:56 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Marcia Durell
Sent: Tuesday, October 14, 2025 8:49 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 14, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Marcia Durell
6 Skyline Drive
South Hadley, MA 01075
(413) 374-1495
3711mjd@duck.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:55 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Carla Falasco
Sent: Tuesday, October 14, 2025 2:48 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 14, 2025

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Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Carla Falasco
14 Sherwood Rd
Natick, MA 01760-3309
(440) 773-2806
cfalasco@jdrf.org

To the Division of Clean Energy Siting & Permitting,

My name is Brandon Henke-Fiedler, and I work as a solar policy analyst at a company called New Energy Equity, a national solar development and finance company with more than 25 years of completing and managing solar projects. I am commenting on DOER's clean energy siting and permitting draft regulations and guidelines (225 CMR 29.00).

- **We are in a race against the clock for projects to remain eligible for the Federal Investment Tax Credit.** Projects that can get the ITC will be the most affordable new clean generation that can be built for the foreseeable future, showing the urgent need to maximize the number of projects that remain eligible. DOER is proposing allowing municipalities to use the existing permitting process until December 2026. This is problematic because there is currently no timeline for a decision, and any appeals must go through the courts, which typically takes years. This makes it highly unlikely that projects starting permitting next year will meet the deadline for ITC eligibility if they must go through the existing process. **DOER should mandate that municipalities accept applications under the new process starting July 1, 2026**, which would be the same as the EFSB. Individual towns that have issues complying due to their Town Meeting schedule can apply for a waiver, but the default should be to implement in July.

- **DOER regulations and forthcoming guidance should be careful not to give municipalities new tools to erect barriers to permitting beyond what is currently allowed by law**. The permitting reforms recommended by the Commission on Clean Energy Siting and Permitting and enacted by the Legislature were intended to *streamline and facilitate* the deployment of clean energy, while protecting natural resources and environmental justice communities. Siting reform was neither intended to step over municipal authority nor intended to expand it; reforms should be focused on improving the *process* for developers and communities.

- **The "Key Stakeholders" category is too broad** (which includes any resident within a mile of the project), given that DOER proposes allowing any Key Stakeholder to dispute the site suitability score, which can add 30 days to the process. **Only parties "substantially and specifically affected" by the project should have the ability to dispute the score.** Designating two categories are recommended here: The current definition should apply under the label of "Stakeholders", while the term "Key Stakeholders" should be reserved for elected or appointed municipal officials and other parties *substantially and specifically affected* by the proposed project (such as direct abutters).

- **Clarify how the Mitigation Measures proposed through the permitting regulations interact with Mitigation Fees established in the SMART program.** It is unclear if SMART projects will be required to pay for two different sets of mitigation.

This concludes my comments. Thank you for your time, for the opportunity to give public feedback, and for your work in continuing to improve Massachusetts' clean energy landscape.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:54 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Linda Jones
Sent: Tuesday, October 14, 2025 9:18 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 14, 2025

DOER Commissioner Elizabeth Mahony

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I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mrs. Linda Jones
80 Thistle Patch Way
Hingham, MA 02043
(617) 827-2910
finallylbj@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 10:55 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Answers to DOER questions

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Enviro Show <enviroshow@valleyfreeradio.org>
Sent: Tuesday, October 14, 2025 11:14 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Answers to DOER questions

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Our answers in CAPS:

Public health, safety and environmental standards
What health, safety, environmental standards are important to include?
THE PROTECTION & PRESERVATION OF FORESTS & WOODLANDS

Are there standards for project elements such as setbacks, lighting, and screening that you would want to see included?
YES

Site Suitability and Minimization/Mitigation
Should a community have the right to deny an application if the suite suitability score is too high?
YES, HOME RULE IS A CRITICAL ASPECT OF OUR DEMOCRACY

What minimization or mitigation measures should qualify in instances where the applicant has a high site suitability score?
THERE IS NO REAL MITIGATION FOR THE DESTRUCTION OF OUR FORESTS GIVEN THEIR VALUE AS NATURAL SOLUTIONS TO CARBON CAPTURE IN THE CLIMATE CRISIS

How should a municipality calculate how much mitigation is enough to offset poor scores?
[SEE ABOVE]

Pre-Filing Requirements
What methods of community outreach would be beneficial during this stage of the process?
MULTIPLE PUBLIC MEETINGS, BOTH VIRTUAL & IN PERSON

What types of abutters and key stakeholders should be noticed and involved at this stage of the process?
ALL ABUTTERS BUT OUTSIDE DEVELOPERS SHOULD NOT BE CONSIDERED STAKEHOLDERS

How should the process be different for smaller projects versus larger projects? • What type of outreach do you find useful and helpful?
[SEE ABOVE]

Consolidated Permit Process
What tools would be helpful to ensure municipalities meet the 12-month timeframe?
TOOLS?

What criteria should officials use to judge if application is complete?
ONE OR MORE CLIMATE SCIENCE STUDIES INCLUDING CARBON SEQUESTRATION MUST BE COMPLETED

Clean Energy Circuit Rider
Would you want the regulatory circuit rider to provide assistance with other aspects of this process, such as pre-filing?
YES

Where do you think a Circuit Rider would be most helpful in this process?
PLEASE DEFINE

Common Conditions if Constructive Approval Occurs
What conditions would be important to include?
THE SITE MUST BE ALREADY DEVELOPED LAND

Enforcement
Are there other topics related to enforcement these regulations should address?
HAVE UNDERFUNDED PARTIES BEEN GIVEN EQUAL VOICE & ACCESS TO ALL PROCEEDINGS?

If a successor wants to change the terms of a permit issued through these regulations, does it trigger another 12-month review period? Is the review period shorter? Is the petition only to the single board who issued the condition?

Concurrency and Transition Period
What do you think of this timeline? Would you face any challenges?
THE STATE SHOULD NOT TRY TO SPEED UP THE CONCURRENCY PERIOD FOR PROJECTS SEEKING A TAX CREDIT

If not 9 months, what do you think the concurrency period should be?
THERE SHOULD BE A DEADLINE SET AT JULY 1, 2027

Don Ogden
The Enviro Show
140 Pine Street
Florence, MA 01062

NextGrid

Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting

Dear DOER Team,

Thank you for your work on the draft 225 CMR 29.00 regulations. The goal of standardizing permitting for clean energy projects is a good one, Massachusetts needs a more predictable process for siting solar, storage, and other clean energy systems.

That said, the way the current draft is written will make it much harder, slower, and more expensive to build small-scale clean energy projects, especially rooftop solar and community-sized systems that are under 10 MW. These are exactly the kinds of projects we should be making easier, not harder.

1. Rooftop Solar Should Be Fully Exempt

The regulation should make it clear that all rooftop solar systems regardless of size are exempt from these rules.
Section 29.07(1) currently exempts projects under 25 kW (AC) and small "behind-the-meter" systems under 250 kW, but this cutoff is way too low.

- Most commercial rooftop solar systems are between 250 kW and 2 MW, and would still have to go through a heavy, multi-step review process.
- Requiring small rooftop arrays to complete formal Site Suitability Reports, public meetings, and mitigation plans adds unnecessary costs and delays to projects that already comply with building, fire, and electrical codes.
- Rooftop solar doesn't impact land use, wetlands, or environmental justice zones, the entire purpose of this regulation and shouldn't be treated like a ground-mounted solar farm or transmission project.

2. Requirements Are Too Onerous for Small Projects

Even for small ground-mounted systems or energy storage projects under 10 MW, the draft regulation adds layers of paperwork and review that could double or triple permitting time compared to current processes.

Here are a few examples:

- Pre-Filing Requirements (Section 29.08):
  Projects must hold a public meeting, mail notices to abutters, and prepare a draft Emergency Response Plan before applying. That's at least two extra months and added consultant costs just to get started.
- Site Suitability Reports (Section 29.07):
  Every applicant must calculate and submit a Site Suitability Score and go through a Formal Score Determination process that can take 45–60 days. That might make sense for a 50 MW solar farm, not for a 5 MW solar or battery project.
- Consolidated Local Permit Application (Section 29.09):
  The application requires environmental reports, workforce development disclosures, and detailed labor documentation, that's an enormous lift for small developers.
- Review Period (Section 29.10):
  The regulation gives local governments up to 12 months to review these applications before "constructive approval" kicks in. For small systems that currently take 2–4 months to permit, this will add unnecessary uncertainty and delay financing and construction.

3. Rules Should Only Apply to Large-Scale Projects

Most of the procedures in 225 CMR 29.00 — formal scoring, public meetings, mitigation plans, and consolidated applications make sense for large clean energy projects (10 MW or greater) that have real land use and environmental implications.

Applying the same process to a rooftop array on a warehouse, a school solar canopy, or a 5 MW battery system doesn't make sense. It will slow down local permitting, overwhelm smaller municipalities, and slow the deployment of clean energy systems that the Commonwealth depends on to meet its climate goals.

4. Recommended Fixes

To make the regulation fair and workable, I strongly recommend that DOER:

1. Exempt all rooftop solar systems of any size.
2. Exempt all clean energy projects under 10 MW from the full process described in 225 CMR 29.00.
3. Simplify or eliminate the pre-filing, scoring, and mitigation requirements for smaller systems.

4. Shorten the maximum review period for small systems to 120 days, consistent with existing local special permit laws.

I appreciate DOER's intent to bring structure to the permitting process, but as written, these rules will slow down and discourage the development of exactly the kind of distributed, community-scale clean energy we need most.

Please narrow the scope of these regulations to large-scale projects (10 MW and up) and make it clear that rooftop solar arrays are fully exempt. That's the best way to support Massachusetts' clean energy goals while keeping local permitting fair and practical.

Thank you,

Michael Pattison
Permitting Manager
781-290-9276
mike@nextgrid.com
NextGrid

Answers to DOER Questions Posed at Information Sessions

Regarding Clean Energy Regulations

Submitted by Lara Wahl, Zuleica Booth, and Eli Elkus- all registered voters residing at

Shutesbury, MA

Oct. 14, 2025

(You will note *Some but not all cross over with our interpreter (that's a joke) Michael De Chiara who is our Shutesbury Planning board's comments. We are lucky to have him do some translating for us. But these comments are very much also our own.)

Public health, safety and environmental standards

What health, safety, environmental standards are important to include?

The most important in my opinion is related to lithium-ion battery storage especially since the draft DOER regs, the EEA Siting Suitability guidelines, nor the Model BESS bylaw addresses my concerns. In particular, there should be a prohibition of siting a lithium-ion ESS anywhere where there is insufficient water to be used in firefighting, specifically to reduce heat of batteries during an emergency to prevent thermal runaway. If a municipality does not have municipal water system or if the system is inadequate given the needs identified by the NFPA, siting of these energy storage systems must be prohibited.

Related to this, and again, none of the three sets of regulations or guidance address this (it is only reflected in DOER minimization and mitigation guidance),is the need to provide containment system for water that is applied to a lithium-ion ESS that is on fire The water applied to the facilities will in all likelihood be contaminated and must be captured in a designated collection basin that is large enough to hold the anticipated water coming off the BESS. A protocol must be in place for removing this water so that it does not enter the ecosystem.

Are there standards for project elements such as setbacks, lighting, and screening that you would want to see included?

DOER seems to be asking about post-construction elements.

Addressed so far, thank you –

• 15% slope to reduce likelihood of erosion or instability of the site, I believe this should be limited to 5%

• Dark Sky Friendly solutions for lighting is excellent to minimize light impacts. I am not sure all munis can be Dark Sky compliant; Dark Sky friendly solutions and best practices should be preferred and recommended but perhaps variations allowed to be consistent with local zoning.

• Compliance with local noise bylaws/regulations is good in addition to DEP regulation.

To include or improve:

• Setbacks should be much larger than DOER is currently recommending. Should be consistent with a municipalities zoning – local setbacks for other uses are determined for a reason and are deemed reasonable if the zoning bylaw was approved by the AG (which they all are). 25 feet is much too small for setbacks for an industrial use in zones that are not industrial.

• There needs to NO facilities off of roads which are unpaved –

this poses a financial impact to the municipality and a public safety risk. In Shutesbury we have many very steep unpaved roads which rut with the spring thaw creating hazardous conditions especially for the buses which must travel down these roads to collect school children. Many of these roads would not be able to handle the impact of industrial scaled construction projects that energy facilities would bring. These unpaved roads should be OFF-limits to energy projects.

• Stormwater – should be designed to minimize runoff from the site, both from impervious and pervious surfaces. This should include going beyond state or local wetlands regulations.

• Herbicides and Pesticides should be prohibited period.

• All replantings should be native

Site Suitability and Minimization/Mitigation

Should a community have the right to deny an application if the suite suitability score is too

high?

YES – OF COURSE! Otherwise the entire exercise of Site Suitability is meaningless!! And I

would argue that if a project cannot be denied by a local government, in effect the

Commonwealth would taking away any regulatory discretion from municipalities; which may not be legal and could possibly result in legal challenges. The Dover Amendment says that municipalities cannot unreasonably regulate, it does not say that municipalities cannot regulate solar. The entire purpose of the law and the complementary regulations and guidance is to determine how to regulate. Core to this, as a land use issue, is site suitability.

In my town's very recent experience, a developer was looking to clear-cut over 600 acres of forest zoned land across 2 towns, hosting five ground mounted solar sites in Shutesbury and Amherst. Two of these were mostly located in

BioMap/Core Habitat. Another two were mostly located in BioMap/ Critical Natural Landscape. At least one had ESS located near a stream feeding into a local reservoir that serves UMass AND Amherst. Another had ESS near wetlands. These sites were proposed presumably because through the lens of the Dover Amendment a municipality could not deny, just mitigate. DOER would be recreating this terrible situation again if it did not allow projects with high Site Suitability score, Total or Criteria-Specific to be denied. This decision would make this entire process an irresponsible farce.

Furthermore for the long-term protection of the town decommissioning requirements MUST be in place – both a decommissioning fund of 125% held in escrow and requirements about return of the site to close to original state otherwise a financial burden to the Town.

Enforcement

Are there other topics related to enforcement these regulations should address?

The SMART 3.0 regs get it right and DOER should replicate its example for all clean energy

facilities. Specifically, there needs to be an environmental and compliance monitor assigned to each project, hired by the municipality and paid for by the Applicant. This monitor must be given

explicit rights in DOER regulation to make site visits, with at least three required – pre-

construction, during construction, and post-construction, with more at the discretion of the monitor to ensure compliance. An important note based on Shutesbury's experience, is that DOER must require the Applicant to allow other parties that are designated to assess and monitor the land, including Indigenous representatives, to have full access to the site although monitors can be required to be accompanied by representatives of the Applicant. If this is not in place, the landowner can deny access which therefore undermines assessment and monitoring, removing the "eyes and ears" for the permitting bodies.

Further enforcement is only good if there are teeth – some penalties to be avoided. Rather than struggle with what the right amount of a penalty is, I would suggest that if there are breaches in enforcement, that the monitor be able to temporarily halt work on a project, increasing in duration with repeated instances. In the field of development, time is money so halting work for a few days due to non-compliance is likely the most flexible but effective stick DOER can provide to keep Applicants from straying. Penalties will be at the discretion of the monitor but DOER can provide guidance at a later date.

If a successor wants to change the terms of a permit issued through these regulations, does it trigger another 12-month review period? Is the review period shorter? Is the petition only to the single board who issued the condition?

I support DOER in its statement that modification of an existing permit by a new owner is at the discretion of the local government.

Concurrency and Transition Period

What do you think of this timeline? Would you face any challenges?

There are two parallel timeframes in play and both offer different challenges. One timeline is that

facing municipalities to adopt or update local bylaws to comply with the new small clean energy

facility regulations. The other is in response to the changes put in place by the federal

government by which commercial solar installations can receive tax credits.

The new federal law passed in July 2025, establishes July 2026 as the cut-off for projects to

receive the four-year "safe harbor" protections during which a project can be completed and still

receive the 30% tax credit. Further the law establishes that for projects begun after July 2026,

these projects would need to have construction completed and be put in service by July 2027 to

receive the tax benefit.

In reality, it seems impossible for any new solar project to start construction by July 2026 if the

regulations will not go into effect until March 1, 2026. This is only a three month period. I see no

way that an application can be submitted, review and permitting can be completed, even if

expedited, so that construction can start in three months time. Practically, this means that for any

new solar project to receive the 30% tax credit (assuming construction starts after July 2026), it

would need to be completed and put into service by July 2027; a period of one year. While

possible, this is unlikely. What is likely is that construction may be begin, perhaps even by

completed but given interconnection waits, being put into service seems unrealistic.

In my opinion then, the Commonwealth should not try to speed up the concurrency period in order to help facilitate solar deployment for projects chasing the tax credit. This seems reckless in many ways!!

It is highly unlikely

and certainly would be an exception, if it happened.

COMMENTS ON 225 CMR 29.00: SMALL CLEAN ENERGY

INFRASTRUCTURE FACILITY SITING AND PERMITTING

Submitted by Lara Wahl, Zuleica Booth and Eli Elkus- all registered voters residing at:

305 Montague Rd Shutesbury, MA

01072

Phone: 413 559 8556

Email lovinlary@hotmail.com

And elielkus@gmail.com

(You will note *Some but not all cross over with our interpreter (that's a joke) Michael De Chiara who is our Shutesbury Planning board's comments. We are lucky to have him do some translating for us. But these comments are very much also our own.)

Oct 14, 2025

29.01 Purpose

While the Commonwealth's primary goal is efficient and timely deployment of clean energy, if the purpose is not more inclusive of additional goals, the entire regulation will be interpreted with a narrow lens, either practically, regulatorily or legally. The purpose should be worded as follows: "for the efficient and appropriate siting and permitting of…

29.02: Definitions

Abutter – why not use the standard definition used by many municipalities in regards to zoning that also includes: "owners of properties within 300 feet and abutters to abutters"?

De Novo Adjudication – I very much appreciate that any appeal may include information

submitted to the Local Government as part of the application. I would suggest that this should be a "shall" rather than a "may" since in order to arrive at an informed decision about the municipality's decision, the Director needs to understand the basis for that decision, i.e. the underlying information.

Key Stakeholders – it is excellent that federally recognized, state-acknowledged, or state-recognized tribes are specifically noted.

Local Government Representative – this might be worth reconsidering. The current language reads “A decision-making entity within a Local Government”. Miriam Webster defines a representative as a person, which is my understanding, rather than an entity. Further, reading through the subsequent parts of this proposed regulation, especially in regards to the model bylaw, is that DOER’s intent is to identify a human being rather than an entity. The reference to a Local Government Representative appears throughout this regulation so clarification is important.

29.13 Model Bylaw

There is no mention of retaining parts of a municipality’s current bylaws that do not conflict with the DOER guidelines – something which has been repeatedly affirmed by EEA.

COMMENTS ON COMMUNITY BENEFIT PLANS AND AGREEMENTS

Submitted by:

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(You will note *Some but not all cross over with our interpreter (that's a joke) Michael De Chiara who is our Shutesbury Planning board's comments. We are lucky to have him do some translating for us. But these comments are very much also our own.)

Enforcement Capabilities

The statement that "OEJE strongly encourages project applicants to treat the commitments made in CBPs or CBAs as binding moral and operational obligations" seems naïve in the context of a for-profit development, regulatory process. Without enforcement, accountability is dubious.

OEJE states that EFSB has no enforcement of a CBP or a CBA, so the only mechanism is legal action. The same is true with a local government regulatory process. In all cases, it is likely that compliance by an uncooperative applicant will require legal action on the part of the host municipality, Key Stakeholders, or the EFSB.

Sustainability and Long-term Impact

The term "sustained beyond the construction phase" is highly concerning and makes me wonder what timeframe and scope OEJE is assuming. While the construction phase can be intense and bring challenges/harms to a community, the scope of a CBP must be on the life of the project – 20 to 25 years of operation and there period post-operation since one must consider decommissioning and a changed landscape for residents several decades down the road. In that context, construction is a blink of an eye.

VII. Oversight and Accountability

OEJE's statement that "project applicants should commit to regular, transparent reporting and open communication with the community" will likely not occur without being required. This can be required through regulatory conditions in a permit. OEJE should suggest this to EFSB and DOER so these activities are explicitly allowed, if not required, in the Large and Small Clean Energy regulations and in turn can then be included in permit conditions. This would include the

five bullet points provided by OEJE.

• A monitoring and reporting schedule, aligned with project milestones.

• Designated point(s) of contact for community members and regulatory bodies. Public-facing progress reports published at least quarterly and made available in the languages spoken by the host community and accessible formats.

• Opportunities for the community to review progress either through advisory committees, community listening sessions, or other forums; and/or Approaches for transitioning community stewardship across generations,

• ensuring that local leadership isn't dependent on a few individuals. This might involve youth mentorship, compensated advisory roles, or rotating governance structures.

It is important to note that a permit is different from a CBA, especially in terms of the possible signatories. But the accountability needs to be the same.

VIII. Long-Term Sustainability

While I agree that community needs change over time, I have a hard time seeing that "mechanisms for the community to propose adjustments or raise concerns as the project evolves and/or advances" will or can be put in place unless required.

A QUESTION/ SUGGESTION

Given the stated importance of a CBA, can a municipal bylaw require one? I would suggest that since statute states that if municipalities comply with DOER guidance, then they are deemed compliant with the Dover Amendment (Ch40A Sec3 para9), then it would be good

for DOER regulations to explicitly state that municipalities can in local bylaws require a Community Benefit Agreement for clean energy projects.

COMMENTS ON SITE SUITABILITY ASSESSMENTS FOR CLEAN ENERGY INFRASTRUCTURE

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October 14, 2025

DEFINITIONS

Applicable Facility – It seems to me that Burdened communities are burdened, in part, because of the lack of regulatory protections regarding public health, safety and welfare – both over the course of history and in the recent past. So it remains puzzling to me that EEA would require less regulatory oversight and less assessment for these communities. While a Cumulative Impact Assessment will certainly provide data and analysis that is necessary to protect these communities from project harms, I do not think a CIA will replace the process and the data provided by a Site Suitability Analysis. I would suggest all projects be required to have a Site Suitability Analysis.

Site Footprint – these regulations should make clear that the site footprint also includes any required buffer zone outside of the fenced project area if land alterations occur. This may not be apparent with the current wording about clearing, it seems like the assumption about clearing pertains to grading or roadways.

SITE SUITABILITY ASSESSMENT

iii. Carbon Storage and Sequestration

This is a good criteria, however , neither source for

measurement - the National Forest Carbon Monitoring System and the Annual NLCD land cover data websites are user friendly and therefore review by local government or

stakeholders will be difficult, making accountability of scoring difficult to achieve. There is also the very real danger of using a measurement system related to carbon sequestration that is maintained by the USDA or the USGS given the federal government's willingness to downplay climate crisis and take data offline. I would suggest EEA figure out a better way to measure the desired information. Also, given the importance of soil for carbon sequestration, EEA should also refer to the

Commonwealth's Healthy Soils Program.

iv. Biodiversity

I think the sources of measurement – BioMap and Natural Heritage and Endangered Species provide the correct data sources to assess biodiversity. However, it is not clear to me why EEA is prioritizing Priority Habitat over BioMap except for the reason that it would trigger MEPA review? Similarly, as I have said many times before there is nothing in the BioMap materials from MassWildlife that places greater value on Core Habitat over Critical Natural Landscape – Please note that this is the BIGGEST point that the MANY of hundreds of people who have written, not just to you, but to our legislators, to our governor, and the SAME POINT those of us who have attended countless hearings and meetings, are pushing for!! The same message we have been pushing for at protests and in the press. WE MUST protect our FORESTS. We, along with Connecticut are the only states that are DESTROYING the level of 1,000's of acres of otherwise protected FOREST ZONED lands from clear cu, FOR solar. You would not be facing the opposition from towns that you are a facing, if you would protect CRITICAL Landscape as WELL as Core Habitat by making these spaces INELIGBLE from projects. Simple.

Both are equally important but have different characteristics. This seems to be a myth internal to EEA that has now achieved "urban legend" status with no basis is fact. I would encourage EEA to apply the same strict protective approach for both categories of BioMap.

In reviewing the prioritization chart, it seems that EEA is splitting hairs in the scoring table. I do commend EEA for recognizing Regional Connectivity, a BioMap Component, since what we do in Massachusetts has ecosystem impact on the larger Northeast Region. This is often overlooked but vitally important.

In terms of calculating a score, it is unclear what 1) "grid cells centered inside the Site

Footprint" means. I strongly support EEA continuing the SMART 3.0 approach that any land

overlapping with BioMap is considered in BioMap but the “grid cell centered” language makes this unclear.

Unlike the other data sources, these are user friendly and easily accessible to local government and the public.

D. OTHER CONSIDERATIONS OF NOTE

i. Drinking Water Supply

I have major problems with this section. I think EEA drops the ball in terms of water protection. There is so much more that should be included here. The current Siting Suitability feels like it is kicking the can down the road and leaving municipalities without a clear road forward to protect

drinking water. Paragraph 2 states that “Local controls must be in the form of zoning or general bylaws or ordinances, or health regulations that meet the requirements of the 310 CMR 22.00” The 310 regulation is focused on and limited to protection of public water supplies. By simply citing that DEP is the regulator of water supplies, EEA is missing all the communities that rely on private drinking water wells and that do not have public water supplies. Many, many small towns do not have public water. For example, my town of Shutesbury is 100% supplied by residential drinking water wells, the only public water (by technical definition) is the well that supplies the elementary school. This oversight needs to be corrected. Further, by my reading, the actual DEP regulations are insufficient in terms of protecting various drinking water sourced by aquifers or the water sources that protect them. In Western Mass. recent resistance to ESS placement has occurred in Westfield and Orange, both of which have public water supplies but the aquifers sourcing the water are vulnerable to ESS contamination. In the case of Orange, for example, approximately 60% of the town’s water comes from one aquifer; if that is contaminated by an ESS, there is no real alternative source to provide thevolume needed.

Additionally, despite EEA’s statement that DEP’s Drinking Water Program's Guideline #2011-1 covers batteries, my reading of this policy does not indicate that. The policy was developed in 2011 when ESS was not a policy issue. My reading is that this policy covers solar and wind; only by legal extension (the SJC’s interpretation that accessories to a solar development such as ESS)

are batteries included. So, this statement seems to fall short, and I do not think it is accurate. Furthermore, without regulations that adequately allow protection of drinking water as it relates to clean energy protection, municipalities are both vulnerable and legally hamstrung. As an example, in the case of Shutesbury, the AG twice rejected town-approved energy storage regulations that included water protection (2023 solar bylaw and

a 2024 Energy Storage general bylaw), as being in conflict with the Dover Amendment. Based on the Clean Energy statute and its statement that municipalities that comply with the subsequent clean energy regulations will be deemed to be compliant with the Dover Amendment, there is a pathway for EEA, EFSB and DOER to allow municipalities to provide regulatory protection for drinking water. It is up to EEA, DOER and EFSB include enabling language to allow municipalities to develop zoning and regulations that protect drinking water.

Substantively, there is much that can contaminate drinking water supplies. Since DOER requires ESS to be included in a solar installation in order to receive a SMART subsidy, ESS installations will continue throughout the state. This is furthered by the Commonwealth's efforts to build mor standalone energy storage. While debatable about how safe lithium-ion battery technology is becoming, the fact remains that fires do occur at these facilities and toxins are released into the air and into the ground, often by heat suppressing water applied by fire fighters. More recently, I have found evidence that PFAS can be found on ESS sites, both because it is part of the lithium- ion battery components and because it also can be applied as standard firefighting practice. The Commonwealth is well aware of the burdens and dangers of PFAS in our soils and water; EEA

should be working to reduce the instances of PFAS and other contamination and relying on

outdated DEP regulations.

My strong position is that water protection is essential. EEA, must embrace the Environmental in its name and provide clear siting protections for drinking water – both public and private. For public this should extend to all zones – I, II and III. This should include prohibition on ESS in areas where drinking water sources are vital and contamination would leave communities vulnerable. Further, the Siting Suitability guidance should explicitly enable municipalities to develop zoning and regulations that are protective of drinking water. In short, I think EEA staff need to dig much deeper into this issue and come up with a better solution than citing outdated

DEP regulation.

ii. Wetlands

This too seems to be inadequate with EEA simply citing Wetlands law with little expansive

thinking. Of course, solar and batteries should not be in wetlands jurisdictional areas. But how about considering expanded buffer zones around the wetlands beyond the state Wetlands regulations. In addition, many municipalities in the Commonwealth have local

wetlands regulations that provide for greater protections in order to minimize the negative impacts on wetlands. EEA Siting Guidelines should explicitly allow municipal wetlands regulations to be infull effect in regards to the siting of clean energy. The current Siting draft only states that "Local jurisdictions may also have wetlands protection bylaws" – a simple statement of fact but it doesn't affirm municipalities can use these regulations in the clean energy context. Further thisguidance cites that the EFSB can waive these local regulations, undermines local protective intent and also raising questions about if municipal regulation is allowed. The language should clearly allow local wetlands regulations to be in effect for clean energy projects.

iii. Noise

Similar to wetlands, there is one state standard for noise as established by DEP regulation.

However, some municipalities, such as Shutesbury, have developed more nuanced regulations to address issues of noise that reference the DEP noise regulation. The Site Suitability regulations should explicitly allow local regulations that do not conflict with DEP noise standards to be in effect so that implementation of these regulations can be locally informed and applied. It is important to note that noise issues can be different during construction than they might be during operation. If not in these Site Suitability guidelines, DOER and EFSB need to address noise in performance and design standards, as well as in DOER's Public Health guidelines. If EFSB has the ability to waive noise requirements, as noted in footnote 15, then there must be a requirement for written explanation that is publicly available and subject to public comment.

iv. Air Quality and Emissions

EEA rightly calls out anaerobic digestion facilities as sources of air pollution - these should not be considered clean energy.

More to the point this regulation does not address the possibility of emergency-based emissions which would most likely come from an energy storage fire. The possibility of ESS fires makes the need for appropriate siting important. For example, we have seen in both California and New York state ESS fires that evacuation occurred. Therefore, proximity to schools, hospitals, or other facilities that would need to be evacuated in case of an ESS fire, should be taken into account when scoring a facility. Even if no scoring is applied, it would be responsible for these guidelines to address the potential issues; better to prohibit siting in proximity of potentially vulnerable uses. These regulations could also reference DOER and EFSB public health sections of the respective regulations.

F. SCORE MODIFER TABLE

Developmental potential. For projects with canopies on appropriately sited land, I think an

automatic zero score for the Developmental Potential criteria makes sense. But this should not be extended to the other criteria – zero scores need to be earned and demonstrated for Biodiversity, Carbon Storage, Agricultural Resources and Social and Environmental Burdens. The Commonwealth does want to encourage canopies and appropriate siting but I fear that by creating an automatic zero pathway for all criteria, this might allow for canopy projects that could in other ways get a mixed criteria score. EEA should require facilities to demonstrate good siting to get good scores.

Social and environmental benefits – EEA's requirement that social and environmental benefits can modify a score only with agreement by the host municipality is excellent and essential. To reiterate, while I think communities should be respected for knowing their own needs, I think projects that trigger a modifier should be limited to those that directly relate to siting rather than unrelated benefits like job creation. Other benefits like pollinator design should be required by

DOER and EFSB by performance and design standards.

V. USE OF METHODOLOGY AT THE ENERGY FACILITIES SITING BOARD

A. Pre-filing

It is excellent that Estimated Scores be shared with stakeholders during the Pre-Filing period and prior to seeking Final Score Determination. I would suggest this is a "shall" rather than a "may", the term "will be expected" does not carry sufficient regulatory weight.

B. Application Requirements

In addition to documenting why the site was chosen, this requirement should also include

explanation for why the alternative sites were not chosen. This needs to be a defensible decision and without information on all sites that were considered or possible, comparison cannot happen. As a regulator, if presented with the documentation of social and environmental benefits, my first question would be "what does the host municipality think about these?" So, I think it is important for this requirement to include not simply the applicant's ideas and a proposal for social and environmental benefits but those that have

been discussed with the host municipality, demonstration of some engagement regarding these, and if possible, an indication (not commitment) of interest by the host municipality. This will likely occur if there is a Community

Benefit Plan or Agreement submitted with an application but since these are not required by OEJE this cannot be taken for granted.

C. Permitting Adjudication

be necessary.

iii. Use of Total Site Suitability Score

As mentioned earlier, any modifiers that are applied should only be applied to the Total Score

rather than the Criteria Specific score otherwise the basis for mitigation or conditions will be less

clear. The preservation of Criteria Specific Score can inform review of the projects design plan

and mitigation measures.

iv. Use of Criteria-Specific Suitability Scores

See above regarding preserving Criteria Specific Scores, even if modifiers are allowed.

v. De Novo Adjudication

I support the approach that during De Novo review the Site Suitability Scores should remain

unchanged. Additionally, I think the EFSB should have a process that is clearly established

beforehand about what changes may be considered de minimis so it is understood by all parties when a new Site Suitability Analysis would be triggered. Project changes or site condition changes that are not de minimis should definitely require a new Site Suitability Assessment that includes community engagement and input otherwise an applicant can change siting during a denovo process with no accountability or consequences.

VI. USE OF METHODOLOGY FOR CONSOLIDATED LOCAL PERMITTING

A. Pre-Filing

Same as for EFSB permitting process: It is excellent that Estimated Scores be shared with stakeholders during the Pre-Filing period and prior to seeking Final Score Determination. I would suggest this is a “shall” rather than a “may” since the term “will be expected” does not carry sufficient regulatory weight. I appreciate that these must be submitted as part of the application to Local Government.

ADDITIONAL NOTE

While it might be assumed that EFSB and DOER regulations will address details of siting, given the importance of various elements of clean energy facility siting, I think these should be mentioned in EEA’s Site Suitability Guideline. I would suggest EEA make explicit mention of these to establish the fact that these need to be included in state regulations, presumably by

EFSB and DOER. These include:

- Minimization of slope for the entire site and installation on slopes
- Constraints regarding earthmoving for construction and installation
- Placement and extent of stormwater controls
- Minimization of erosion conditions
- Required road frontage
- Wetlands buffers
- Buffers outside of the developed area (outside fencing of arrays)
- Total size of developed parcel
- Limitations on contiguous parcels
- Road integrity/length and composition (paved/unpaved)
- Proximity to traffic
- Proximity to residences, businesses or other local uses

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October 14, 2025

Dear Members of the Massachusetts Executive Office of Energy and Environmental Affairs,

I would like to submit these comments for consideration regarding your published document on "Site Suitability Assessments for Clean Energy Infrastructure". My comments are focused on the safety of our "Drinking Water Supply", section "Di".

As a volunteer elected member of the Shutesbury Planning Board, I am part of the regulatory body charged with reviewing development projects. I am part of our team that is responsible for protecting the public health, safety and welfare of our town.

Section "Di" In your draft guidance publication of "Site Suitability Assessments for Clean Energy Infrastructure" is on Drinking Water Supply. I believe that this section is dangerously incomplete. A very high degree of protection for our public and private drinking water is absolutely essential. Energy Storage Systems with lithium batteries (which I believe are now required under SMART 3.0) should not be sited where they could endanger the drinking water of Massachusetts residents. The safety of our "Drinking Water Supply" should be greatly elevated in importance when you finalize your site suitability scoring.

We are one of the eight towns that borders the Quabbin Reservoir, one of the largest mostly unfiltered water supplies in the United States. The Quabbin is the drinking water for approximately 3 million people in our state including the greater metropolitan Boston area. Being part of the Quabbin watershed means that we have both surface and ground water flowing from our town into the Quabbin. The trees of our 90% forested town help to clean and purify the Quabbin's water. My great concern is the very high potential for both ground and surface water contamination flowing into our ground water or the Quabbin or Atkins reservoirs caused by an unexpected spontaneous fire consuming the lithium batteries in large Energy Storage Systems which are now part of any significant solar array.

An extensive study published by the American Chemical Society https://pubs.acs.org/doi/10.1021/acs.est.2c08581 shows that extinguishing water from lithium-ion batteries produces significant concentrations of nickel, cobalt, lithium, manganese and fluoride which show a high toxicity towards the tested aquatic species. In addition, PFAS (or forever chemicals) are usually part of the actual lithium batteries, so when they spontaneously catch on fire they will release PFAS chemicals both into the air and the ground water. In 2023 a lithium battery in a single Tesla car battery spontaneously burst into flames and required 6000 gallons to put it out. The size of lithium batteries needed for a "Small Clean Energy Storage Facility" go up to rated capacity of 100

megawatts. Lithium batteries in even a "Small Clean Energy Storage Facility" are potentially up to 1000 times larger than the Tesla battery that took 6000 gallons to extinguish.https://www.nbcnews.com/business/business-news/tesla-car-battery-fire-needed-6000-gallons-water-to-extinguish-rcna68153

The National Fire Protection Association (NFPA) just announced that their theme for Fire Protection Week on October 5-11, 2025 is on lithium-ion batteries. This was not an arbitrary decision by their more than 50,000 members. Last year the largest ever lithium storage system fire in the U.S. occurred at Moss Landing in California. It burned for several days. In 2023 there were two large lithium-ion fires that burned for multiple days within one week of each other in New York. It is horrifying to contemplate the ecological and financial disaster if many thousands of gallons of toxic water from a lithium-ion battery fire were allowed to flow from our town into the Quabbin or Atkins Reservoirs or into our ground water aquifers.

Currently in Shutesbury we have at least one site of oil and PFAS contamination that has entered our aquifers. The number of wells that are now contaminated and the radius of the contaminated area are both expanding. So far, the town of Shutesbury has spent close to $ 700,000 to help mitigate this issue. https://amherstbulletin.com/2025/06/11/area-communities-in-quabbin-watershed-including-belchertown-pelham-and-shutesbury-unite-in-demand-for-more-support-from-state-for-ongoing-sacrifice-61517652/

When underground aquifers are contaminated, we do not know where the contaminated water will flow. When private wells are contaminated, our residents have no alternative public water supply. It is just too dangerous to place large lithium batteries over our aquifers. It is also too dangerous and perhaps even catastrophic to place large lithium batteries in our 90% forested town because we make up part of the Quabbin watershed. Lithium batteries could also contaminate the Atkins Reservoir that supplies water to the University of Massachusetts. To help mitigate the dangers of lithium battery fires, the New York City Department of Environmental protection has purchased or protected over 156,350 acres in the Catskills watersheds since 1997 to protect their drinking water. It is an area larger than all the land in Brooklyn, Queens, the Bronx and Manhattan combined. The Massachusetts Department of Energy should make sure that we have a similar level of protection for the Quabbin.
https://www.nytimes.com/2025/05/04/realestate/nyc-land-catskills-watershed.html

The potential costs of water filtration and purification if the Quabbin were contaminated are not available. However, we can get some idea of the potential costs by looking at the public water supply of New York City which is also largely unfiltered. In 2018 an article published in the New York times estimated that it would cost more than 10 billion dollars to build a massive filtration plant and at least another 100 million annually on its operation if all the New York City water needed to be filtered due to contamination.
https://www.nytimes.com/2018/01/18/nyregion/new-york-city-water-filtration.html?smid=url-share

Until recently, our town of Shutesbury was being sued by Cowls, the largest private landowner in Massachusetts and PureSky. PureSky is a private for-profit international consortium of funds managed by Fiera Capital Corporation and the Palisade Infrastructure Group. The attorneys of Cowls and Puresky were using the outdated 1985 law (that House Bill 2312 would replace) and the state's lack of clear solar array and lithium battery site suitability guidance in their lawsuit against our town. Cowls and Puresky submitted plans that would affect approximately 360 acres of our forested land, according to documents filed with our Conservation Committee. The trial date was set for November 4, 2025. Please see the article published below on June 30, 2023.

https://theshoestring.org/2023/06/30/solar-company-sues-shutesbury-over-solar-zoning-bylaw/

Puresky and Cowls recently withdrew their lawsuit in part due to the uncertainty of the environmental regulations that your department and our state legislature are presently writing into guidance and codifying into law. Cowls, Puresky and our two attorneys agreed to execute a stipulation of a dismissal of the case against Shutesbury without prejudice. This of course means that Puresky and Cowls can refile their law suit at any time. I do believe that they and perhaps other for-profit companies are waiting to see the final draft of your "Site Suitability Assessments for Clean Energy Infrastructure" before making that decision.

https://gazettenet.com/2025/08/25/shutesbury-developers-agree-to-drop-suit-over-zoning-bylaws/

A report published on Oct. 23, 2023 from the scientists of the Massachusetts Audubon and the Thompson Lab at Harvard Forest “offers the first-ever comprehensive economic and geospatial analysis of whether Massachusetts can meet its solar goals while protecting its most valuable natural and working lands.” Please see the article cited below.

https://harvardforest.fas.harvard.edu/news/new-report-examines-mass-forests-and-solar-siting-offers-path-net-zero-goals

Using the findings of their combined study, the Harvard Forest and Audubon published the below cited article “Growing Solar, Protecting Nature” to show how “Massachusetts can meet its solar goals while protecting its most valuable natural and working lands”.

https://storymaps.arcgis.com/stories/932be293f1af43c8b776fdad24d9f071

The Audubon also published the summary article cited below showing how protecting our natural and working lands from development is a critically important strategy in our response to the climate crisis. One of the Key Findings of this report is that clear cutting forests is actually counterproductive to our goal of reducing the concentration of carbon dioxide in the atmosphere.

https://www.massaudubon.org/our-work/publications-resources/growing-solar-protecting-nature

I lived in the Boston area for about 10 years in the 1970s and 80s. Four of those years were spent at Tufts University where I majored in Biology and studied Ecology including Ecosystems, Conservation and Forest Ecology as well as Aquifers. Six of those years I was a science teacher at Brookline High School. I never thought about the water that I used both in Medford and Brookline and how it originated from the Quabbin. As a 32-year resident of Shutesbury and as a volunteer elected member of our Planning Board, I can now tell you with all certainty that the safety and purity of the water from the Quabbin that is really the life blood of Boston is not at all guaranteed.

Several months ago, several members of the Shutesbury Planning Board, our attorneys and the attorneys of Puresky met in Springfield with a retired judge who acted as a mediator in attempt to avoid a court date. During our mediation meeting we had the opportunity to carefully examine their 5 large proposed solar and lithium battery storage sites in our 90% forested town. Upon reviewing one of the heavily forested sites (that was to contain large lithium storage batteries) I remembered that it had a small tributary that led right into the Atkins Reservoir which provides water to the University of Massachusetts and the town of Amherst. Once the map was enlarged at my request, I was able to point out the tributary that could possibly bring toxic waste from the thousands of gallons of water needed to put out a lithium battery fire right into the Atkins Reservoir. I was able to identify this small tributary because I have walked through these woods for over thirty years. This example illustrates why in addition to your strict siting guidelines of solar arrays and lithium batteries, the passing of House Bill 2312 is also so very important. We need local Planning Boards who know the land and tributaries to continue to regulate solar development including industrial sized lithium-ion storage units which have the potential of posing significant risks to the public health, safety and welfare of our citizens. This time, the law suit against our bylaws was dismissed without prejudice. This time, Puresky and Cowls were prevented from clear cutting 100s of acres of our forested land and putting up large lithium batteries in our forested land. Next time, with their large team of attorneys and their nearly unlimited resources, they very well might be successful.

We need your assistance to help us to protect our water supply as well as the water supply of the Quabbin and Atkins Reservoirs. We have a total populations of 1721 people including children. 51% of our roads are unpaved and we have no industry or stores to support our tax base. We recently spent many tens of thousands of dollars from our limited tax base to pay attorneys to defend ourselves from the law suit filed against our town's bylaws that received near unanimous approval at our annual town meeting. Although the law suit filed by Cowls and Puresky has been withdrawn, I fully expect that it will be refiled in the future depending upon what you write in the final draft of the "Site Suitability Assessments for Clean Energy Infrastructure". For the time being, we have delayed their plans to build 5 large solar arrays with large lithium battery storage systems in our town which is part of the Quabbin and Atkins watersheds.

Energy Storage Systems with lithium batteries should not be sited where they could endanger the drinking water of Massachusetts residents. I strongly believe that energy storage systems should not be placed above aquifers or near public or private drinking water supplies. It is just not possible to protect water supplies when lithium fires occur. The safety of our "Drinking Water Supply" should be elevated in importance when you finalize your site suitability scoring. Please incorporate in your draft document on "Site Suitability Assessments for Clean Energy Infrastructure" under "Other Considerations of Note" additional protections for towns that are 100% dependent on groundwater aquifers. Considering the absolute importance of the Quabbin Reservoir to the vitality of Boston, the protection of the Quabbin Reservoir should certainly be included in your "Other Considerations of Note". I believe that it is essential that you also provide additional protections in your "site suitability scoring" for the 8 towns that make up the watershed of this extremely valuable and vital Quabbin Reservoir.

Please make it possible for our Planning Board to protect our water supply and the water of the Quabbin and Atkins Reservoirs. We want to continue to be the stewards of our aquifers as well as the Atkins Reservoir and the Quabbin Reservoir that supplies clean high quality mostly unfiltered water to the 3 million people in the greater metropolitan Boston area.

Thank you for your understanding and support.

Jeff Weston

Thank you for providing this opportunity to comment on the draft of 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting. As a resident of rural Massachusetts, it's important to me that the regulations safeguard environmental and human health and welfare/wellbeing while also supporting the state's planned carbon emission reduction.

First a list of elements in the draft regs that I am in favor of – and request that these be retained in the final draft:

29.05(1) A facility 'shall comply with all criteria and standards including but not limited to setback requirements, zoning criteria…' I assume zoning criteria includes respecting current delineations of residential vs. industrial zones.

29.06(2) local governments retain the authority to adopt additional standards to protect public health, safety and welfare.

29.06(7) local municipality can impose fees for minimization/mitigation actions done on behalf of the site operator

29.08 generally, I'm glad to see requirements for more engagement and information sharing with the host community and other key stakeholders

29.09(2)(f) the permitting process must comply with wetlands protection and also remediation/restoration/replanting the landscape .

Second, comments/requested changes on specific sections of the current draft

29.04(2) Change 'provided that the type of facility added produces no greenhouse gas…' to something like 'provided that the type of facility added does not result in greenhouse gas emissions or other pollutant emissions either during its normal operations, construction or decommissioning process, or during non-normal operations like a fire or freezeup event'.

29.06(2) Please update 'reasonably necessary to protect the public health, safety, or wellbeing' to 'reasonably necessary to protect environmental or public health, safety, or wellbeing, where wellbeing encompasses the fiscal health of the host municipality' Or is there a different place for this to be called out? I'm referring to potential cleanup costs or liabilities from adverse events such as fires, recycling charges for facility components, or damage to the clean drinking water supply that could result from a facility's use or decommissioning. The health of a community will be deeply impacted by an industrial-scale event that doesn't keep the town whole financially.

29.07(3) Regarding Site Suitability Report section (f) and (g). Complete and well thought out documentation of environmental and social benefits and burdens should be required

on all applications. As currently worded, they are only required ‘if applicable’ without specifying who decides whether they are applicable. The host municipality should be the one who determines that, and should be allowed to require those documents for all projects in keeping with G. L. c. 25, section 12N, subsection iii.

29.07(4) Please clarify in this section how many days a key stakeholder would have to dispute the Suitability score derived by the Site Suitability Score Reviewer. Also,the process needs to include a cure process that can be initiated by anyone impacted by the proposed site (the host municipality, neighbors, nearby residents, etc) if something important was left out of consideration by the reviewer. Also, key stakeholders need to have a cure process to register a dispute with any other aspect of the Site Suitability report, not just the score.

29.07(5)(c) It says that minimization/mitigation cannot be required if the Site Suitability score is very favorable. Please add clarification that you’re referring to the final Site Suitability score as determined by the Reviewer and not the original Applicant’s score of themselves, and that this is the score as recomputed after considering any registered disputes.

29.07 generally: In the information session on Oct 08, DOER asked “Should a community have the right to deny an application if the suite suitability score is too high?“ (Slide 26). Yes, absolutely. Communities should retain the right to deny siting permits to projects unsuitable for the proposed location. Please add language to that effect such as ‘the host community has authority to grant, grant with conditions, or deny a Site Permit Application’ in the appropriate spot in the regulations?

29.08(2)(d) it’s very important for the site operator and local emergency response teams to jointly construct an emergency response plan that satisfies the emergency responders needs for safety and also their capacity to address any emergency situation according to the national fire code 855 that you reference. As currently worded, this section sounds like the applicant will make a draft of a plan then send it to the emergency response teams and they should approve whatever it says. In this pre-filing section, could you re-word it to say ‘a preliminary draft of the Emergency Response Plan subject to review and modification by the Local … ‘

29.08(2)(f)(1) Can you word the section on the public meeting to say ‘The Applicant shall host a public meeting open to the public ‘ it shouldn’t be open only to Key Stakeholders. Does the existing process outlined in G.L. c 40A s. 11 apply to the Consolidated Permit Application Process?

29.08(2)(f)(2)(ii) In order for neighbors and other stakeholders to have information in hand to understand the scope and impacts of the project, please add that the materials provided should include a description of the noise and emissions characteristics of the project during construction and ongoing operations.

29.08(2)(f)(3) Please add a clarification that the media outlets chosen should reach a wide audience within the host community and its abutting communities, A post in just any random social media account shouldn't satisfy this requirement, it needs to be a broadly distributed channel that is likely to be seen by key stakeholders.

29.09(2)(I) The pre-filing requirements include a draft of emergency response plans, and this section requires an approved emergency response plan. The time frame may need to be longer to accommodate this very important step. I do think it's good to require an approved emergency response plan before proceeding with other application reviews since there may be scenarios where such a plan cannot be constructed due to nearby wetlands, drinking water pollution concerns or the magnitude of the required response by local emergency response teams. In that scenario, the municipality need not spend time reviewing other application components. I'm just clarifying here that this is the intent of this requirement, as it implies that in the timeframe of the pre-filing window the Applicant will be working with the emergency response teams to finalize this plan, and that a final, approved plan will be submitted with the Consolidated Permit Application.

Finally, a general comment about adhering to the goals of the Climate legislation. The purpose as I understand it is to address climate changing CO2 buildups by reducing emissions compared to the 1990 baseline, and that requires the reduction of fossil fuel use. Reduction that will be partially accomplished by replacing the energy supply with clean sources. Addressing CO2 buildup is also accomplished by maintaining existing carbon sinks, such as mature woodlands.

As this rulemaking unfolds and we continue discussing site suitability and permitting guidelines, it's important to keep in mind that priority for energy infrastructure siting needs to focus on minimizing land clearing in preference for rooftops, brownfields, landfills, and other previously developed acreage. Undeveloped land is already serving a vital function in carbon sequestration and guarding air quality and clean drinking water in areas like the Quabbin watershed.

So I was glad to see DOER leadership's statement made at the information session (slide 24) that the goal of the regulations is to encourage 'projects that utilize previously developed parcels rather than undeveloped land'.

This prioritization was echoed in Massachusetts Executive Office of Energy and Environmental Affairs "Determination of statewide greenhouse gas emissions limits and sector specific sublimits for 2025 and 2030", dated June 30, 2022 which said:
"Great efforts are needed to protect, manage, and restore our natural and working lands (due to) their ability to sequester and store greenhouse gases."

Dr. Donna K. Byron, Petersham

VERSION OCT 31, 2022

PROPOSED AMENDMENT OF GROUND-MOUNTED SOLAR ELECTRIC INSTALLATIONS

ARTICLE

To see if the Town will vote to strike section 8.10 of the Town of Shutesbury Zoning Bylaw and replace it with the following new section 8.10, to amend section 3.1-1Use Table of the Zoning Bylaw, and to amend section 13.2 Definitions in the Zoning Bylaw, or take any other action related thereto.

3.1-1ADD NEW USE under "ENERGY AND UTILITY":

Use	**RR**	**FC**	**TC**	**LW**	**Section Reference**
Energy Storage System" (ESS) as a principal use	N	N	N	N	8.10

13.2 AMEND DEFINITIONS TO INCLUDE ENERGY STORAGE SYSTEMS (ESS)
Energy Storage System (ESS) shall mean any mechanical, thermal, electrical, chemical, electrochemical or other device that is operated in conjunction with an Energy and Utility Use facility (as listed in the Use Table) to store energy for use by the utility grid or a backup system.

SECTION 8.10 GROUND-MOUNTED SOLAR ELECTRIC INSTALLATIONS

8.10-1Background
There is a pressing need to promote solar energy development in light of the global climate crisis. The Town of Shutesbury supports solar development in order to advance the Commonwealth's policy goals to transition to non-carbon-based energy production. It is understood that the Massachusetts statutes have established solar energy generation as a protected use that cannot be prohibited or unreasonably regulated "except where necessary to protect the public health, safety or welfare" of Shutesbury residents. For these reasons, the Town of Shutesbury's zoning is intended to support reasonable and appropriate solar installations. As noted however, certain solar related development should not occur if it is to the detriment of the public health, safety or welfare of residents. It is the responsibility of the Town of Shutesbury, through reasonable regulation and within the context of the local community, that solar development occurs in a manner that protects its residents' health, safety and welfare. This bylaw seeks to establish the appropriate balance.

The June 2022 Massachusetts Clean Energy and Climate Plan for 2025 and 2030 states that "Massachusetts' natural and working lands (NWL) provide many benefits to the residents of the Commonwealth, including clean air and water, wildlife habitat, carbon sequestration, recreational opportunities, food and wood production, and many other functions on which society and life depend. These benefits, often called ecosystem services, continually serve our

society as long as NWL can remain functioning as NWL. Massachusetts NWL ecosystems currently store at least 0.6 gigatons of carbon, equivalent to over 2 gigatons of carbon dioxide or the past 25 years of GHG emissions in the Commonwealth. As NWL are an important local resource to help remove carbon dioxide from the atmosphere, the Commonwealth will protect NWL from losses and degradation and will pursue new and ongoing actions to increase their capacity to sequester carbon."

Furthermore, the June 2022 Massachusetts Clean Energy and Climate Plan for 2025 and 2030 states that "ensuring that our forests continue to provide the full range of ecosystem services in the face of ongoing climate change requires careful stewardship that considers forest ecosystem dynamics, protections against forest loss, and sustainable harvest and use of forest products. While carbon sequestration is among the most important forest ecosystem services in the context of this 2025/2030 CECP and the Commonwealth's ability to achieve net zero in 2050, forests must also continue to provide wildlife habitat, wood products, clean air and water, and recreation, necessitating tradeoffs in which ecosystem services are prioritized in forest management. These management decisions must be tailored to the particular ecological conditions, land owners' objectives, and community values for specific forest areas."

For purposes of this bylaw, it is understood that protection of public health, safety or welfare for Shutesbury residents includes the following:

- Since Shutesbury does not have a public water system, all uses in the community rely upon drinking water wells for a clean potable water supply. Residents and the community, at large, depend upon a functional, reliable, stable and resilient water supply. This requires that reasonable steps are taken 1) to protect the integrity of inter-connected water resources – above and below ground; and 2) to protect water from contamination and significant supply disruption.
- Wetlands provide a unique element in local water systems as reflected in the Commonwealth's Wetland Protection Act and the Shutesbury General Wetland Protection Bylaw and should therefore be protected from contamination and disruption. As noted by the U.S. EPA, wetlands naturally improve water quality, mitigate flooding and erosion, and support fish and wildlife.
- Roads are essential for the provision of emergency services, residents' employment and education, and the reduction of isolation for climate vulnerable individuals. Shutesbury's 16 miles of unpaved roads, half of the total in town, are susceptible to damage due to heavy or misappropriate use, more frequent weather variability and severe weather events from climate change resulting in drought or flooding, and construction and development that can degrade the roadway surface or its drainage system. The protection of infrastructure integrity is important to the health, welfare and safety of residents and the environment.
- A resilient natural ecosystem is essential for the health and wellbeing of the populace, the water supply, and the local flora and fauna. Shutesbury is primarily forest land and it is recognized that unfragmented tracts of forest provide many ecological benefits that contribute to a vibrant natural ecosystem, and water supply, and by extension make Shutesbury a more resilient community.
- A forest and its trees are the only known terrestrial mechanism for removing carbon on a large scale from the atmosphere through carbon sequestration and storage. As recognized at the international, national, and state level, removing carbon from the atmosphere is an

essential component of mitigating climate change. In its June 2022 Clean Energy and Climate Plan for 2025 and 2030, the Commonwealth has committed to reduce Greenhouse Gases by 25% below 1990 level in 2030 on natural and working lands through enhanced carbon sequestration capacity and adoption of climate smart management practices. Shutesbury, through its forestland, contributes to the Commonwealth's efforts to reduce greenhouse gases and removal of the forest land should be considered for any proposed use.

- As a community that is mostly forested land and with little infrastructure and no municipal water supply, the risk of forest fires should be minimized whenever possible. Increased instances of drought and the weakening health of local forests from invasive species and fragmentation, makes Shutesbury's forests more susceptible.
- While Shutesbury has limited agricultural land, with climate change, the capacity to grow food locally is important, making agricultural land a premium resource to be protected.
- As a small rural town, Shutesbury has a volunteer fire department led by a full time chief and a small police department comprised of a fulltime chief and primarily part-time officers. The emergency management team is primarily volunteers and town staff (fire chief, police chief, town administrator). Given this staffing level, the town has a very limited ability to respond to large scale or complex industrial accidents. Similarly because Shutesbury is surrounded by other low-capacity towns in rural Franklin County, mutual aid may provide more personnel but not greater technical ability to respond to large or complex emergencies. Hosting industrial developments with the potential for electrical and fire incidents may therefore pose a heightened public safety hazard.
- Preserving historical and cultural resources provides a sense of belonging and identity that is beneficial for the well-being of individuals and communities. The Massachusetts Historical Commission highlights the importance of historic and cultural preservation, stating that "the continuing presence of historic properties in Massachusetts immeasurably enhances the quality of our lives; they help to establish our sense of place and to define the very character of our communities." The Massachusetts State Historic Preservation Plan 2018–2022 establishes the priorities for the Commonwealth, calling for (1) strengthening "the stewardship of historic and archaeological resources" - to "encourage and support state agencies, municipalities, and non-profit organizations to maintain their significant historic properties"; and (2) include diverse cultural and ethnic communities in historic preservation" - to "provide opportunities for historic preservation that can reflect a broader range of cultures, traditions, and ethnicity." Shutesbury is home to many sites that are significant to Indigenous and Euro-American history and culture that, if preserved, will contribute to the promotion, protection and restoration of residents' well-being.

Consistent with Massachusetts zoning law, this bylaw seeks to address the need to conserve health; secure safety from fire, flood, panic and other dangers; facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements, to conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment.

8.10 -2 Purpose

The purpose of this bylaw is to provide reasonable regulation that strikes a balance between allowing needed solar development while also protecting the public health, safety or welfare of Shutesbury residents as detailed herein. Reasonable regulation shall be achieved in this bylaw

by: (a) providing standards for the approval, placement, design, construction, operation, monitoring, modification and removal of such installations in order to protect and preserve Town infrastructure (including roads), prevent public nuisance, promote public safety, maintain existing residential property values, minimize and mitigate possible impacts on environmental, scenic, and historic resources, and protect the town from financial harms; (b) providing adequate financial assurance for the eventual decommissioning of such installations; and (c) protecting large contiguous blocks of forest back-land based on the understanding that large unfragmented tracts provide many ecological benefits including improved water and air quality, sequestration of carbon, reduced movement of invasive species, provision of wildlife habitat and the land base for greater biodiversity; as well as maintaining commercial forestry as a viable agricultural activity and providing many recreational opportunities for town residents.

8.10-3 Applicability

A. This Section 8.10 applies to Large- Scale and Small-Scale Ground-Mounted Solar Electric Installations (hereinafter, Installations, except as noted in this bylaw). Small-Scale Ground-Mounted Solar Electric Installations which are accessory to an existing residential or non-residential use which generate electricity principally used by such residential or non-residential use are permitted as of right, do not need to comply with this Section 8.10, but require a Site Plan Review from the Zoning Board of Appeals, as well as a building permit, and must comply with all other applicable provisions of the Town of Shutesbury Zoning Bylaw.

B. This Section 8.10 also pertains to physical modifications that materially alters the type, configuration, or size of Installations or related equipment.

C. Upon written request by the applicant, the Planning Board may waive or reduce any special permit requirement of this Section 8.10 by the same majority vote required for the permit itself upon written findings included in the permit if:

1. Special circumstances of the site, its surroundings, or the proposal that negate the need for imposition of the requirement, or the objectives of this section may be met in alternative manner; AND
2. That such a waiver or reduction will not derogate from the public purposes and intent of this zoning bylaw.

In the case of a special permit, such waiver requests must be made by the applicant prior to the close of the public hearing. An affirmative or negative vote under this paragraph C shall not be construed as an approval or disapproval of the permit sought.

8.10-4 Requirements

To protect the public health, safety, or welfare of Shutesbury residents as detailed herein the following general requirements shall be met for Installations.

A. General Requirements

1. Compliance with Laws, Bylaws, and Regulations
   The construction and operation of all Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part thereof shall be constructed in accordance with the Massachusetts State

Building Code, the Massachusetts Fire Code and the Massachusetts Electrical Code.

Siting of all Installations shall be consistent with all applicable local, state and federal requirements, including but not be limited to:

a. Mass. Endangered Species Act (MESA)
b. Mass. Wetlands Protection Act (WPA)
c. Mass. Environmental Policy Act (MEPA)
d. Mass. Forest Cutting Practices Regulations
e. Shutesbury General Wetlands Protection Bylaw
f. U.S. Endangered Species Act
g. National Historic Preservation Protection Act (NHPA)

Installations shall not go into construction until all local, state and federal requirements have been met and all required approvals issued.

2. All plans and maps shall be prepared, stamped and signed by a Professional Civil Engineer licensed to practice in the Commonwealth of Massachusetts.
3. Lots for Installations shall have the required frontage on a public way stated in Section 4.2-1 and defined in this zoning bylaw.

B. Dimensional Requirements

The following dimensional standards shall be met for Installations.

1. Lot size
   a. Large-Scale Ground-Mounted Solar Electric Installation shall mean an Installation which occupies more than one and one-half (1.5) acres of land and no greater than fifteen (15) acres of land.
   b. Small-Scale Ground-Mounted Solar Electric Installation shall mean an Installation which occupies one and one-half (1.5) acres or less of land.
2. Minimum setbacks for Large-Scale Ground-Mounted Solar Electric Installations shall be:
   a. Front street setback: 500 feet (as required for Forest Conservation District)
   b. Property line setback: 100 feet
3. Minimum setbacks for Small-Scale Ground-Mounted Solar Electric Installations shall be:
   a. Front street setback: 100 feet
   b. Property line setback: 50 feet
4. Required setback areas shall not be counted toward an Installation's total acreage.
5. If an ESS is included in the Installation, it shall be located no more than 100 feet from the outer perimeter of the solar panels, and to mitigate possible damage resulting from a fire, the ESS shall maintain a buffer of at least 100 feet from forested land.

C. Mitigation Requirements

The Special Permit may be conditioned to effectuate and make enforceable these mitigation requirements.

1. Mitigation for Loss of Carbon Sequestration and Forest Habitat:
   If forestland is proposed to be converted to an Installation, the plans shall designate

thereon an area of unprotected (meaning, not subject to MGL. Ch. 184, §§ 31-33 at time of application) land on the same lot and of a size equal to four times (4X) the total area of such Installation. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry/tree cutting not related to the maintenance of the Installation, until such time as the Installation is decommissioned; except in response to a natural occurrence, invasive species or disease that impacts the trees and that requires cutting to preserve the health of the forest.

2. Mitigation for Degradation of Forest Health and Habitat Within the Installation:
   If forestland is proposed to be converted to a Ground-Mounted Solar Electric Installation, a plan shall be submitted to establish mitigation measures to preserve and support the health and ecological services: minimize erosion, promote the growth of native plants and prevent invasive species. The site shall be regularly reseeded and annually monitored until at least 80% of the land is vegetated by native plants (excluding invasive species). A planting maintenance plan shall be submitted with the special permit. An annual monitoring report shall be submitted for the first five years after construction and later if the at least 80% vegetation threshold is not met.

   Mowing shall be limited to no more than twice annually.

3. Mitigation for Installation of Perimeter Fencing:
   Any perimeter fencing within winter sight of a public roadway, driveway, or dwelling existing at the time of the special permit application shall be entirely black in color.

4. Mitigation for Disruption of Trail Networks:
   If existing trail networks, old Town roads, or woods or cart roads are disrupted by the location of the Ground-Mounted Solar Electric Installation, the plans shall show alternative trail alignments to be marked and made passable by the applicant. No right of public access is established hereunder.

5. Mitigation for Disruption of Historic Resources and Properties:
   Historic resources and properties, such as cellar holes, past farmsteads, stone corrals, marked graves, water wells, or Indigenous cultural features, including those listed on the Massachusetts Register of Historic Places or those defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed, including clearing for shade management. A suitable buffer area shall be established on all sides of each historic resource.

6. Mitigation of Stormwater:
   Stormwater runoff from the property during construction and during operation shall not significantly increase from the volume or frequency prior to development, nor shall the pattern of stormwater distribution be significantly altered from patterns prior to development to protect water recharge, existing wells and to prevent flooding or erosion. Stormwater management systems should use natural designs including Low Impact Design (LID) and Best Management Practices (BMPs) as outlined in the Massachusetts Stormwater Handbook, whenever possible. Stormwater management systems shall be designed to manage anticipated increased rain, extreme precipitation events, and

changing ground conditions using estimates provided by the National Oceanic and Atmospheric Administration (NOAA). With the exception of precipitation estimates, any stormwater management design, including areas outside the buffer zone, shall meet the Massachusetts DEP Stormwater Standards.

7. Mitigation of Noise:
   Noise generated by the Installation and/or associated equipment and machinery shall conform to applicable state and local noise regulations. Noise shall be minimized during construction and operation to protect public health and welfare and minimize disruptions to wildlife habitat. Noise, either episodic or continual, shall comply with Massachusetts DEP noise regulations, 310 CMR 7.10. Construction or maintenance activities shall be limited to Monday to Friday and shall not occur between the times of 7:00 p.m. and 7:00 a.m., with the exception of an emergency that would affect public safety or the integrity of the installation.

8. Mitigation for Road Integrity:
   Construction access shall be from paved (bituminous or chip-sealed) Town roads. In the alternative, an applicant may propose, at their expense, to Town specifications, and based on the Town's cost estimate, to fund the paving and improvement of drainage facilities to those portions of the Town road required to meet the intent of this section as determined by the Planning Board. The applicant may also propose posting a bond sufficient to fund the maintenance, repair, and restoration to the satisfaction of the Highway Department and the Select Board, of an unpaved Town road and associated drainage facilities used for construction access. The Planning Board, after consultation with the Shutesbury Highway Department and only following written Select Board approval of an alternative proposal, may accept or deny such alternative proposals.

9. Mitigation for Forest Block Fragmentation:
   In order to preserve the ecological integrity of Shutesbury's large blocks of undeveloped forestland, no more than one Large Ground-Mounted Solar Electric Installation shall be permitted within the bounds of any set of public ways and/or Town borders as depicted on the map entitled Large Ground Mounted Solar Electric Installation Districts, and incorporated into this zoning bylaw.

8.10-5 Design and Performance Standards

A. Lighting
   Except for emergency response or repairs, there shall be no permanently-affixed exterior lighting, including during construction and operation.

B. Signage
   1. Sufficient signage shall be provided to identify the owner of the facility and provide a 24-hour emergency contact phone number.
   2. Signage at the perimeter warning pedestrians is allowable.
   3. Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of such Installation.

C. Control of Vegetation
Herbicides or pesticides may not be used to control vegetation or animals.

D. Visual Impacts
1. Minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and driveways, and to screen abutting residential dwellings.
2. When possible, a diversity of plant species shall be used, with a preference for species native to New England.
3. Use of exotic plants, as identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.
4. If deemed necessary by the Planning Board, the depth of the vegetative screen shall be 30 feet and will be composed of native trees and shrubs staggered for height and density that shall be properly maintained.
5. The owner/operator shall not remove any naturally occurring vegetation such as trees and shrubs unless it adversely affects the performance and operation of the Installation.
6. Landscaping shall be maintained and replaced as necessary by the owner/ operator.

E. Utility Connections. . Electrical transformers, wires, or other utility interconnections shall be constructed as required by the utility provider and may be above ground if necessary; provided, however, that every reasonable effort shall be made to place all utility connections underground, depending on appropriate soil conditions and topography of the site and any requirements of the utility provider.

F. All electric power generated shall be from solar energy.

G. Access Driveways shall be constructed to minimize finished width, grading, removal of stone walls or roadside trees, incompatible appearance from the roadway, and impacts to environmental or historic resources.

8.10-6 Safety and Environmental Standards

A. Emergency Services
1. The owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Shutesbury Fire Chief, Police Chief, and Emergency Management Director.
2. The owner or operator shall cooperate with local emergency services to develop a written emergency response plan that is provided to Shutesbury police and fire departments, and the Emergency Management Director.
3. All means of shutting down the Installation shall be clearly marked.
4. The owner or operator shall identify a responsible person for public and governmental inquiries throughout the life of the Installation. Updated contact information shall be

provided to the Town Administrator, Fire Chief, Police Chief, and the Emergency Management Director annually, no later than 30 days after the beginning of the fiscal year or within 14 days of any contact personnel or information changes. Contact information shall include the contact's name, role in relation to the Installation, email and work phone number. At least one 24 hour/7 day phone number shall be provided for emergencies.

B. Land Clearing, Soil Erosion and Land Impacts
   1. The Installation shall be designed to minimize impacts to open agricultural land and fields, even if not in production. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Installation. Grading that substantially disturbs the existing soil profile and structure is prohibited; sites shall be selected where construction may be accomplished without such earth work.
   2. Prior to any site disturbance and construction, the limits of the work shown on the approved site plan shall be surveyed and clearly marked by a Professional Land Surveyor. Upon completion of the survey, the Professional Land Surveyor shall verify to the Planning Board, in writing, that the limit of work, as shown on the approved site plans, has been established on site.
   3. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Installations shall be installed on water permeable surfaces.
   4. Locating Installations, including access driveways and any associated drainage infrastructure on original, pre development grades in excess of 15% is prohibited. This requirement does not apply to areas used exclusively for shade management provided all stumps from cut tress shall remain in place.
   5. An environmental monitor may be designated by the Planning Board, at the applicant's or owner's expense, to inspect the site during construction and after significant weather events; the monitor shall provide reports to the operator and Planning Board regarding erosion and stormwater impacts.

C. Habitat Impacts
   Unless a waiver has been approved under 8.10-3.C, Large-Scale Ground-Mounted Solar Electric Installations shall not be located on:
   1. Permanently protected land subject to MGL. Ch. 184, §s 31-33
   2. Land designated as Core Habitat and Critical Natural Landscapes (CNLs) by the Natural Heritage and Endangered Species Program BioMap 2 and when available, as designated by its successor BioMap 3. Core Habitats identified in Shutesbury include three Forest Cores, three Aquatic Cores, and seven Species of Conservation Concern Cores, all of which "ensure the long-term persistence of species of conservation concern, exemplary natural communities, and intact ecosystems" CNLs identified in Shutesbury include three Landscape Blocks, one Wetland Core, and three Aquatic Cores - "larger landscape areas that are better able to support ecological processes, disturbances, and wide-ranging species". These designations establish that the need for protection is a stated interest of the Commonwealth and meets the need for public welfare as established in the 2010 BioMap 2 report, the Commonwealth's 2022 Clean Energy and Climate Plan for 2025 and 2030, and the 2020 SMART regulations, as amended or updated.
   3. Habitat of Potential Regional and Statewide Importance located on Massachusetts

Ecological Integrity Maps by the Dept. of Environmental Protection. The need for protection meets the needs of public welfare and the interest of the Commonwealth as noted by DEP "Massachusetts Ecological Integrity Maps " representing human-induced stressors on the environment and resiliency."

4. Priority Habitat as codified by MA Endangered Species Act (MESA) that includes all state listed species of both plants and animals. The need for protection meets the needs of public welfare and the interest of the Commonwealth.

D. Wetlands

1. The applicant, if applicable, will prepare MA DEPWPA Form 4a. Abbreviated Notice of Resource Area Delineation (ANRAD) that includes a wetland evaluation and map of the site. The ANRAD shall also be submitted to the Conservation Commission.
2. In order to provide an adequate intervening land area for the infiltration of stormwater runoff from a Installation, ground alterations, such as stump removal, excavation, filling, and grading, or the installation of drainage facilities, access driveways, or solar panels, are prohibited within 100 feet of any wetlands or hydrologic features subject to the jurisdiction of the Shutesbury Conservation Commission and must be in compliance with the Shutesbury Wetlands Bylaw.
3. The Planning Board may impose conditions to contain and control stormwater runoff that might negatively impact identified wetlands or other hydrologic features even if the proposed work area is outside the jurisdiction of the Conservation Commission.

E. Energy Storage Systems (ESS)

1. If an energy storage system (ESS) is installed as part of the facility, the ESS shall be designed and sized to store only the energy generated on site. The installation shall not be designed nor operated to receive and subsequently transfer off-site generated energy. An ESS must meet the standards put forth in the National Fire Protection Association's NFPA 855 Standard for the Installation of Stationary Energy Storage Systems, 2020 Edition, as amended and updated and comply with Massachusetts Fire Code 527 CMR 1.00 and the State Electrical Code 527 CMR 12.00.
2. To ensure that local first responders are prepared for emergencies related to the ESS, the owner or operator shall arrange for and pay all the expenses for training as needed of Shutesbury fire, police, and emergency management personnel, as designated by the town to respond to an ESS- related emergency. Payment, in an amount approved by the Fire Chief, Police Chief, and Emergency Management Director, to cover all expenses of training above shall be due to the town by July 1; unspent funds will be credited to the following training.
3. In the case of an emergency related to the ESS, the operator shall provide the Town of Shutesbury with an emergency response team, at the operator's expense, that has the necessary capacity, equipment and training to undertake the requirements of the emergency response plan.
4. All means of shutting down the ESS shall be clearly marked.
5. Spacing of energy storage units and other fire prevention installation measures for the ESS shall be designed and documented that follow current safety-related best practices to mitigate thermal runaway among energy storage units.

6. Onsite water storage shall be available for firefighting adequate to the needs to mitigate thermal runaway at the ESS as indicated in the hazard mitigation analysis.
7. An ESS shall be designed so that in the instance of fire, noxious gases resulting from combustion will be contained or filtered, to the maximum extent practicable, mitigating the direct venting into the environment from containers or storage units associated with the ESS.
8. Contaminated water runoff from firefighting and heat reduction efforts related to an ESS shall be contained onsite to prevent, to the maximum extent practicable, water infiltration into the soil to protect underlying or adjacent water systems.
9. To mitigate the risk of water contamination in the case of emergency and in particular risks to public and private water supplies, the ESS shall comply with Section 9. 3-2 B 8a of the Shutesbury Zoning Bylaw. Unless waived by the Planning Board, the ESS shall be sited no less than 400 feet from the nearest water well.
10. Use of per-and polyfluoroalkyl substances (PFAS) for fire suppression with the ESS is prohibited given the federally and state recognized high risk of contamination of groundwater.

8.10-7 Required Documents

A. Required Pre-Submission Documents

1. Project Notifications for Historic and Cultural Mitigation. The purpose of the project notifications is to provide a reasonable opportunity for knowledgeable parties to: comment on the project, inform the Phase I Cultural Resource Survey Report required in 8.10-7 A2, or participate in the development of the Cultural Resource Management Plan 8.10-4 C5. Notifications shall at a minimum include: the project name, a narrative description of the project; contact information for the applicant; most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location, a site map showing the Area of Potential Effect as defined by the National Historic Preservation Act, and a narrative including relevant historical or cultural information about the site.

   Project notifications shall be sent to the following parties: Massachusetts State Historical Commission; Shutesbury Historical Commission; the Tribal Historic Preservation Officers (THPOs) for tribes in Massachusetts, Connecticut, Rhode Island, Vermont, New York, and New Hampshire listed by the U.S Department of the Interior and the National Conference of State Legislatures. If a tribal government or organization has no THPO, project notifications shall be sent to the appropriate tribal representative for that given tribal government. At a minimum, project notifications shall be sent to the following Tribal governments or their successors: Wampanoag Tribe of Gay Head-Aquinnah, Mashpee Wampanoag Tribe, Stockbridge-Munsee Band of Mohican Indians, Nipmuc Nation, Nipmuck Tribal Council of Chaubunagungamaug, Chappaquiddick Wampanoag Tribe, Herring Pond Wampanoag Tribe, Mashantucket Western Pequot Tribal Nation, Mohegan Tribe of Indians of Connecticut, Narragansett Indian Tribe, Schaghticoke Tribal Nation, Elnu Abenaki Tribe of Vermont, Golden Hill Paugussett Indian Nation, Eastern Pequot Tribal Nation, Saint Regis Mohawk Tribe, and Seneca Nation of Indians. Applicants are encouraged to contact the Massachusetts' Commission on Indian Affairs

or the Massachusetts Historical Commission so that the applicant can notify additional tribes that have historical ties to the Algonquian-speaking Indigenous people of Western Massachusetts.

Project notifications shall be written with a requirement to respond within 45 days from date of receipt. A failure of parties to respond within 45 days from date of receipt shall allow the applicant to submit the special permit application under this Section 8.10. Late-responses shall be provided to the Planning Board.

2. Phase I Cultural Resource Survey Report. The primary objective of a Phase 1 Cultural Resources Survey is to identify and record all cultural resources within a project area. This shall include locations of all known, mapped or suspected historic properties, Indigenous archaeological sites, or sites of Indigenous ceremonial activity, as well as documentation demonstrating the required Project Notifications in 8-10.7A and any received written responses to the notification. Identification of such sites shall be based upon all of the following: 1) a determination of the Area of Potential Effects as defined by the National Historic Preservation Act - the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties; 2) cultural resource survey; 3) field work; 4) review of available records of historic or cultural properties; and 5) review of information about suspected historic properties, including those of religious and cultural significance to an Indigenous community, and historic properties suggested by noticed parties.

   The Planning Board strongly encourages the owner or applicant to allow appropriate site access to parties noticed in accordance with 8.10-7A to determine the presence of historical resources and properties and to assess possible impacts. In the instance that the noticed parties are unable to gain access to the site and are therefore unable to submit comments based upon direct knowledge to the Planning Board, the lack of this documentation shall not be deemed to establish that there are no historical resources or properties present or that possible disruptions might not occur.

   To protect the cultural resources, any reports deemed, by either the Massachusetts Historical Commission or the Shutesbury Historical Commission, to contain sensitive information about sites and specimens, as defined in section 26B of MGL Chapter 9, shall not be a public record. Any such reports shall be available only to the permitting authorities, the Shutesbury Historical Commission, the Massachusetts Historical Commission, any consulting Tribes, and the project applicant.

B. Required Documents for Special Permit Submission

1. Site Plan. A Site Plan of the Installation additionally showing:
   a. Locations of wetlands and surface water resources including hydrogeological modeling of groundwater systems.
   b. Location of BioMap 2, and when available BioMap 3, Core Habitats and Critical Natural Landscapes as designated by the Natural Heritage and Endangered Species Program (NHESP).

c. Location of Habitat of Potential Regional and Statewide Importance located on Massachusetts Ecological Integrity Maps as mapped by the Dept. of Environmental Protection.
d. Location of Priority Habitat as codified by MA Endangered Species Act (MESA).
e. Locations of local or National Historic Districts.
f. Locations of vegetative plantings.
g. Locations of stormwater management elements.

2. Blueprints. Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing:
   a. The proposed layout of the Installation.
   b. One- or three-line electrical diagram detailing Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.

3. General Documentation. The following information shall also be provided:
   a. Name, address, and contact information for proposed system installer.
   b. The name, contact information and signature of any agents representing the project applicant.
   c. A list of any listed hazardous or known carcinogenic materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate. In addition, if an ESS is included in the Installation, a list of materials that are flammable or toxic when burned shall be provided.

4. Site Control
   The project applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Installation.

5. Financial Surety
   Applicants shall provide a form of surety, either through an escrow account, bond or otherwise, accessible to the Town of Shutesbury. to cover the cost of removal in the event that the Town must remove the Installation and remediate the site to its natural preexisting condition, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

6. Utility Notification
   No Installation shall be constructed, nor building permit issued until evidence has been provided to the Planning Board that the utility company that operates the electrical grid where the Installation is to be located has approved the owner or operator's intent to install an interconnected customer-owned generator and that the utility has approved connection of the proposed generator into their power grid. Off-grid systems shall be

exempt from this requirement. A signed copy of the interconnection service agreement with the utility company shall be submitted before the Installation may go into operation.

7. Proof of Liability Insurance. Proof of liability insurance shall be provided to the Planning Board. If the Installation includes an ESS, proof of additional liability insurance shall be provided, adequate to address costs associated with possible fires, explosions or water contamination, as identified in the Hazard Mitigation Analysis.

8. Proof of Compliance. The applicant shall submit to the Planning Board evidence of compliance with local, state and federal permitting and procedures, as applicable. Proof of compliance shall be submitted regarding compliance with Section 106 of the National Historic Preservation Act, Mass. Wetlands Protection Act, Mass. Endangered Species Act, Mass. Environmental Protection Act, Mass. Forest Cutting Practices regulations, and the Shutesbury General Wetlands Protection Bylaw. Submission of evidence for compliance or exemption, as relevant, will be required before construction of the Installation may begin.

9. Materials
   The project proponent must submit a full report of all materials to be used, including but not limited to the use of cleaning products, paints or coatings, hydro-seeding, fertilizers, and soil additives. Whenever available, Material Safety Data Sheets shall be provided. Documentation of the major system components to be used shall be provided.

10. Operation and Maintenance Plans
    The project applicant shall submit a plan for the operation and maintenance of the Installation, which shall include measures for maintaining safe access, stormwater management (consistent with DEP's and, where appropriate, Shutesbury's stormwater regulations and vegetation controls), as well as general procedures for operational maintenance of the Installation. Plans for vegetative controls and stormwater management shall include regular annual inspection and maintenance. If an ESS is installed, operation and maintenance plans shall be provided for regular inspection, servicing, repair and renovation of the ESS.

11. Noise Assessment. The applicant and owner shall submit a noise assessment by a qualified professional of the noise levels projected to be generated during construction and operation of the facility, including for an ESS; a noise mitigation plan for construction and operation consistent with Massachusetts DEP Noise Control Regulation, 310 CMR 7.10; and a noise monitoring plan as it relates to residents and wildlife consistent with state or national best practices.

12. A report by a qualified professional with demonstrated knowledge in hydrogeology that provides an estimate of how and to the extent construction and operation of the Installation may affect water volume, water storage, and drinking water well recharge within 400 feet of property lines for the installation.

13. Energy Storage System Plans and Documentation

For installations that include an ESS, the following documents shall be submitted:

a. A site specific Hazard Mitigation Analysis conducted, at the applicant's expense
b. A written emergency response plan to be provided to Planning Board that is consistent with the findings and recommendations of the Hazard Mitigation Analysis and is approved by the Fire Chief, Police Chief, and the Emergency Management Director. The emergency response plan shall include the sequence of operations relative to the ESS shutdown and emergency response intervention.
c. Material Safety Data Sheets for batteries and electrical components, and for fire suppression chemicals that would be used in the case of a fire at the ESS.
d. A copy of the project summary, electrical schematic, and site plan for the ESS which shall be provided to the Shutesbury Fire Chief, Police Chief, and the Emergency Management Director in addition to the Planning Board.
e. Fire and explosion prevention and mitigation information including venting system operation; location of detectors and types of detectors/sensors including manufacturer and model, accuracy, and sensitivity; suppression system design, including type of agent, system layout, application rate, source.
f. Design specifications for:
    i. Energy storage units including cells, modules, and rack systems including manufacturer and model and unit levels of storage cells; pertinent UL test data.
    ii. Energy storage containers including but not limited to the general physical layout relative to doors, access panels, vents; interior layout of cabinets, racks, ductwork, compartmentation; ventilation system; construction materials.
    iii. Exterior of containers including spacing between containers and the specifications of structural supports/foundations for the containers.

14. If appropriate for the site, a Cultural Resource Management Plan (CRMP) or a Historic Properties Management Plan (HPMP) written by a professional with generally recognized credentials. The Planning Board encourages good faith engagement with interested parties to resolve adverse effects including development and evaluation of alternatives or modifications that could avoid, minimize, or mitigate adverse effects. The applicant shall submit the CRMP or HPMP to the Planning Board and all parties noticed in 8-10. 7A.

8.10-8 Monitoring, Maintenance and Reporting

A. Conditions
    1. The Ground-Mounted Solar Electric Installation owner or operator shall maintain the facility in good working condition.
    2. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
    3. Site access shall be maintained to a level acceptable to the Shutesbury Fire Chief, Police Chief, and Emergency Management Director.
    4. The owner or operator shall be responsible for the cost of maintaining the Installation and any access driveways.
B. Annual Reporting
    1. The owner or operator of an Installation shall submit an annual report demonstrating and

certifying compliance with Operation and Maintenance Plans, the requirements of this Section 8.10 and the approved special permit, including but not limited compliance with the approved plans and any special permit conditions, continuation of liability insurance, and adequacy of internal driveway access, and the amount of electricity generated by the facility. The annual report shall also provide information on maintenance completed during the course of the calendar year including maintenance of the physical site, vegetative controls, stormwater, electronic systems, fire prevention if appropriate, and energy storage systems. If an ESS is part of the Installation, the annual report shall include information about the amount of electricity stored and transferred by the ESS during the period reported.

2. Annual reporting shall be submitted to the Select Board, Planning Board, Fire Chief, Emergency Management Director, Building Commissioner, Board of Health and Conservation Commission (if a wetlands permit was issued) no later than 45 days after the end of the calendar year.

Discontinued Operations

The following abandonment and decommissioning requirements shall be met.

A. Removal Requirements:
   1. Any Installation which has discontinued operations whether because it has reached the end of its useful life, has been abandoned, or taken off line shall be removed.
   2. The owner or operator shall physically remove the Installation no later than 150 days after the date of discontinued operations.
   3. The owner or operator shall notify the Planning Board by certified mail, of the proposed date of discontinued operations and plans for removal.

B. Removal shall consist of:
   1. Physical removal of all components of the Installation, including but not limited to structures, foundations, equipment, security barriers, and on-site above-ground transmission lines. Associated off-site utility interconnections shall also be removed if no longer needed.
   2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
   3. Restoration of the site to its natural preexisting condition, including stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit Granting Authority may allow the owner or operator to leave landscaping or designated below-grade foundations and electric lines in order to minimize erosion and disruption to vegetation.

C. Removal by the Town

   If the owner or operator fails to remove an Installation in accordance with the requirements of this Section 8.10 within 150 days of discontinued operations or abandonment, the Town may enter the property and physically remove the Installation at the owner's expense, drawing from the escrow account or upon the bond or other financial surety provided by the applicant.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:00 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Sara Brydges
Sent: Wednesday, October 15, 2025 5:43 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 15, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Sara Brydges
24 Marthas Point Rd
Concord, MA 01742
(978) 371-0123
sbrydges@comcast.net



Cape and Islands Municipal Leaders Association, Inc.

Representing 22 Municipalities & 105 Elected Officials

October 15, 2025

Mr. Rick Collins
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Sent via email to DOER.Siting.Permitting@mass.gov)

Re: Request for extension of comment period to review 225 CMR 29.00 - Small Clean Energy Facility Siting & Permitting regs

Dear Mr. Collins:

The Cape and Islands Municipal Leaders Association, Inc. (CIMLA), membership of 105 elected officials, represents the twenty-two municipalities of Cape Cod, Martha's Vineyard and Nantucket. The membership of CIMLA voted at their monthly meeting held Friday, October 10, 2025 to respectfully request DOER provide an extension to the comment period relative to the proposed 225 CMR 29.00 - Small Clean Energy Facility Siting and Permitting regulations issued for review on September 26, 2025 to a new deadline of Wednesday, November 19, 2025, from the current close of comments due on October 17, 2025.

CIMLA members just became aware of these proposed regulations in the last few days and have not had the opportunity to participate in the public information sessions or review the proposed regulations.

As you know, communities on Cape Cod and the Islands will be impacted by siting decisions under these new regulations and local officials should be given ample time to review, understand and comment on these new regulations.

CIMLA represents that providing this additional period of time for review and comment will allow for a more informed process and one that will support a smoother implementation.

Respectfully submitted,

Mark R. Forest, President
Cape and Islands Municipal Leaders Association, Inc.

cc:
State Senator Julian Cyr
State Senator Dylan Fernandes
State Representative Kip A. Diggs
State Representative Hadley Luddy
State Representative Thomas Moakley
State Representative David Vieira
State Representative Steven Xiarhos

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:01 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Renelle Hebert
Sent: Thursday, October 16, 2025 10:45 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 16, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Ms. Renelle Hebert
10 Creston Avenue
Woburn, MA 01801-2616
(781) 938-1023
renelle.hebert@gmail.com

Comments on Draft Regulation and Preliminary Guidelines for Small Clean Energy Infrastructure Facility Siting and Permitting

George C. Ledec, Ph.D.

October 15, 2025

1. My name is George Ledec. I live in the Town of Barnstable on Cape Cod. I am retired from the World Bank, where I was Lead Ecologist and worked on biodiversity conservation and other environmental management in Bank-supported development projects around the world. These included wind, solar, and power transmission projects. I would like to focus my comments specifically on the biodiversity aspects of the draft Regulation and accompanying Guidelines.

2. The world, the United States, and Massachusetts face both a climate change crisis and a biodiversity loss crisis. This reality was clearly recognized in Governor Healey's Executive Order No. 618 on Biodiversity Conservation in Massachusetts. Although "clean energy" projects help to mitigate climate change, they can also harm biodiversity, such as by taking over valuable wildlife habitat. I am therefore pleased that the draft Regulation and Guidelines devote significant attention to biodiversity considerations.

3. I would like to point out two specific areas where the Guidelines should be clarified and strengthened with respect to biodiversity:

a. First, the Guideline on Common Conditions should require **time-of-year restrictions** on tree-felling, pruning, or other vegetation clearing to protect nesting birds and other wildlife. For most birds in Massachusetts, avoiding these activities during just 3 months of the year—April, May, and June—is sufficient to enable successful reproduction. The Guideline on Common Conditions already provides time-of-day restrictions by limiting construction work to specific hours of the day, and not on Sundays or holidays. It should similarly provide seasonal restrictions on vegetation clearing to protect biodiversity. Well-planned Small Clean Energy Infrastructure Facilities (SCEIFs) can readily be built and maintained with appropriate time-of-year restrictions on vegetation clearing. One such example is the new Cape Cod Country Club Solar Project in Falmouth, which specifies the suitable dates for vegetation trimming and mowing.

b. Second, the draft Guideline on Minimization and Mitigation Measures (Section 1.1.1) states that SCEIFs located on a **Brownfield, Eligible Landfill, or Previously Developed Lands** shall receive a Criteria-Specific Suitability Score of zero for biodiversity. However, some heavily modified habitats are surprisingly valuable for biodiversity, including species of conservation concern. For example, disused underground mines or abandoned buildings are sometimes important for roosting bats. Former quarries provide cliff-like habitats for nesting raptors and other wildlife. Closed landfills may turn into native grassland habitats; a case in point is the old Lorton Landfill in northern Virginia (near where I used to live), which now hosts Eastern Meadowlarks, Grasshopper Sparrows, and other declining grassland bird species. Therefore, brownfields, landfills, and other previously developed lands should be rapidly assessed for their possible biodiversity value, rather than automatically presumed to have zero (or near-zero) value. The draft Guideline on Minimization and Mitigation Measures (and other documents, as appropriate) need to be adjusted accordingly.

4. Thank you very much for the opportunity to provide these comments.

NextGrid

Daniel Serber
Senior Director of Land Development
M: (559) 731-4645 | E: daniel@nextgrid.com

10/15/2025

Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Comments on Draft 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting Regulations

NextGrid appreciates the opportunity to comment on the draft regulation 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting and the accompanying Guideline on Uniform Baseline Health, Safety, Environmental, and Other Standards. We commend DOER's efforts to modernize and standardize permitting while promoting equitable public engagement. However, in practice, several proposed provisions risk extending timelines and increasing costs for the very types of projects that have delivered reliable, low-impact clean energy in Massachusetts — namely, rooftop, canopy, brownfield, and landfill solar projects.

NextGrid has developed over 100 solar projects under the SMART program and is the largest developer in Eversource East's service territory. Nearly all of our projects are located on previously disturbed land and permitted in under one year. The proposed rules, while well-intentioned, would introduce new layers of process that primarily affect well-sited, noncontroversial projects rather than those that cause delays due to environmental or public opposition.

We respectfully offer the following comments and recommendations to help DOER achieve its goals of efficiency, predictability, and fairness.

1. Explicit Exemption for Rooftop Solar Projects

DOER staff have stated publicly that rooftop projects are intended to be exempt; however, 225 CMR 29.07(1) does not explicitly include them among the listed exemptions (which currently cover facilities below certain capacity thresholds or site footprints). To avoid ambiguity and prevent inconsistent municipal interpretations, we recommend DOER explicitly exempt all rooftop solar installations from the siting and permitting framework.

Suggested revision: Amend 225 CMR 29.07(1) to add "Rooftop Solar Facilities" as an exempt category.

2. Exemption or Accelerated Review for Solar Canopy Projects in Non-Residential Zones

The pre-filing engagement requirements (225 CMR 29.08(2)(f)) and 12-month review period (225 CMR 29.10(2)) are disproportionate for solar canopy projects located in industrial or commercial zones with no residential abutters. These projects are rarely controversial and typically receive local approval within 2–3 months.

We recommend either:
• Exempting such projects from the pre-filing stakeholder engagement and public meeting requirements; or
• Establishing a six-month maximum review period for carports meeting these siting criteria.

This would align the regulation with DOER's streamlining objectives while maintaining public transparency.

3. Clarify and Reduce Risk Around "Construction-Ready" Plan Requirements

Under 225 CMR 29.09(2), the Consolidated Local Permit Application requires submission of detailed engineering, stormwater, and site design documents. Requiring "construction-ready" plans before approval imposes significant financial risk on developers. Full design drawings are typically prepared after permit issuance, once financing is secured.

We suggest allowing concept-level plans that demonstrate feasibility without requiring final engineering. This approach balances cost efficiency and transparency while preserving local review integrity.

4. Contractor Documentation Requirements – 225 CMR 29.09(2)(k)

The detailed workforce, labor, and apprenticeship documentation required under 29.09(2)(k) cannot reasonably be provided at the time of application because contractors are typically selected only after permits are issued. We recommend DOER permit developers to submit a certification statement committing that all selected contractors will comply with the enumerated labor and equity standards, rather than requiring pre-selection documentation.

5. 12 Month Timeline

We recommend DOER clarify that the 12-month review period is a maximum, not a standard timeline. Many municipalities currently issue decisions within 60–120 days, especially for low impact canopy projects or projects on previously disturbed land such as landfills, brownfields, or former Sand and Gravel Pits.

DOER could further:
• Encourage adoption of the Model Permitting Bylaw under 225 CMR 29.13 to establish

predictable local procedures;
• Require municipalities to publish clear internal review schedules; and
• Reaffirm that 225 CMR 29.10 does not supersede shorter local statutory timelines.

Without these clarifications, the 12-month limit may inadvertently become the default duration for all projects — a step backward from current practice.

Responses to DOER's Questions for Public Input

(Referencing the document "Clean Energy Siting and Permitting Questions for Public Input," August 2024)

6. Question: "Should a community have the right to deny an application if the site suitability score is too high?"

Site Suitability should be an objective and standardized threshold set by DOER, not a subjective local decision. If DOER defines a clear maximum disqualifying score within the Site Suitability Guidance, developers can screen sites early and avoid investing in projects that would later be denied. Allowing municipalities to independently interpret "too high" scores would lead to inconsistency, delay, and litigation risk.

We recommend DOER:
• Define explicit thresholds for unacceptable scores within the Site Suitability Guidance; and
• Ensure that facilities exceeding these thresholds are automatically ineligible for permitting, eliminating ambiguity and reducing risk for all parties.

This aligns with 225 CMR 29.07(4), which allows DOER to issue final determinations on disputed scores.

7. Question: "How should the process be different for smaller projects versus larger projects?"

Rather than distinguishing projects solely by capacity or footprint, DOER should scale outreach and engagement based on site impact and context. Factors such as tree clearing, proximity to residential zoning, and changes to existing land use intensity are far better predictors of community interest or concern.

For example, a small project in a residential area that removes trees may generate more controversy than a large project on a brownfield or capped landfill. Similarly, canopy projects in commercial or industrial zones should be considered low-impact and subject to simplified or waived pre-filing engagement requirements under 225 CMR 29.08.

NextGrid has also developed on a number of former sand and gravel pits. The intensity of use went from a high traffic, noisy, mining operation to a quiet solar facility with no traffic and generates more appreciation than controversy. These projects should be looked at differently than even a 300kW project that removes trees in a residential zone.

This approach focuses outreach where it matters most and avoids unnecessary burden on low-risk sites.

8. Question: "What tools would be helpful to ensure municipalities meet the 12-month timeframe?"

We would like to take this opportunity to clarify previous comments.. Many municipalities currently issue decisions within 60–120 days. DOER could further:

- Encourage adoption of the Model Permitting Bylaw under 225 CMR 29.13 to establish predictable local procedures;
- Require municipalities to publish clear internal review schedules; and
- Reaffirm that 225 CMR 29.10 does not supersede shorter local statutory timelines.

Without these clarifications, the 12-month limit may inadvertently become the default duration for all projects — For us developers that focus on low impact projects we fear that without clarification this legislation have the opposite effect as intended, make development take much longer for the lowest impact projects.

9. Question: What kind of outreach do you find useful and helpful ?

We have found small group Q&A sessions the most helpful. A short presentation followed by questions in a group setting, followed by "Open House" time for stakeholders to review maps and ask more one-on-one questions.

NextGrid supports DOER's efforts to create a predictable, transparent, and equitable permitting framework. However, as currently drafted, 225 CMR 29.00 risks slowing or discouraging precisely the types of low-impact solar and storage projects that best align with the Commonwealth's decarbonization and land preservation goals.

We urge DOER to incorporate the recommended exemptions, clarifications, and score-based thresholds outlined above. Doing so will ensure the regulation truly streamlines clean energy permitting while maintaining environmental and community safeguards.

Thank you for your consideration and for the opportunity to contribute to this important rulemaking process.

Sincerely,

Daniel Serber
Senior Director of Land Development
NextGrid
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Answers to DOER Questions Posed at Information Sessions

Regarding Clean Energy Regulations

Submitted by Lara Wahl, Zuleica Booth, and Eli Elkus- all registered voters residing at

Shutesbury, MA

Oct. 14, 2025

(You will note *Some but not all cross over with our interpreter (that's a joke) Michael De Chiara who is our Shutesbury Planning board's comments. We are lucky to have him do some translating for us. But these comments are very much also our own.)

Public health, safety and environmental standards

What health, safety, environmental standards are important to include?

The most important in my opinion is related to lithium-ion battery storage especially since the draft DOER regs, the EEA Siting Suitability guidelines, nor the Model BESS bylaw addresses my concerns. In particular, there should be a prohibition of siting a lithium-ion ESS anywhere where there is insufficient water to be used in firefighting, specifically to reduce heat of batteries during an emergency to prevent thermal runaway. If a municipality does not have municipal water system or if the system is inadequate given the needs identified by the NFPA, siting of these energy storage systems must be prohibited.

Related to this, and again, none of the three sets of regulations or guidance address this (it is only reflected in DOER minimization and mitigation guidance),is the need to provide containment system for water that is applied to a lithium-ion ESS that is on fire The water applied to the facilities will in all likelihood be contaminated and must be captured in a designated collection basin that is large enough to hold the anticipated water coming off the BESS. A protocol must be in place for removing this water so that it does not enter the ecosystem.

Are there standards for project elements such as setbacks, lighting, and screening that you would want to see included?

DOER seems to be asking about post-construction elements.

Addressed so far, thank you –

• 15% slope to reduce likelihood of erosion or instability of the site, I believe this should be limited to 5%

• Dark Sky Friendly solutions for lighting is excellent to minimize light impacts. I am not sure all munis can be Dark Sky compliant; Dark Sky friendly solutions and best practices should be preferred and recommended but perhaps variations allowed to be consistent with local zoning.

• Compliance with local noise bylaws/regulations is good in addition to DEP regulation.

To include or improve:

• Setbacks should be much larger than DOER is currently recommending. Should be consistent with a municipalities zoning – local setbacks for other uses are determined for a reason and are deemed reasonable if the zoning bylaw was approved by the AG (which they all are). 25 feet is much too small for setbacks for an industrial use in zones that are not industrial.

• There needs to NO facilities off of roads which are unpaved –

this poses a financial impact to the municipality and a public safety risk. In Shutesbury we have many very steep unpaved roads which rut with the spring thaw creating hazardous conditions especially for the buses which must travel down these roads to collect school children. Many of these roads would not be able to handle the impact of industrial scaled construction projects that energy facilities would bring. These unpaved roads should be OFF-limits to energy projects.

• Stormwater – should be designed to minimize runoff from the site, both from impervious and pervious surfaces. This should include going beyond state or local wetlands regulations.

• Herbicides and Pesticides should be prohibited period.

• All replantings should be native

Site Suitability and Minimization/Mitigation

Should a community have the right to deny an application if the suite suitability score is too

high?

YES – OF COURSE! Otherwise the entire exercise of Site Suitability is meaningless!! And I

would argue that if a project cannot be denied by a local government, in effect the

Commonwealth would taking away any regulatory discretion from municipalities; which may not be legal and could possibly result in legal challenges. The Dover Amendment says that municipalities cannot unreasonably regulate, it does not say that municipalities cannot regulate solar. The entire purpose of the law and the complementary regulations and guidance is to determine how to regulate. Core to this, as a land use issue, is site suitability.

In my town's very recent experience, a developer was looking to clear-cut over 600 acres of forest zoned land across 2 towns, hosting five ground mounted solar sites in Shutesbury and Amherst. Two of these were mostly located in

BioMap/Core Habitat. Another two were mostly located in BioMap/ Critical Natural Landscape. At least one had ESS located near a stream feeding into a local reservoir that serves UMass AND Amherst. Another had ESS near wetlands. These sites were proposed presumably because through the lens of the Dover Amendment a municipality could not deny, just mitigate. DOER would be recreating this terrible situation again if it did not allow projects with high Site Suitability score, Total or Criteria-Specific to be denied. This decision would make this entire process an irresponsible farce.

Furthermore for the long-term protection of the town decommissioning requirements MUST be in place – both a decommissioning fund of 125% held in escrow and requirements about return of the site to close to original state otherwise a financial burden to the Town.

Enforcement

Are there other topics related to enforcement these regulations should address?

The SMART 3.0 regs get it right and DOER should replicate its example for all clean energy

facilities. Specifically, there needs to be an environmental and compliance monitor assigned to each project, hired by the municipality and paid for by the Applicant. This monitor must be given

explicit rights in DOER regulation to make site visits, with at least three required – pre-

construction, during construction, and post-construction, with more at the discretion of the monitor to ensure compliance. An important note based on Shutesbury's experience, is that DOER must require the Applicant to allow other parties that are designated to assess and monitor the land, including Indigenous representatives, to have full access to the site although monitors can be required to be accompanied by representatives of the Applicant. If this is not in place, the landowner can deny access which therefore undermines assessment and monitoring, removing the "eyes and ears" for the permitting bodies.

Further enforcement is only good if there are teeth – some penalties to be avoided. Rather than struggle with what the right amount of a penalty is, I would suggest that if there are breaches in enforcement, that the monitor be able to temporarily halt work on a project, increasing in duration with repeated instances. In the field of development, time is money so halting work for a few days due to non-compliance is likely the most flexible but effective stick DOER can provide to keep Applicants from straying. Penalties will be at the discretion of the monitor but DOER can provide guidance at a later date.

If a successor wants to change the terms of a permit issued through these regulations, does it trigger another 12-month review period? Is the review period shorter? Is the petition only to the single board who issued the condition?

I support DOER in its statement that modification of an existing permit by a new owner is at the discretion of the local government.

Concurrency and Transition Period

What do you think of this timeline? Would you face any challenges?

There are two parallel timeframes in play and both offer different challenges. One timeline is that

facing municipalities to adopt or update local bylaws to comply with the new small clean energy

facility regulations. The other is in response to the changes put in place by the federal

government by which commercial solar installations can receive tax credits.

The new federal law passed in July 2025, establishes July 2026 as the cut-off for projects to

receive the four-year "safe harbor" protections during which a project can be completed and still

receive the 30% tax credit. Further the law establishes that for projects begun after July 2026,

these projects would need to have construction completed and be put in service by July 2027 to

receive the tax benefit.

In reality, it seems impossible for any new solar project to start construction by July 2026 if the

regulations will not go into effect until March 1, 2026. This is only a three month period. I see no

way that an application can be submitted, review and permitting can be completed, even if

expedited, so that construction can start in three months time. Practically, this means that for any

new solar project to receive the 30% tax credit (assuming construction starts after July 2026), it

would need to be completed and put into service by July 2027; a period of one year. While

possible, this is unlikely. What is likely is that construction may be begin, perhaps even by

completed but given interconnection waits, being put into service seems unrealistic.

In my opinion then, the Commonwealth should not try to speed up the concurrency period in order to help facilitate solar deployment for projects chasing the tax credit. This seems reckless in many ways!!

It is highly unlikely

and certainly would be an exception, if it happened.

COMMENTS ON SITE SUITABILITY ASSESSMENTS FOR CLEAN ENERGY INFRASTRUCTURE

Submitted by Lara Wahl, Eli Elkus, AND Zuleica Booth

All registered voters living at 305 Montague Rd Shutesbury, MA01072

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(You will note *Some but not all cross over with our interpreter (that's a joke) Michael De Chiara who is our Shutesbury Planning board's comments. We are lucky to have him do some translating for us. But these comments are very much also our own.)

October 14, 2025

DEFINITIONS

Applicable Facility – It seems to me that Burdened communities are burdened, in part, because of the lack of regulatory protections regarding public health, safety and welfare – both over the course of history and in the recent past. So it remains puzzling to me that EEA would require less regulatory oversight and less assessment for these communities. While a Cumulative Impact Assessment will certainly provide data and analysis that is necessary to protect these communities from project harms, I do not think a CIA will replace the process and the data provided by a Site Suitability Analysis. I would suggest all projects be required to have a Site Suitability Analysis.

Site Footprint – these regulations should make clear that the site footprint also includes any required buffer zone outside of the fenced project area if land alterations occur. This may not be apparent with the current wording about clearing, it seems like the assumption about clearing pertains to grading or roadways.

SITE SUITABILITY ASSESSMENT

iii. Carbon Storage and Sequestration

This is a good criteria, however , neither source for

measurement - the National Forest Carbon Monitoring System and the Annual NLCD land cover data websites are user friendly and therefore review by local government or

stakeholders will be difficult, making accountability of scoring difficult to achieve. There is also the very real danger of using a measurement system related to carbon sequestration that is maintained by the USDA or the USGS given the federal government's willingness to downplay climate crisis and take data offline. I would suggest EEA figure out a better way to measure the desired information. Also, given the importance of soil for carbon sequestration, EEA should also refer to the

Commonwealth's Healthy Soils Program.

iv. Biodiversity

I think the sources of measurement – BioMap and Natural Heritage and Endangered Species provide the correct data sources to assess biodiversity. However, it is not clear to me why EEA is prioritizing Priority Habitat over BioMap except for the reason that it would trigger MEPA review? Similarly, as I have said many times before there is nothing in the BioMap materials from MassWildlife that places greater value on Core Habitat over Critical Natural Landscape – Please note that this is the BIGGEST point that the MANY of hundreds of people who have written, not just to you, but to our legislators, to our governor, and the SAME POINT those of us who have attended countless hearings and meetings, are pushing for!! The same message we have been pushing for at protests and in the press. WE MUST protect our FORESTS. We, along with Connecticut are the only states that are DESTROYING the level of 1,000's of acres of otherwise protected FOREST ZONED lands from clear cu, FOR solar. You would not be facing the opposition from towns that you are a facing, if you would protect CRITICAL Landscape as WELL as Core Habitat by making these spaces INELIGBLE from projects. Simple.

Both are equally important but have different characteristics. This seems to be a myth internal to EEA that has now achieved "urban legend" status with no basis is fact. I would encourage EEA to apply the same strict protective approach for both categories of BioMap.

In reviewing the prioritization chart, it seems that EEA is splitting hairs in the scoring table. I do commend EEA for recognizing Regional Connectivity, a BioMap Component, since what we do in Massachusetts has ecosystem impact on the larger Northeast Region. This is often overlooked but vitally important.

In terms of calculating a score, it is unclear what 1) "grid cells centered inside the Site

Footprint" means. I strongly support EEA continuing the SMART 3.0 approach that any land

overlapping with BioMap is considered in BioMap but the “grid cell centered” language makes this unclear.

Unlike the other data sources, these are user friendly and easily accessible to local government and the public.

D. OTHER CONSIDERATIONS OF NOTE

i. Drinking Water Supply

I have major problems with this section. I think EEA drops the ball in terms of water protection. There is so much more that should be included here. The current Siting Suitability feels like it is kicking the can down the road and leaving municipalities without a clear road forward to protect

drinking water. Paragraph 2 states that “Local controls must be in the form of zoning or general bylaws or ordinances, or health regulations that meet the requirements of the 310 CMR 22.00” The 310 regulation is focused on and limited to protection of public water supplies. By simply citing that DEP is the regulator of water supplies, EEA is missing all the communities that rely on private drinking water wells and that do not have public water supplies. Many, many small towns do not have public water. For example, my town of Shutesbury is 100% supplied by residential drinking water wells, the only public water (by technical definition) is the well that supplies the elementary school. This oversight needs to be corrected. Further, by my reading, the actual DEP regulations are insufficient in terms of protecting various drinking water sourced by aquifers or the water sources that protect them. In Western Mass. recent resistance to ESS placement has occurred in Westfield and Orange, both of which have public water supplies but the aquifers sourcing the water are vulnerable to ESS contamination. In the case of Orange, for example, approximately 60% of the town’s water comes from one aquifer; if that is contaminated by an ESS, there is no real alternative source to provide thevolume needed.

Additionally, despite EEA’s statement that DEP’s Drinking Water Program's Guideline #2011-1 covers batteries, my reading of this policy does not indicate that. The policy was developed in 2011 when ESS was not a policy issue. My reading is that this policy covers solar and wind; only by legal extension (the SJC’s interpretation that accessories to a solar development such as ESS)

are batteries included. So, this statement seems to fall short, and I do not think it is accurate. Furthermore, without regulations that adequately allow protection of drinking water as it relates to clean energy protection, municipalities are both vulnerable and legally hamstrung. As an example, in the case of Shutesbury, the AG twice rejected town-approved energy storage regulations that included water protection (2023 solar bylaw and

a 2024 Energy Storage general bylaw), as being in conflict with the Dover Amendment. Based on the Clean Energy statute and its statement that municipalities that comply with the subsequent clean energy regulations will be deemed to be compliant with the Dover Amendment, there is a pathway for EEA, EFSB and DOER to allow municipalities to provide regulatory protection for drinking water. It is up to EEA, DOER and EFSB include enabling language to allow municipalities to develop zoning and regulations that protect drinking water.

Substantively, there is much that can contaminate drinking water supplies. Since DOER requires ESS to be included in a solar installation in order to receive a SMART subsidy, ESS installations will continue throughout the state. This is furthered by the Commonwealth's efforts to build mor standalone energy storage. While debatable about how safe lithium-ion battery technology is becoming, the fact remains that fires do occur at these facilities and toxins are released into the air and into the ground, often by heat suppressing water applied by fire fighters. More recently, I have found evidence that PFAS can be found on ESS sites, both because it is part of the lithium- ion battery components and because it also can be applied as standard firefighting practice. The Commonwealth is well aware of the burdens and dangers of PFAS in our soils and water; EEA

should be working to reduce the instances of PFAS and other contamination and relying on

outdated DEP regulations.

My strong position is that water protection is essential. EEA, must embrace the Environmental in its name and provide clear siting protections for drinking water – both public and private. For public this should extend to all zones – I, II and III. This should include prohibition on ESS in areas where drinking water sources are vital and contamination would leave communities vulnerable. Further, the Siting Suitability guidance should explicitly enable municipalities to develop zoning and regulations that are protective of drinking water. In short, I think EEA staff need to dig much deeper into this issue and come up with a better solution than citing outdated

DEP regulation.

ii. Wetlands

This too seems to be inadequate with EEA simply citing Wetlands law with little expansive

thinking. Of course, solar and batteries should not be in wetlands jurisdictional areas. But how about considering expanded buffer zones around the wetlands beyond the state Wetlands regulations. In addition, many municipalities in the Commonwealth have local

wetlands regulations that provide for greater protections in order to minimize the negative impacts on wetlands. EEA Siting Guidelines should explicitly allow municipal wetlands regulations to be infull effect in regards to the siting of clean energy. The current Siting draft only states that "Local jurisdictions may also have wetlands protection bylaws" – a simple statement of fact but it doesn't affirm municipalities can use these regulations in the clean energy context. Further thisguidance cites that the EFSB can waive these local regulations, undermines local protective intent and also raising questions about if municipal regulation is allowed. The language should clearly allow local wetlands regulations to be in effect for clean energy projects.

iii. Noise

Similar to wetlands, there is one state standard for noise as established by DEP regulation.

However, some municipalities, such as Shutesbury, have developed more nuanced regulations to address issues of noise that reference the DEP noise regulation. The Site Suitability regulations should explicitly allow local regulations that do not conflict with DEP noise standards to be in effect so that implementation of these regulations can be locally informed and applied. It is important to note that noise issues can be different during construction than they might be during operation. If not in these Site Suitability guidelines, DOER and EFSB need to address noise in performance and design standards, as well as in DOER's Public Health guidelines. If EFSB has the ability to waive noise requirements, as noted in footnote 15, then there must be a requirement for written explanation that is publicly available and subject to public comment.

iv. Air Quality and Emissions

EEA rightly calls out anaerobic digestion facilities as sources of air pollution - these should not be considered clean energy.

More to the point this regulation does not address the possibility of emergency-based emissions which would most likely come from an energy storage fire. The possibility of ESS fires makes the need for appropriate siting important. For example, we have seen in both California and New York state ESS fires that evacuation occurred. Therefore, proximity to schools, hospitals, or other facilities that would need to be evacuated in case of an ESS fire, should be taken into account when scoring a facility. Even if no scoring is applied, it would be responsible for these guidelines to address the potential issues; better to prohibit siting in proximity of potentially vulnerable uses. These regulations could also reference DOER and EFSB public health sections of the respective regulations.

F. SCORE MODIFER TABLE

Developmental potential. For projects with canopies on appropriately sited land, I think an

automatic zero score for the Developmental Potential criteria makes sense. But this should not be extended to the other criteria – zero scores need to be earned and demonstrated for Biodiversity, Carbon Storage, Agricultural Resources and Social and Environmental Burdens. The Commonwealth does want to encourage canopies and appropriate siting but I fear that by creating an automatic zero pathway for all criteria, this might allow for canopy projects that could in other ways get a mixed criteria score. EEA should require facilities to demonstrate good siting to get good scores.

Social and environmental benefits – EEA's requirement that social and environmental benefits can modify a score only with agreement by the host municipality is excellent and essential. To reiterate, while I think communities should be respected for knowing their own needs, I think projects that trigger a modifier should be limited to those that directly relate to siting rather than unrelated benefits like job creation. Other benefits like pollinator design should be required by

DOER and EFSB by performance and design standards.

V. USE OF METHODOLOGY AT THE ENERGY FACILITIES SITING BOARD

A. Pre-filing

It is excellent that Estimated Scores be shared with stakeholders during the Pre-Filing period and prior to seeking Final Score Determination. I would suggest this is a "shall" rather than a "may", the term "will be expected" does not carry sufficient regulatory weight.

B. Application Requirements

In addition to documenting why the site was chosen, this requirement should also include

explanation for why the alternative sites were not chosen. This needs to be a defensible decision and without information on all sites that were considered or possible, comparison cannot happen. As a regulator, if presented with the documentation of social and environmental benefits, my first question would be "what does the host municipality think about these?" So, I think it is important for this requirement to include not simply the applicant's ideas and a proposal for social and environmental benefits but those that have

been discussed with the host municipality, demonstration of some engagement regarding these, and if possible, an indication (not commitment) of interest by the host municipality. This will likely occur if there is a Community

Benefit Plan or Agreement submitted with an application but since these are not required by OEJE this cannot be taken for granted.

C. Permitting Adjudication

be necessary.

iii. Use of Total Site Suitability Score

As mentioned earlier, any modifiers that are applied should only be applied to the Total Score

rather than the Criteria Specific score otherwise the basis for mitigation or conditions will be less

clear. The preservation of Criteria Specific Score can inform review of the projects design plan

and mitigation measures.

iv. Use of Criteria-Specific Suitability Scores

See above regarding preserving Criteria Specific Scores, even if modifiers are allowed.

v. De Novo Adjudication

I support the approach that during De Novo review the Site Suitability Scores should remain

unchanged. Additionally, I think the EFSB should have a process that is clearly established

beforehand about what changes may be considered de minimis so it is understood by all parties when a new Site Suitability Analysis would be triggered. Project changes or site condition changes that are not de minimis should definitely require a new Site Suitability Assessment that includes community engagement and input otherwise an applicant can change siting during a denovo process with no accountability or consequences.

VI. USE OF METHODOLOGY FOR CONSOLIDATED LOCAL PERMITTING

A. Pre-Filing

Same as for EFSB permitting process: It is excellent that Estimated Scores be shared with stakeholders during the Pre-Filing period and prior to seeking Final Score Determination. I would suggest this is a “shall” rather than a “may” since the term “will be expected” does not carry sufficient regulatory weight. I appreciate that these must be submitted as part of the application to Local Government.

ADDITIONAL NOTE

While it might be assumed that EFSB and DOER regulations will address details of siting, given the importance of various elements of clean energy facility siting, I think these should be mentioned in EEA’s Site Suitability Guideline. I would suggest EEA make explicit mention of these to establish the fact that these need to be included in state regulations, presumably by

EFSB and DOER. These include:

- Minimization of slope for the entire site and installation on slopes
- Constraints regarding earthmoving for construction and installation
- Placement and extent of stormwater controls
- Minimization of erosion conditions
- Required road frontage
- Wetlands buffers
- Buffers outside of the developed area (outside fencing of arrays)
- Total size of developed parcel
- Limitations on contiguous parcels
- Road integrity/length and composition (paved/unpaved)
- Proximity to traffic
- Proximity to residences, businesses or other local uses

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:25 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Alvin Blake <alvinblake@aol.com>
Sent: Thursday, October 16, 2025 3:23 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Becket snd Plannng Board Chair, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard and Board of Health) not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees should go directly to municipalities or town designated - nonprofits may be unfair way for a developer to get local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Regulations should contain a total cumulative impact calculation measuremnt that allows towns not to exceed.further energy storage facilities

10. Finally, I urge you to address the fact that that many municipalities, especially in Western Massachusetts, have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Al Blake
Town of Becket

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:01 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Subject: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Marcia Ciro <r87933@gmail.com>
Sent: Thursday, October 16, 2025 10:28 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To: DOER.Siting.Permitting@mass.gov

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Watertown, I urge that the regulations ensure fairness, transparency, and respect for local authority. I want to see solar power succeed, but not at the expense of our natural landscape, which we need as mitigation for climate change as much, if not more, than solar.

Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.

5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.

6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Marcia Ciro
13 Bay St
Watertown, MA 02472
617-800-4189

TO: DOER.Siting.Permitting@mass.gov

Subject: S&P FOLLOW ON RULEMAKING COMMENTS

From: Town of Charlton, Ma Planning Board

Bill Fontaine, Patsy Rydlack, Don Clay, Leonie Howard, H. Laurie Degnan

CC: Governor Maura Healey, Senator Peter Durant, Senator Ryan Fattman, State Rep John Marsi, Stephen Meno, Andrew Golas, TA, Randy Benson, Jayne Garney, Planners

DATE: October 15, 2025

Dear Department of Energy Resources,

The Charlton Planning Board has participated in several informational sessions regarding site suitability for clean energy infrastructure. We wish to reiterate our concerns about the disproportionate concentration of renewable energy projects In Charlton and other rural communities, while many municipalities host little or none. We understand your position that many cities and towns lack large undeveloped parcels, necessitating the siting of projects in rural areas.

However, urban areas do possess small lots, parking lots, rooftops, and vacant buildings suitable for solar installations and energy storage. Although these sites may not achieve renewable energy targets as rapidly or yield comparable profits for developers, it is imperative that the largest energy consumers also participate in hosting of renewable energy infrastructure. (And not just buy the virtual energy produced on our lands).

The mandates of the Climate Act are fundamentally altering the character of rural communities. The current scoring matrix for site suitability unfairly favors rural, forested lands, enabling developers to "buy" a better score and huge projects also benefit from streamlined Energy Facilities Siting Board (EFSB) permitting bypassing local zoning and boards. To promote equitable siting and preserve the landscapes of towns already heavily impacted by energy development, we respectfully request the following amendments to the "Draft Site Suitability Assessments for Clean Energy Infrastructure":

The Town of Charlton Planning Board respectfully requests the "DRAFT"- SITE SUITABILITY ASSESSMENTS FOR CLEAN ENERGY INFRASTRUCTURE be amended as follows:

III. DEFINITIONS – please **add** the following 2 terms: (Our reasons for the changes or additions are followed in italics.)

> **Net Positive Municipality: A municipality that hosts energy facilities generating more energy and fuel than is consumed by its residents.** *Rationale: This designation recognizes towns that have become net contributors to the state and region's energy supply due to the* inequitable

siting of renewable energy assets. Incentives should encourage developers to locate projects closer to high-demand urban areas. All 351 cities and towns should strive for this.

Burdened Community: A municipality experiencing disproportionate exposure to environmental hazards, cumulative pollution, climate change impacts, and socioeconomic distress, resulting from multiple stressors over time. *Rationale: The current definition restricts "Burdened Area" to Environmental Justice Communities, which is discriminatory against middle-class, English-speaking towns. Municipalities hosting numerous energy facilities should be adequately represented in the scoring metric as burdened, regardless of income or language.*

III. DEFINITIONS – **amend** the following definitions contained in your current draft to add verbiage in red, or strike out and replace with the additional verbiage in red:

"Applicable Facility"– A Clean Energy Infrastructure Facility required to complete a site suitability analysis in order to apply for a Consolidated Permit or Consolidated State Permit pursuant to regulations promulgated by the EFSB and/or a Consolidated Local Permit pursuant to regulations promulgated by DOER. Applicable facilities include large Clean Energy Generation Facilities, Small Clean Energy Generation Facilities, Large Clean Energy Storage Facilities, and Small Clean Energy Storage Facilities. Applicable Facilities also include Large Clean Transmission and Distribution Infrastructure Facility or Small Clean Energy Infrastructure Facility located in a Burdened Area, Burdened Community or a Net Positive Municipality, is required to complete a Cumulative Impact Analysis." ***

*(***Rationale: This addition will allow any municipality, regardless of income, population, language, or location, to provide and request a Cumulative Impact Analysis to take into account any disproportionate exposure to environmental hazards, cumulative water and air pollution, hazardous waste exposure, high energy costs and negative effects on resident's quality of life.)*

Core Habitat - Key areas that are critical for the long-term persistence of rare species and other species of conservation concern, as well as a wide diversity of natural communities and intact ecosystems across the Commonwealth, as identified by the Massachusetts Division of Fisheries and Wildlife in the latest available version of BioMap framework within the Natural Heritage and Endangered Species Program. If a privately owned parcel has not been mapped for BioMap or critical natural landscape criteria, the applicant must hire an independent environmental engineer to analyze and map the parcel. This report will become part of the permitting packet and a copy shall be provided to update the BioMap frameworks.

Critical Natural Landscape. Areas including large natural landscape blocks and buffering uplands around coastal, wetland and aquatic Core Habitats to help ensure their long-term integrity, as identified by the Massachusetts Division of Fisheries and wildlife in the latest available version of the BIoMap framework

within the Natural and Endangered Species Program. If a privately owned parcel has not been mapped for BioMap or critical natural landscape criteria, the applicant must hire an independent environmental engineer to analyze and map the parcel. This report will become part of the permitting packet and a copy shall be provided to the state's environmental framework sites so to update and provide the most accurate information possible.

Cumulative Impact Analysis (CIA) An analysis assessing cumulative impacts and burdens required to be completed by Clean Energy Infrastructure Facilities in accordance with 980 CMR 15.00

"Applicant provides the cumulative impacts analysis" should be amended to "the hosting community and applicant will each provide their own cumulative impact analysis". The municipality is better aware of the "cumulative" incidents that have had impacts on the town's resident's health and welfare and quality of life. Applicants could omit or misinterpret important data and no fact checking can be done. For transparency and complete cumulative analysis, having both entities, the applicant and municipality reports, shall be made public for review and comments.

(It is imperative that all parties see the score reviewer's formal score determination to provide transparency in the siting process.) Request for score review" does not state if it will be allowed – only that one can request it. For continued transparency in this process, these scores should be questioned and confirmed with facts. Allowing only the applicants to submit this criteria could result in deficient and incomplete date. Municipalities have the knowledge and background to provide accurate and historical data that may not be currently available thru internet searches.

***"*Request for Score Review"**– A process through which applicants of applicable facilities may dispute the result of the Site Suitability Score Review's Formal Score Determination. A Request for Score Review of a Consolidated Local Permit application before a Local Government will be ~~considered~~ provided upon request to the DOER. A request for Score Review of a Consolidated Permit or Consolidated State Permit before the EFSB will be ~~considered~~ provided upon request to the EFSB. Amend "will be considered" to "will be considered and allowed".

REMOVE THE FOLLOWING FROM DEFINITIONS:

"~~**Route and Site Scoring**" – An analysis of non-cumulative environmental and social indicators to rank site alternatives in the EFSB permitting process. This analysis is conducted by the EFSB separately from the Site Suitability Assessment, and the results of both analyses will be considered in the EFSB's final decision on an application for a Consolidated Permit, Consolidated Local Permit, or Consolidated State Permit, as applicable. ****~~

(****Route and Site Scoring for the consideration of alternative site selection using any non-cumulative data is disingenuous in its reporting. Since the information gathered is for an interval or point in time, it can be manipulated easily to obtain the score someone wants to report. All sites should be given the same consideration and include only cumulative environmental data and not a combination of the two. This can only lead to misrepresentation of data and skepticism in the EFSB's ultimate decision.

A. APPLICABLE FACILITIES

Clean Energy Infrastructure Facilities applying for a Consolidated Permit Consolidated State Permit or Consolidated Local Permit are required to complete a site suitability assessment, with certain exceptions.

These Exceptions include:

Large Clean Transmission and Distribution Infrastructure Facilities and Small Clean Transmission and Distribution Infrastructure Facilities that are not proposed to be sited in a newly established Public Right of Way;

Large Clean Energy Infrastructure Facilities or Small Clean Energy Infrastructure Facilities located in a or Small Clean Energy Infrastructure Facilities Burdened Area or Burdened Community, that are required to complete a Cumulative Impact Analysis within a Burdened Area, or Burdened Community, pursuant to 980 CMR 15.00; and,

Small Clean Energy Infrastructure Facilities that:

-Have a site footprint of less than one acre;

-Are a Solar facility with a nameplate capacity, as measured in alternating current, less than or equal to 25kW; or

-Are a Behind-the-Meter Small Clean Energy Generation Facility with a nameplate capacity less than or equal to 250 kW.

In closing, I want to stress that Charlton has already adopted zoning regulations based on the DOER published Guidelines of 2014 and town meeting voters voiced their concerns over the changing landscapes and voted to limit the total number of projects. Residents also voted to allow energy storage to be sited as accessory to solar and to allow siting of free-standing battery storage in certain zones. Charlton Planning Board will continue to advocate for our right to govern and shape our town.

Thank you for the opportunity to submit comments and we hope you agree to add these 2 terms to your draft regulations and support equitable siting of all size renewable projects.

Respectfully and sincerely,

Charlton Planning Board Members

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:25 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Lei-Anne Ellis <leianne.ellis@gmail.com>
Sent: Thursday, October 16, 2025 12:53 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,
Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Becket, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:
1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected - broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation. Have it go to various Commission and Boards, not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need to have authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be an unfair way for a developer to get local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.
8. Local Denial & State Override – Clarify whether a town’s “no” can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.
10. Finally, I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

In addition to the above, I am against the deforestation of the Berkshires as we seem to be a target for lots of solar projects. As Growing Solar, Protecting Nature article published by the Audoban, we can meet our 2050 goals without cutting cutting down all the trees which reduces carbon sequestration.
Sincerely,

Lei-Anne Ellis
Becket Resident
108 Valley View Road, Becket MA 01223

Town of Arlington
Office of the Town Manager

James R. Feeney
Town Manager

730 Massachusetts Avenue
Arlington MA 02476-4908
Phone (781) 316-3010

October 16, 2025

To:
Rick Collins
Department of Energy Resources
Division of Clean Energy Siting and Permitting
100 Cambridge St, 9th Floor
Boston, MA 02114

Re: S&P Follow On Rulemaking Comments

Dear Director Collins:

The Town of Arlington is grateful for the opportunity to submit comments on the Draft Regulations for Small Clean Energy Infrastructure Siting and Permitting developed by the Department of Energy Resources (DOER) Division of Clean Energy Siting and Permitting.

The Town appreciates the intent of the regulations: to streamline clean energy project permitting and provide technical support for municipalities, all in pursuit of the Commonwealth's clean energy and climate change mitigation goals. Arlington shares these goals and is working hard to promote residential and commercial adoption of local clean energy projects, as well as lead by example with municipal clean energy projects.

The Town has two primary concerns with the regulations, as proposed:

1) The process of complying with the regulations has the potential to burden denser communities like Arlington, which typically permit only small battery storage systems (of the projects covered by the enabling legislation and regulations). The Town's Department of Inspectional Services generally does not delay approval of these permits and has not received any complaints regarding the timing of approvals. Furthermore, the Town has never seen permit requests for ground-mounted solar systems, given limited viable space for such projects. Adopting a new consolidated local permit process and bylaw changes that would affect only a very small number of projects would be onerous. The processes themselves may yield results that contradict the goals of the legislation, in fact slowing down permitting and delaying projects.

2) Meeting the December 2026 compliance deadline would be difficult for towns with spring town meetings. Arlington's Annual Town Meeting begins in April. Warrant articles must be filed by January 2026, and updated bylaw language would need to be drafted by February 2026, requiring preparations to begin this fall. If final regulations will not be available until March of 2026, meeting these interim internal deadlines will be extremely challenging, if not impossible. Assembling a Special Town Meeting in fall 2026 is technically an option but typically is only done in extenuating circumstances and places a significant burden on staff, Town Meeting Members, and the Town's budget. A deadline of December 2027 would be more reasonable for municipalities to meet.

The Town understands that municipalities like Arlington are not as likely to bear the burden of the large-scale energy infrastructure required to support our regional decarbonization goals, primarily due to space constraints and land costs. While we recognize the burden on rural communities in this respect and the urgent need for a statewide standardized permitting process, the Town requests that the Department consider creative ways to avoid adding more hurdles for denser communities working hard to further the energy transition, such as targeted exemptions for denser communities with few permits for covered projects.

Thank you for your attention.

Signed,



James R. Feeney
Town Manager

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:00 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Balancing Solar and land use

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766



Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: John Howard <john@johnhowardsolar.org>
Sent: Thursday, October 16, 2025 9:47 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Balancing Solar and land use

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear sir,
In the current political climate lack of increased energy build out is causing very high prices for the public! On the other hand, trees are our best way of removing carbon dioxide from the air to prevent climate change. One of the best answers to this is Solar coexisting with farming. Not only does this help us increase our energy protection, but it helps farmers in a difficult time when it is hard for them to grow crops. UMass and many other institutions have been working on Agra Solar for years now. It is often one of those symbiotic relationships where are the panels can help the crops and the crops can cool the panels.

John John Howard 15 The Knolls Rd. South Hadley, MA 01075 413-536-5973. John@johnhowardsolar.org/

October 16, 2025

To: DOER.Siting.Permitting@mass.gov
Subject: S&P Follow On Rulemaking Comments

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Belchertown, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town-designated nonprofits may be an unfair way for a developer to get local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.
8. Local Denial & State Override – Clarify whether a town’s “no” can be overruled; local protections must have weight.
9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.
10. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Stephanie Jo Kent
Belchertown
16 Country Lane, Belchertown MA 01007
413-824-9663

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:46 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of David Kirchner
Sent: Thursday, October 16, 2025 9:20 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 16, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's

proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. David Kirchner
30 Cumberland Street
Boston, MA 02115
(617) 424-0234
dak.kirchner@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:01 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: comment

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

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From: Miriam <mimbck@yahoo.com>
Sent: Thursday, October 16, 2025 10:33 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: comment

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of [your community], I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Miriam and MIke Kurland 566 East St. Williamsburg, Ma. 01096 mimbck@yahoo.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:00 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments from Tewksbury Planner re: Proposed Regulations for Smal Energy Facilities

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

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From: Alexandra Lowder <ALowder@tewksbury-ma.gov>
Sent: Thursday, October 16, 2025 9:01 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comments from Tewksbury Planner re: Proposed Regulations for Smal Energy Facilities

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Below are comments I have related to the definitions and procedures contained in 225 CMR 29.00, for your use:

Community Benefits Agreement.
Does this replace the Host Community Agreements that have become commonplace between host communities and project proponents or is this in addition to such agreements? Who is allowed to enter into these agreements? For example: could a coalition of residents engage with a project proponent to enter into one of these agreements, and does that preclude the host community from negotiating with the proponent?
Consolidated Local Permit/Permit Application.
Does this permit and permitting process include permits issued under the State Wetlands Protection Act? The regulations are silent on the Notice of Intent process and actually use the term to refer to another process.
Constructive Approval.
It is important to further define what a “complete” application looks like or consider allowing additional language such as “unless an otherwise agreed upon extension is approved by both parties” – or else there runs the risk that an incomplete application with fatal errors may receive constructive approval. I do not believe you can rely on the

good faith of applicants alone to ensure constructive approval is not weaponized. Additionally, does this constructive approval include State Wetland Permits?

Notice of Intent

Notice of Intent under the Wetlands Protection Act is not defined whereas an Abbreviated Notice of Resource Area Delineation (ANRAD) and Request for Determination of Applicability (RDA) are defined. This creates confusion of what filings will rest with the Conservation Commission and which will be part of the Consolidated Local Permit.

Site Suitability Score

Generally, this concept creates conflict and presents the illusion of choice. Further, there should be a more robust process for appealing site suitability scores.

225 CMR 29.10(2)

If a community does not have the resources to dedicate to processing a Consolidated Local Permit, it seems unreasonable that it would then be referred to a single Director for the De Novo Adjudication.

225 CMR 29.13(2)

If a community does not have any regulations, bylaws, or ordinances regulating energy facilities, is it required to adopt the model bylaw or some variation? Can they just operate with the regulations promulgated herein?

Thank you,
Alex

Alexandra Lowder
Community/Economic Development Planner
Town of Tewksbury
1009 Main Street
Tewksbury, MA 01876
Office Phone**:** (978) 640-4370 Ext. 248

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:01 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Testimony (DOER)- Siting and Permitting Public Hearing 10/15/25

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766



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From: Enviro Show <enviroshow@valleyfreeradio.org>
Sent: Thursday, October 16, 2025 10:32 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Testimony (DOER)- Siting and Permitting Public Hearing 10/15/25

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

I'm Don Ogden from the Enviro Show broadcasting and podcasting from WMass. I keep asking myself..Why are we still clearcutting our forests for solar?
There is no mitigation for destroying natural carbon capturing forests and allowing all the stored carbon to reenter the atmosphere. There is no minimization for such unnecessary destruction which literally endangers the public and future generations.
As we have been saying and testifying for years now, forests and trees are some of the few natural solutions available to us. They capture CO2 and other emissions daily, year after year after year for free and store the carbon safely away for the life of the forest. Why on Earth, in the midst of the Climate Crisis, would anyone want to destroy trees and forests? Why would anyone want to make future generations' world less livable?
Let me just say in closing: Future generations will look back in horror when they discover we clear cut. forests for short lived solar arrays.

Thanks again for the opportunity to speak

Don Ogden
The Enviro Show
140 Pine Street
Florence, MA 01062

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:00 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: alan@papscun.com <alan@papscun.com>
Sent: Thursday, October 16, 2025 9:53 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of [your community], I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

Definition of "Abutter" – Too narrow; should include "abutters to abutters."

Definition of "Key Stakeholder" – The one-mile limit excludes people who may still be affected; broaden it.

Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.

Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.

Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get local approvals.

Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

Appeals Process – Needs clarity on who can appeal and how.

Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Alan Papscun
40 Glendale Rd.
Stockbridge MA 01262

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Thursday, October 16, 2025 11:00 AM
To: Gage, Allison (ENE); Meno, Stephen (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S & P Follow On Rule Making Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

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From: Jodi Rodar <hooppole@gmail.com>
Sent: Thursday, October 16, 2025 10:06 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S & P Follow On Rule Making Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To: DOER Siting And Permitting
Subject: S&P Follow On Rulemaking Comments

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure.
I live in Pelham, MA, I am writing to ask that that the regulations ensure fairness, transparency, and respect for local authority.
Please change the regulations to address the following:

1.
2. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”

3. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.

4. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.

5. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.

6. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.

7. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

8. Appeals Process – Needs clarity on who can appeal and how.

9. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

10. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

11. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Please respect local communities to know what is in their own best interest.

Thank you for your time regarding this critical issue.
Sincerely,
Jodi Rodar
223 North Valley Road
Pelham, MA 01002

CBR Energy Solutions Comments on Draft DOER Clean Energy Siting and Permitting Regulations

Submitted to the Massachusetts Department of Energy Resources (DOER)
Re: Clean Energy Siting and Permitting Questions for Public Input
(225 CMR 29.00)

Submitted by: Chris Rodstrom, Principal Consultant, CBR Energy Solutions
Date: October 16, 2025

Introduction and Overall Position

CBR Energy Solutions strongly supports the Commonwealth's leadership in implementing the 2024 Climate Act and appreciates the opportunity to provide input on DOER's draft siting and permitting regulations and guidance. These comments focus on DOER's draft regulations for Small Clean Energy Infrastructure Facilities (225 CMR 29.00), which will govern local consolidated permitting. CBR Energy Solutions supports the complementary efforts underway at the Energy Facilities Siting Board for larger projects.

As Energy and Environmental Affairs Secretary Rebecca Tepper stated:

"For decades, the siting and permitting process has been a major hindrance to the clean energy transition. I'm incredibly proud that we were able to find consensus and enact these historic reforms at such a critical time. This new infrastructure is going to strengthen the reliability of our grid, improve public health, grow our economy, and help us transition off polluting fossil fuels."

I strongly suggest that this vision — to speed the deployment of clean energy infrastructure — should be the primary guide for DOER's regulatory implementation. Massachusetts has a long history of strong laws and regulations to protect the environment and its residents, which have helped make the Commonwealth one of the cleanest, healthiest, and most prosperous states in the country. However, overly restrictive regulations will slow or in some cases even halt critical clean energy development. In fact, in conversations with some private energy developers they have shared that they may consider the Massachusetts market as being too difficult and risky and look to other regions in the country for new clean energy projects. Massachusetts can – and must – create a reasonable framework that attracts clean energy developers, projects, and investment. This is all the more important given the

recent, radical changes in federal energy policy and programs that are adding risks and costs to many clean energy projects.

Accordingly, these comments focus on ensuring the new framework:

- Reduces redundancy and subjectivity in local and state permitting;
- Encourages creative, dual-use, and low-impact clean energy development rather than exclusionary siting restrictions;
- Applies consistent, data-driven review standards statewide; and
- Preserves meaningful environmental and public engagement while eliminating unnecessary procedural delay.

Public Health, Safety, and Environmental Standards (225 CMR 29.06)

Safety and environmental protection can coexist with accelerated project deployment if DOER relies on existing, well-established standards rather than creating new or duplicative requirements.

Recommendations:

- Reference existing MassDEP and NFPA standards (310 CMR 7.10 for noise, 310 CMR 10.00 for wetlands, 527 CMR 1.00 and NFPA 855 for energy storage) to ensure consistency and prevent regulatory overlap.
- Establish performance-based rather than prescriptive standards for setbacks, screening, and lighting.
- Recognize that clean energy facilities have minimal operational emissions, and focus environmental standards on siting context (flooding, stormwater, soil management) rather than arbitrary distance thresholds.

Site Suitability, Minimization, and Mitigation (225 CMR 29.07)

Communities should not have unilateral authority to deny projects solely based on a high Total Site Suitability Score. Instead:

- Scores should guide minimization and mitigation, not function as a de facto veto.
- DOER should define clear thresholds — e.g., scores above 15 trigger enhanced mitigation, formal consultation, and documentation, not automatic disqualification.

In addition:

- Site suitability assessments should be limited to the proposed project, not considered alternatives.
- The geographic extent of site suitability assessments should be narrowly focused on reasonably expected, potential direct impacts of the project. Further, it should not require an expansive buffer that would unfairly and inaccurately score a project as having more impacts than it would.
- Allow for inclusion of net positive impacts of clean energy projects on the surrounding area, environment, and communities. Deploying clean energy projects, including associated grid improvements, is critical to addressing climate change impacts that pose serious (and growing) risks to the Commonwealth. Balancing the (generally) short-term impacts of constructing clean energy projects with the long-term benefits of their operations on addressing climate should be fairly weighted in any siting assessment.

CBR Energy Solutions is skeptical of any categorical restrictions on clean energy projects located on agricultural land. Massachusetts' siting policy should prioritize how agricultural land is used, not whether it can be used. And for some struggling farmers, siting a clean energy project on a portion of their property can be critical to the long-term economic viability of their family farm.

Recommendations:

- Evaluate agricultural projects by performance criteria — soil protection, vegetation management, and reversibility — rather than soil class alone.
  - Recognize agrivoltaic practices (sheep grazing, crop production under panels, pollinator-friendly vegetation) as compatible with agricultural preservation and assign favorable Site Suitability scores to such designs.
- Explicitly recognize temporary use and reversibility: projects maintaining topsoil and native groundcover can return to full agricultural use at the end of their operational life.
- Integrate UMass Clean Energy Extension agrivoltaic and pollinator-friendly standards into scoring guidance. Restricting solar or storage development on agricultural soils would slow deployment, reduce land availability, and undermine the Climate Act's intent to expand clean energy capacity rapidly while maintaining stewardship values.

DOER should consider a tiered mitigation scale linked to criteria-specific scores, for example:

- ≤1.0: No mitigation required
- 1.1–3.0: Modest minimization/mitigation
- 3.1–4.0: Significant mitigation
- >4.0: Extensive or compensatory mitigation (e.g., offsite restoration, trust fund contributions).

Mitigation should correspond to impact categories (e.g., biodiversity or farmland) rather than total score alone.

Environmental Justice (EJ): Ensuring Proportionate Review and Recognizing Clean Energy Benefits

CBR Energy Solutions supports the inclusion of Environmental Justice (EJ) considerations in the siting and permitting process, but urges DOER and EEA to apply these provisions in a manner that reflects the vastly lower impacts and higher public benefits of clean energy projects compared to legacy fossil fuel and heavy industrial uses.

Clean energy infrastructure — such as solar, battery storage, and transmission upgrades — has minimal emissions, limited noise, and temporary construction impacts. These projects are essential to reducing the pollution burden historically experienced by EJ communities and will directly deliver benefits including job creation, municipal tax revenue, and cleaner air.

Recommendations:

- Ensure that EJ review requirements are proportional to actual project impacts, with streamlined review for facilities that pose negligible air quality, noise, or land-use risks.
- Clarify that fossil fuel and clean energy facilities differ fundamentally in their cumulative impact potential, and should not be subject to the same procedural thresholds.
- Encourage EJ engagement focused on co-benefits, including workforce development, local contracting, electric vehicle charging infrastructure, and community solar participation, rather than adversarial consultation processes.

- Recognize that accelerated clean energy deployment is itself an environmental justice strategy — delivering the greatest air-quality and affordability benefits to historically overburdened communities.

In short, equity should enable, not impede, the clean energy transition.

Pre-Filing Requirements (225 CMR 29.08)

Effective pre-filing engagement reduces conflict and shortens review. DOER should promote a streamlined, transparent process that enables early dialogue without creating new procedural hurdles.

Recommendations:

- Require early coordination meetings with the host municipality and abutters (300–500 ft radius), EJ organizations, and tribal representatives.
- Encourage public information sessions before application submission, especially for large projects.
- For small facilities (<1 acre or <5 MWh), limit pre-filing to basic abutter notice and online posting.
- Provide a uniform pre-filing checklist template to replace inconsistent local requirements.

Consolidated Local Permit Application and Review (225 CMR 29.09–29.10)

To realize the Climate Act's promise, DOER must prevent local procedural friction from reintroducing delay or create new impediments.

Recommendations:

- Define "complete application" narrowly and objectively. Applications should be deemed complete when the core required elements (site plan, formal Site Suitability Score, outreach documentation) are submitted.
- Prohibit municipalities from rejecting or tolling applications for minor (e.g., clerical) errors or formatting issues.
- Disallow town-specific NOI checklists or extra documentation requirements beyond DOER's standardized forms.
- Provide a 10-business-day cure period for minor corrections before constructive approval timelines begin.
- Make the 12-month decision clock mandatory, with constructive approval applying automatically if deadlines are missed.

- Enable the Regulatory Circuit Rider to intervene when towns attempt to impose extraneous submittal standards inconsistent with 225 CMR 29.00.
- Clarify that submittal requirements for building permits (eg. Final design drawings, manufacturer equipment specifications, etc) are not required for obtaining all other permits and approvals.

These steps will prevent "local completeness gamesmanship" that can and has too often delayed permitting.

Regulatory Circuit Rider (225 CMR 29.11)

The Circuit Rider should serve as both a technical assistance resource and enforcement mechanism to maintain process consistency.

Recommendations:

- Focus assistance on pre-filing and completeness determinations, where most municipal bottlenecks occur.
- Provide on-demand office hours and training for local boards.
- Empower the Circuit Rider to issue advisory determinations when local requirements or implementation exceed DOER's authority.

Common Conditions and Constructive Approval (225 CMR 29.12)

Recommendations:

- Include standard conditions for decommissioning and site restoration, financial assurance, stormwater and noise compliance, and construction-phase inspections.
- Clarify that constructive approval applies automatically and immediately if a municipality fails to act within prescribed timelines, ensuring accountability and predictability.

Enforcement and Modifications (225 CMR 29.14)

Recommendations:

- Require Notice of Transfer rather than new review for successor ownership.
- Minor modifications are common in the rapidly changing clean energy market (e.g., change in equipment/manufacturer, inverter relocation, layout refinement). Allow developers this important flexibility and make them eligible outright, or with speedy (e.g. 1-2 week) administrative approval.
- Limit major modification reviews to 90–120 days.

- Ensure enforcement emphasizes compliance assistance and transparency rather than punitive delay.

Concurrency and Transition Periods (225 CMR 29.05)

The proposed nine-month concurrency period is reasonable but should allow projects in local review to opt into the new consolidated process voluntarily. A clear transition roadmap will prevent stranded projects and ensure continuity of investment.

Conclusion

The 2024 Climate Act represents a once-in-a-generation opportunity to modernize Massachusetts' siting and permitting framework. To honor Secretary Tepper's charge to "speed the deployment of clean energy infrastructure", DOER's final regulations must:

- Streamline and standardize local review;
- Incentivize low-impact, reversible, and dual-use siting;
- Apply proportionate EJ and environmental standards; and
- Prevent procedural delay and subjectivity from re-entering the process.

By focusing on clarity, consistency, and speed, Massachusetts can achieve its climate, reliability, and economic development goals while maintaining its longstanding commitment to environmental and community protection.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:25 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow Up On Rule Making Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: annesalas@comcast.net <annesalas@comcast.net>
Sent: Thursday, October 16, 2025 2:04 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow Up On Rule Making Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of [your community], I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of "Abutter" – Too narrow; should include "abutters to abutters."

2. Definition of "Key Stakeholder" – The one-mile limit excludes people who may still be affected; broaden it.

3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.

4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.

5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get local approvals.

6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes. This

    should Not have to be done under the pressure of a lawsuit by a solar developer, as happened in my community. Leaving abutters to do massive amounts of research, close examination of plans submitted by developers to discover irregularities and outright dangers posed to the people and their homes abutting and close to these projects. Developers should not have the ability to go directly to litigation with municipalities when their judgement is that a project would endanger the health, safety and welfare of the public. This, too, is part of MGL c. 40A s. 3.

11. Compensation to homeowners when our homes are destroyed by fire, toxic soot damage and any damage incurred due to a nearby solar or wind project failure, should be requisite in the plans of all solar and wind developers. Particularly when they litigate against a municipality in order to site a project within underlying residential zoning to abut residential homes. Suing municipalities to acquire setback variances bringing the dangers even closer to residential homes and people. Spot Zoning for industrial scale solar zoning on top of residential zoning should be absolutely outlawed.

There is no logic to the idea of clear cutting acres of trees, the lungs of the planet, to make room for solar or wind development. All efforts should focus on parking lots and rooftops before tree cutting is considered.

Sincerely,

Anne Salas
Marstons Mills, Ma

October 17, 2025

MA Energy Facilities Siting Board (EFSB)
MA Department of Public Utilities (DPU)
MA Executive Office of Energy and Environmental Affairs
MA EEA Office of Environmental Justice and Equity

Montachusett Regional Planning Commission
established 1968
Commonwealth of Massachusetts

RE: Formal Comments from the Montachusett Regional Planning Commission (MRPC) on the DRAFT Small Clean Energy Infrastructure Facility Siting and Permitting

Dear EFSB, DPU, EOEEA, and EEAOEJE:

The MRPC submits these comments based on the general characteristics of the 22 communities within the MRPC's service area and discussions with community stakeholders in response to the DRAFT Small Clean Energy Infrastructure Facility Siting and Permitting Regulations (Regulations). We agree that there needs to be a standard for siting and permitting small clean energy systems so that all applicants have an equitable and expedited process that is uniform and efficient throughout the state. While we appreciate this effort and that the state is providing a model bylaw and uniform application to assist communities in complying with this effort, we believe that achieving compliance by our smaller communities may be burdensome.

There are 22 communities within MRPC's region, plus the planned business community of Devens, with 17 of the 22 being rural by state definition. The 2020 U.S. Census populations of the 22 range from 1,194 to 43,782 persons. Most have limited or no staff capacity to undertake this process and rely heavily on MRPC for zoning evaluations and amendments, as well as many other municipal topics.

The following summarizes MRPC's comments on the proposed Regulations.

29.02: Definitions

Key Stakeholders: This definition is too broad and not specific enough for an applicant to know who to notify. In saying "Key Stakeholders ***may*** include…" gives ambiguity to those listed. For all other local boards, there is a specific list of who shall be notified, such as in Ch. 40A, §11 as "parties in interest" or in Ch. 131, §40. And who verifies that the correct people have been notified? Once an application is submitted to local boards, those boards then are required to provide notice to parties in interest or abutters within a certain distance, so is this duplication?

The definition also calls for notifying Organizations within 1 mile and Community-based organizations. This seems too vague and how would the Applicant know who these organizations are? And are all the engagement activities required to be within that 60-day period before submission of an Application?

464 Abbott Avenue Leominster, MA 01453 978.345.7376 fax: 978.348.2490 email: mrpc@mrpc.org

Small Clean Energy Generation Facility: Should there be some indication in the definition of how many acres it would be for a 25-megawatt facility? I was surprised that it takes 125-200 acres typically for that size array or 5-8 acres per megawatt.

Town Clerk: Is the MA Town Clerk's Association aware of their position as the default Local Government Representative? This may cause issues in some of our communities with workload.

General Comment: Would it be useful to put in a definition of Social and Environmental Benefits and Burdens to assist the applicant and local boards?

29.07(4) Request for Score Review:
The first sentence sounds funny, maybe leave out the words "submitted to a Local Government" it would flow better and be more succinct.

The statement "Such request shall contain a detailed description of the error(s) that the party asserts were made in the calculation of one or more scores and the Department shall complete its review within 30 days of receipt. The score determination by the Department shall be final and not subject to appeal." Would sound clearer as:

> *Such request shall contain a detailed description of the error(s) that the party asserts were made in the calculation of one or more scores. The Department shall complete its review within 30 days of receipt and the score determination shall be final and not subject to appeal.*

29.07(7)(b)(1) Compensatory Environmental Mitigation Fees:
It would be better for a Local Government to hold the fees in a revolving account under Ch. 44, §53E½ as they are familiar with this type of account and use them regularly for many departments collecting fees.

29.08(2): Notice of Intent to File Application:
If the Pre-filing Period is not more than 60 days prior to submission of a Consolidated Local Permit Application and subsequently the Applicant does not file a Consolidated Local Permit Application because of unforeseen delays following the 60 days, is there any penalty to the Applicant?

29.08(4):
If the Local Government Representative (LGR) must determine whether the Applicant has completed all pre-filing requirements within 30 days of submission of the NOI, how does the Applicant have time to do the engagement of Key Stakeholders AND a meeting with Town Officials, among other activities. It appears in (4)(e) that the Applicant will affirm they will do engagement after the submission of the NOI and so would have 30 days to do all the Pre-filing activities and submit to the LGR for the LGR to determine within 30 days of submission of the NOI if this has been completed. Thirty days is a very quick turn around, especially for communities with limited capacity and for Applicants.

29.09(2)(h) Consolidated Local Permit Application:
The word "description" in the second instance should be deleted.

29.10(1)(c):
It is unclear when the 7 days begins; is it after the LG says the Application is complete or is it within 7 days of submittal of the Application?

29.10(2)(a):

Would it be possible for LG's with no capacity to opt-in to a program where the EFSB reviews all Applications submitted to that LG? Some of our communities have no capacity and probably never will.

Please feel free to call upon us at any time. For any questions related to these comments, please contact Karen Chapman at kchapman@mrpc.org.

Sincerely,

Glenn Eaton (Oct 17, 2025 16:25:39 EDT)

Glenn P. Eaton
Executive Director

Cc: Kristofer Munroe, Chairman
Karen Chapman, Planning and Development Director
File

MPRC_Energy Siting Comments 10.17.25

Final Audit Report 2025-10-17

Created:	2025-10-17
By:	Karen Chapman (kchapman@mrpc.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-nczmNUXZn3N-p67eOtPzUt_IUkwbC7W

"MPRC_Energy Siting Comments 10.17.25" History

Document created by Karen Chapman (kchapman@mrpc.org)
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2025-10-17 - 8:23:38 PM GMT

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Signature Date: 2025-10-17 - 8:25:39 PM GMT - Time Source: server

Agreement completed.
2025-10-17 - 8:25:39 PM GMT

Adobe Acrobat Sign

TOWN OF HAWLEY
MASSACHUSETTS 01339

TOWN OFFICE
8 PUDDING HOLLOW ROAD
TELEPHONE: 413-339-5518
FAX: 413-339-4959

October 12, 2025

Dear Members of the Energy Facilities Siting Board:

We are writing about the request for comments on the proposed Small Clean Energy Infrastructure Facility Siting and Permitting regulations. We hope that you can understand and respect that fact that that the Selectmen of Hawley (population just under 320) serve with minimal compensation and have other extensive commitments.

Hawley has two part-time office employees, who are overextended and lack the expertise to assist the Board in responding to this without researching the matter further. As these regulations create a new and unique pathway for permitting involving multiple town boards and departments, we cannot, at this stage, respond in a coordinated, informed way to this draft.

Consequently, the Town of Hawley requests an extension of the comment period.

With thanks,

Will Cosby
Board of Selectmen, Hawley

Hussain Hamdan

Robert MacLean

Thursday, October 16, 2025

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Yarmouth Port on Cape Cod, I support the proposed regulation, which offers important benefits for municipalities, communities, and the Commonwealth. By consolidating local approvals into a single Consolidated Local Permit and establishing defined approval timelines (§29.04, §29.12), municipalities and applicants gain clarity and predictability. This predictability allows municipalities to plan resources effectively while navigating the permitting process without unnecessary obstacles

Importantly, there are vital changes that should be made so that local authorities are not undermined in their ability to ensure fairness and transparency. Please consider changing the regulations to address the following:

1. Definition of "Abutter" – Too narrow; should include "abutters to abutters."
2. Definition of "Key Stakeholder" – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.
8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.
9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.
10. Finally, I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,

Susan Starkey

55 Route 6A, Yarmouth Port, MA 02675

DOER's Clean Energy Siting & permitting Regulation Westborough Comments

Town of Westborough

Please use this document to record any comments you may have related to this regulation in the appropriate section of the document.

Sustainability Coordinator:

Economic Development:

How does the new regulations align with economic justice geographic areas? Would it become more difficult to site projects in areas that are industrial/commercial in nature but are also in EJ communities?

Building Department:

Planning Department:

How should the Consolidated Local Permit process interact with existing site plan review and conservation permit processes, particularly when each is governed by different boards? What qualifications would the "Local Government Representative" need to have? Who appoints this position?

Would municipalities still be able to implement peer review services?

Can the Planning Board still apply their Rules and Regulations and Design Standards/Guidelines to proposed projects?

Conservation Department:

Engineering Department:

Westborough Fire:

Westborough Police:

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:46 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Hannah Yoo <hyoo1815@gmail.com>
Sent: Thursday, October 16, 2025 7:40 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Boston, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
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4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.
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10. Finally, I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Hannah Y.
Boston
hyoo1815@gmail.com

MMA | Massachusetts Municipal Association

3 Center Plaza, Suite 610 • Boston, MA 02108
617-426-7272 • 800-882-1498 • fax 617-695-1314
www.mma.org

October 17, 2025

Director Rick Collins
Clean Energy Siting & Permitting Division
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

(Delivered electronically)

Dear Director Collins,

On behalf of the 351 cities and towns of the Commonwealth, the Massachusetts Municipal Association (MMA) writes to share comments on 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting. The draft regulation seeks to implement the 2024 climate law's provisions related to streamlined and consolidated local government permitting processes for clean energy infrastructure, including solar, battery energy storage system (BESS), and wind projects.

This reflects just one portion of the significant task before the Healey-Driscoll Administration to enact the policies articulated within Chapter 239 of the Acts of 2024. We thank you and the Clean Energy Siting & Permitting Division for the work and engagement that has contributed to this draft.

We also deeply appreciate the thought and careful consideration given to the wider policy work of the Department of Energy Resources (DOER), Department of Public Utilities (DPU), Energy Facilities Siting Board (EFSB), and Executive Office of Energy and Environmental Affairs (EEA) over the past several months.

It is critical for all to understand the massive effort these agencies, as well as your division, have undertaken since the start of this year. From initial stakeholder sessions on straw proposals this spring, to summer meetings with the EFSB, and several overlapping public comment periods this fall, this draft regulation represents just one of many opportunities for municipal governments and interested parties to contribute to the collective success of clean energy infrastructure policy reform.

As you know, the Massachusetts Municipal Association participated in the Commission on Energy Infrastructure Siting and Permitting. That commission was tasked to investigate the speed of clean energy siting and permitting and make recommendations to improve the process. Throughout that commission's work and the subsequent legislative process, the MMA has consistently articulated common concerns that carry forward to this regulatory process. Local governments need reliable, reputable, science-based information to make informed decisions on proposed projects. Local permitting authorities also need project proponents to make every effort to submit complete applications and meaningfully engage with stakeholders and local governments as early on as possible in the process.

What is clear is that these draft regulations make a significant step in a positive direction on these two priorities. We thank you for incorporating scientific standards and widely-accepted best practices into the draft regulations. We appreciate the provision of baseline standards for engagement and application completeness.

The MMA strongly recommends a final approach that is feasible not just for clean energy developers, but for local permitting agencies who will continue to serve as first responders for community questions and concerns, as well as in cases of emergencies and disaster.

Local permitting decisions have had long-lasting impacts on the financial and environmental wellbeing of communities across Massachusetts. The decisions made on future clean energy infrastructure projects have this same potential. As such, we have remaining concerns within the draft regulations and urge your consideration to improve the municipal review and approval process for solar, battery storage, wind, and other clean energy infrastructure projects.

Clarify Legality of Local Bylaws, Ordinances, and Standards

225 CMR 29.00 sets forward standards and practices for local government review of clean energy infrastructure facilities. The draft regulations contain several references and mentions that local governments "shall comply" or "must comply" with the provisions within. This complicates the framing and communication the Division and the Healey-Driscoll Administration used when sharing information with municipalities, and needs to be clarified.

The draft regulations include a section on concurrency and transition periods. This section specifically includes the following sentence: "*Applicants and Local Governments must comply with the standards and practices established in 225 CMR 29.00 no later than December 1, 2026*" (Section 29.05, pg. 6).

The regulations later state that local governments may adopt a modified model bylaw to outline how a municipality will conduct the consolidated local permit application review process. This section enables a municipality to adopt such a modified bylaw, "*provided such modifications do not conflict with the requirements of 225 CMR 29.00*" (Section 29.13, pg. 16). A similar phrase is

used when discussing the adoption of additional, supplemental public health, safety, and environmental standards.

Additional clarification is needed outlining the options available to municipalities, and what the Division might define as conflicting with the requirements laid forward by the regulations and law. Throughout the public information sessions and hearings, and in several conversations with MMA's policy committees, questions have been raised on whether local bylaws that are more stringent than the Division's regulations will be able to stand.

Further, local officials have expressed confusion on whether they need to undergo review of their existing bylaws or ordinances to determine whether they will be in compliance with the various "shall follow" phrases used in these draft regulations. The broad application of 'Municipality' employed by the draft regulations (Section 29.02, pg. 2), in conjunction with these phrases that read as requirements, rather than options, leave local governments with little room to set their own policies or standards that deviate from the draft regulations or the referenced guidance documents, most of which were not available to review during the public comment period for 225 CMR 29.00.

This dynamic further exacerbates the complexity of this widesweeping policy reform and limits any local government's ability to thoroughly review and comment on the draft regulations within the short comment period.

We urge the Division and the Administration to determine whether these regulations are, in fact, one of several pathways to municipal compliance with the 2024 Climate Act, or whether legal challenges could be brought against any municipality who does not adopt a new bylaw or ordinance to explicitly follow these procedures, especially if they apply conditions that could be construed to 'conflict with' the requirements within 225 CMR 29.00.

Create Alternative Pathway to Specify Default Municipal Representative

We have concerns over the multiple definitions pertaining to municipal representatives used throughout the draft regulations. We recommend a simpler mechanism for cities and towns to use to clearly communicate who should be the primary point of contact for clean energy infrastructure applications and review.

This section of comments specifically refers to the definition of 'Local Government Representative' (Section 29.02, pg. 3) and 'Town Clerk' (Section 29.02, pg. 5).

As defined in Section 29.02, a Town Clerk is to serve as the "*default Local Government Representative, unless specified otherwise by bylaw or ordinance.*" This representative would be responsible for coordinating a municipal response, unless a municipality adopts modified bylaws

or an ordinance to change this default and/or lay out a different order of operations for project review (Section 29.13, pg. 16).

Assuming a municipality does not adopt a modified bylaw or ordinance prior to December 1, 2026, when the draft regulations state municipalities "*shall follow*" the procedures and requirements within, this places a significant responsibility and burden on city and town clerks. Many member municipalities have expressed that building or planning directors would be a more suitable default contact person for clean energy infrastructure permit applications, rather than their community's clerk.

We appreciate the intention of the draft regulations to identify one common municipal representative, but feel the process to amend this default point person is more complicated than it needs to be.

The Division has frequently stressed the quick timeline for local governments to adopt modified policies outlining the process they aim to follow. The timeline is especially short for communities with a town form of government whose Town Meeting would be reviewing such a bylaw. We know your team is aware of the complexities involved with getting a modified bylaw ready in time for a December 1, 2026 effective date, and wish to suggest a simpler pathway for municipalities to designate a 'default Local Government Representative.'

We believe it would be less burdensome for communities to be able to comply with this process if a municipality was able to designate a default representative with a letter or written communication from the chief municipal executive. This could be the sole amendment needed to give municipalities more time to conduct thorough review of the Department of Energy Resources model bylaws for solar and storage projects, without delaying the proper review of projects submitted in the first few months of this new process.

We would also recommend the Division maintain an easily accessible list of such default representatives to provide developers and other interested parties a clear way to identify who projects should be submitted to. This list could be searchable by community and updated as communities adopt modified bylaws that supersede such a letter designating a temporary or permanent point person.

To add this critical flexibility to the draft regulations, we suggest an updated definition of 'Town Clerk' to read as follows: "*Town Clerk. An officer of the Municipality as defined under M.G.L. c. 41, § 15. For the purposes of these regulations, the Town Clerk shall serve as the default Local Government Representative, unless* otherwise designated by the chief municipal executive or *specified otherwise by bylaw or ordinance*."

Clarify Implications of Open Meeting Law on Application Completeness Determination

The draft regulations incorporate pre-filing requirements, including specifics on how a local government is to determine an application's completeness. As articulated in the draft regulations, local governments would have a 30-day review window to determine whether an applicant has completed all of the necessary pre-filing requirements in a 'Notice of Intent to File Application.'

A 'Local Government Representative' is set to determine if the applicant has completed all of these requirements, and expressly mentions that the representative "*may consult other municipal officials in carrying out the duties required in this section*" (Section 29.08, pg. 10). This process is complicated by Open Meeting Law limitations and meeting notification requirements.

Within just 30 days, a local government representative, which is assumed to be the Town Clerk by the draft regulations, would likely need to confer with the various boards and commissions responsible for the review of this notice. Should these boards or commissions subject to Chapter 30A, Section 20 be consulted by the local government representative to speak on the completeness of these pre-filing requirements, they must comply with the notice requirements of the Open Meeting Law which would further extend the timeline for response.

We suggest an extended pre-filing completeness determination timeline of at least 60 days in order to account for such consultation and the filing, posting, and notice requirements of the Open Meeting Law. While municipalities are bound by the explicit timeline set forward in the 2024 Climate Act for application completeness review (30 days), the law is silent on the timeframe for pre-filing completeness determination, and additional flexibility would be welcome given these concerns regarding Open Meeting Law.

Continue, Expand Public Education Campaign on Clean Energy Infrastructure, Reforms
Municipalities across Massachusetts have very different and unique experiences with projects proposed in their communities, and as a result, have varying degrees of interest in welcoming additional facilities to their neighborhoods.

A top priority must be continued education and support for all parties involved in this process. For decades, municipal governments have taken on a serious responsibility to learn about new technologies, weigh environmental, and public health criteria as research was being conducted, and make the best decisions possible given what information was available. While some communities have had overwhelmingly positive experiences with clean energy, others have encountered serious challenges, lawsuits, and immense pushback from residents and concerned citizens.

Now, as the state steps in with guidance, models, and requirements for solar, battery, wind, and other clean energy projects, the Healey-Driscoll Administration must make every effort to educate, inform, and train decision makers and communities about this new process.

Local governments will be hard at work to prepare modified bylaws and adopt a procedure that protects them from potential lawsuits or legal challenges. The state must ramp up its efforts to meet communities where they are, explain the climate goals that point us in this direction, and articulate the support and resources available given the rapid pace of development that is sought after.

Without building public consensus and understanding, you will face pushback from those who have felt left behind or burdened by previous decisions. We urge you to utilize state resources and avenues to do this, because without prompt disbursal of information and support, communities will be left with challenging decisions. They might choose to cede their permitting authority to the Energy Facilities Siting Board for certain projects, leaving them with limited opportunities to secure community benefits or impact final decisions. Or, they might allow the 12-month review timeline to run out, resulting in constructive approvals with baseline conditions that are not aligned with the interests and concerns of the local community.

As such, these next few months will be critical to explain and contextualize the rapid development of clean energy infrastructure across Massachusetts. Our membership looks to the state to provide the comprehensive public education campaign articulated in the 2024 Climate Act and the final Recommendations to Governor Healey on Clean Energy Infrastructure Siting and Permitting Reform.

We urge the Clean Energy Siting & Permitting Division to continue hosting webinars, regional events, and community-specific meetings to explain the draft regulations and the local permitting process of the future. We also encourage that this information be made available for Massachusetts residents in a way that is accessible to all, no matter their understanding of climate change or clean energy infrastructure. For centuries, city and town halls have been a central, reliable location for residents to learn about upcoming projects and initiatives that will impact their daily lives, their commutes, and the vibrant communities they call home. Clean energy infrastructure development is, for many, an incredibly sensitive topic. Whatever resources, mailers, or brochures that can be made available for city and town halls to have available to residents who are seeking additional information on the new permitting process, would be welcome news to our members.

Expand Definitions Related to Public Engagement

We echo the comments of many local officials and stakeholders throughout the information sessions and public comment hearing regarding two limited definitions concerning public engagement and notification processes.

A narrow definition of ‘Abutter’ is employed by the draft regulations (Section 29.02, pg. 1). We recommend considering a slightly expanded definition commonly employed by municipalities in

regards to zoning which also accounts for "*abutters to the abutters within three hundred feet of the property line of the petitioner*" (M.G.L. Chapter 40A, Section 11).

Within the definition of 'Key Stakeholders' (Section 29.02, pg. 3), we urge caution and reconsideration of the phrase "*located within one mile of a proposed Small Clean Energy Infrastructure Facility.*" This phrase has introduced confusion surrounding meaningful efforts these regulations and referenced guidance documents take to address problems with community engagement. A one mile restriction has a very different impact on a project proposed in a dense, urban community compared to a much more rural, tiny town, and introduces several questions about how such a one mile restriction or radius is to be determined by a host municipality or project proponent.

In summary, we thank you for your review of the concerns outlined above. We appreciate your consideration of the comments of municipal officials throughout the public information sessions and public comment hearing. As is no surprise, local government officials, staff, and volunteer board and committee members will continue to have feedback for your division in the months ahead. We urge you to carefully weigh the practical and political concerns local governments raise as they engage with your team, these regulations, and the new process ahead.

The 351 cities and towns of the Commonwealth play an incredibly important role in building public consensus and confidence in the transition to clean energy. Resources and support are needed to foster understanding of the draft regulations and any forthcoming changes or edits made as a result of the public comment process this fall. We look forward to working with you to share information with local governments and raise awareness of these impending requirements.

Thank you again for your review of these comments. If you have any questions or desire further information, please do not hesitate to have your office contact me or MMA Senior Legislative Analyst Josie Ahlberg at jahlberg@mma.org at any time.

Sincerely,



Adam Chapdelaine
Executive Director & CEO

TOWN OF
AMHERST
MASSACHUSETTS

Conservation & Development
(413) 259-3045
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October 17, 2025

Energy Facilities Siting Board
Department of Energy
100 Cambridge Street, 9th Floor
Boston, MA 02114
DOER.Siting.Permitting@mass.gov

RE: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting;
Guidance on Site Suitability Assessments for Clean Energy Infrastructure; and
Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

Dear Energy Facilities Siting Board,

The process for disseminating and vetting these regulations and guidance to impacted cities, towns, and municipal officials for comment has been problematic, fundamentally inequitable and non-inclusive. The implementation timeline for these regulations has been so dramatically compressed that key stakeholders are being systematically excluded from meaningful participation. Unreasonably short comment periods, coupled with delays in providing essential supplemental documents—some of which remain outstanding—have effectively silenced those most affected by the development of these regulations. It is contradictory that terms like "community" and "stake holders" are mentioned over and over again in the regulations, meanwhile, those same entities are being structurally excluded from review and comment on the regulations, and supporting documents as a result of unfair deadlines.

The rushed approach raises significant equity concerns about the process the state is following. Municipalities without the budgetary or staffing capacity to even respond in adequate time to provide comment, as a result of such an accelerated timeline are being denied a voice in shaping regulations they will be required to implement. The result is an inequitable process where decisions are being made *about* affected communities rather than *with* them.

Moreover, the truncated review process undermines the quality and feasibility of the regulations themselves. Without adequate time for stakeholder engagement, input and proper vetting, these requirements risk being arbitrary, overly burdensome, and ultimately unworkable for the municipalities

expected to implement them—particularly given the lack of corresponding resources and staffing support.

Our town and resident commitment to clean energy and climate resilience is unwavering. It is precisely because we share these clean energy goals that we are concerned that the rushed implementation of these regulations threatens to undermine the regulations legitimacy, environmental protections, as well as community and stakeholder buy-in.

The Comments I could gather below are provided for your consideration; however, the Conservation Commission has not had the privilege of conducting a comprehensive and thoughtful review in advance of the submission of these comments. We urge EFSB to allow additional time for review and comment on *all* documents associated with the comment period.

29.02

Constructive Approval: 12 -months is not adequate amount of time for all municipal boards and committees to complete their comprehensive review and approval of every application. Every site is different, and unique conditions or challenges associated with projects of this magnitude may require a peer review, and consult of outside experts to guide revisions, designs, recommendations and approvals for safe and sustainable projects. Cities and Towns rely on volunteers that serve on boards and committees. There are requirements for Open Meeting Law compliance, joint meetings, holidays, sometimes lack of quorum due to illness, and internal staff coordination. Even for towns well equipped to handle permit application and the review process demands will be substantially and unreasonably challenged to meet this arbitrary and unreasonable mandated deadline.

Minimization, should read “reduction of impacts to the greatest degree possible” (not the smallest degree possible).

Site suitability score reviewer. There should be more specificity with regards to who is appropriate municipal professional to step into this newly created role.

29.07 (2) site suitability report should include identification of any and all potentially detrimental or hazardous materials or impacts projected by the project (listing of all hazardous materials, equipment or components and the elements that they contain, like heavy metals, chemical hazards, and PFAS, with the potential for contamination of soil or groundwater so municipalities can identify if there are adverse potential impacts to public drinking water supplies (like well head areas, surface protection areas, aquifer protection districts).

29.08 Pre-Filing Requirements and 29.09 Consolidated Local Permit Application: As these regulations are currently written, municipalities have the potential of being get caught in a continual cycle of submission, review and denial for poorly cited projects and incomplete applications. This wastes crucial town resources and services rushing to meet the states arbitrary and unreasonable mandated deadline, with

no repercussions to the applicant. Recommendations: (1) a substantive additional fee for preliminary pre-filing review prior to submission of an application and (2) after a permit application is submitted, if it is deemed incomplete there should be a 30-, 60- or 90-day window during which the applicant cannot resubmit. Incentives to applicants submitting complete applications and consequences to discourage incomplete submission are needed.

29.07 (7) There is a great potential for misuse of Compensatory Environmental Mitigation Funds. (1) Towns should be required to set up special mitigation fund accounts, and the funds should only legally be able to be used for that express purpose, (2) If outside non-profit organizations or agencies are permitted to accept these funds there should be a mandatory reporting and audit process to ensure that they are used for projects that provide mitigation for the actual impacts specifically outlined and agreed to in the permit.

For "impacts the facility may have on a community" there should be specific requirements outlined for what that includes: traffic and road study and safety impacts (temporary and permanent), infrastructure, visual impacts (these can all result in greater secondary project foodprints and environmental impacts not accounted for in the approved application), cut and fill analysis, slope analyses, test pit reports, adverse impacts to stormwater infrastructure and resource areas.

29.08 (2) © Some Abbreviated Notices of Resource Area Delineation cannot be completed within a 1-year period (for example, if the site includes vernal pools protected under a local bylaw, and vernal pool season has lapsed at the time the application is submitted), or winter submissions. Applicants can take advantage of these rushed unreasonable timelines to prevent sites from being accurately delineated. Some delineations are incomplete and do not capture all of the resources on the site, requiring significant work to revise plans. Requiring a commission to review and issue an ANRAD and an NOI simultaneously within 1-year window is unrealistic virtually impossible for large projects of this magnitude, particularly on complex sites where peer reviews will be needed on delineations and design components, like stormwater. Please require that the applicant must already have an Order of Resource Area Delineation in hand at the time of prefiling. The applicant should already have completed all site due diligence when they submit the pre-filing application.

29.09 (1) Permit Fees: Please ensure these regulations take into consideration boards rights to utilize Chapter 44 Section 53 G outside technical peer review services. The need for peer review is determined on a case-by-case, site specific basis and there is no way to estimate the amount of money that will be needed to safety and thoroughly review a given project prior to the time of submission through an application fee. Using application fees for technical review could pose a very serious problem, causing municipalities to not have enough financial resources to complete the necessary review.

(2) (d) It is absolutely unreasonable to expect an applicant to have construction phase drawings to submit to the inspections department (ex. electrical, plumbing) upon submission of the permit application, when permit drawings have not yet been finalized. Significant revisions take place during the permit phase with Planning, Zoning, Conservation Commissions. Permit drawings should be approved prior to construction phase drawings being drafted and submitted. This requirement is a "cart before the horse" scenario. This will either cause approval of construction drawings that then require multiple revisions

during the permit review process, or of inaccurate drawings being approved on the front end by inspectors which don't reflect other plan updates by boards and committees during permit process. This permit timeline has the potential to fatigue town departments who will need to request and review revision, after revision through the permit process.

(2) (h) Unless it is a very simple site, it is ill-conceived to expect design and stormwater to be reviewed when a wetland delineation has not yet been confirmed. If a site is large and complex, these reviews should happen in the order that makes logical sense. If accurate location of wetlands, streams, vernal pools and other resource areas on the site have not already been reviewed and approved, it could cause many revisions for town boards and place a significant greater burden on town staff.

29.08 (4) 30-days is not enough time for every department in a town to review and determine completeness and report back to a representative. Some boards may require special meetings of municipal boards to make this determination. Please require 60-days. Please consider open meeting law requirements.

29.10 (5) De Novo Adjudication: This regulation has the potential to strip all local control of these permits from cities and towns that simply lack resources to administer this law. That is inequity. Towns and residents that do not have the budgetary or financial resources to implement this unfunded regulatory mandate will be punished by this.

29.09 (i) Decision: It is assumed or hoped that if one board or committee denies the permit application, then the entire permit is denied.

29.10 (4) Information Request and Process for Denial: more specificity must be provided here. There is a lot of discretion built in to how this is written. "Superfluous" is a subjective judgement. A local board or committee may have regulatory requirements for submission that the state does not. As written, this section has the potential to create a very adversarial relationship between the city/town and state. It should spell out here and provide specific examples what is considered "superfluous".

29.11 Regulatory Circuit Rider: Having one staff person per region, particularly in rural regions that have no staff support is grossly inadequate. There is a great potential that rural towns without staff support (volunteer only boards and committees) will face substantial challenges with significant projects coming to them through these regulations and no staff resources to adequately review and protect their towns and residents. Dozens of these rural towns sharing a single Circuit Rider will be problematic. Please consider that if the state is requiring unfunded regulatory mandates, it should provide ample financial and regulatory support resources to cities and towns.

General Questions/Concerns

- Local Government Representative is mentioned throughout these regulations, which are mandating cities and towns to repurpose an existing staff position already on payroll or creating an altogether new one. In busier towns the someone will need to be hired to perform this role, or find a volunteer to do it. Cities and Towns are already facing unprecedented emergency budget shortfalls, hiring freezes, and layoffs. Fewer staff are already doing more and more work. If the

state is requiring the establishment of this new required role, they should be providing funding to cities and towns to cover the cost of the additional staff position.

- What happens when this permit is violated? enforcement? Is the state taking the lead on that? This is not discussed.
- It is unclear how constructive approval takes into consideration a given city or towns bylaws (example, wetland bylaw and regulation requirements). If cities and towns have inadequate resources to follow this unfunded mandate, it sounds like those towns are being arbitrarily punished by not having their resident voted local bylaws and regulations considered. That is inequitable.
- For constructive approval or a "superseding permit", who is monitoring the project when it is under construction? It seems unlikely that the state has any resources to step in with sufficient staff for visiting sites to ensure these projects are constructed in a such a way that they are not causing extensive environmental damage that impact local resources. Will the state be establishing its own independent agency to monitor construction of the projects full time?

On behalf of the Conservation Commission and Conservation Agent,



Erin E. Jacque
Conservation Agent
jacquee@amherstma.gov

CC: Amherst Conservation Commission
MSMCP massconpros@gmail.com
Dorothy McGlincy, MACC dorothy.mcglincy@maccweb.org

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:25 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments on siting

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Ellen H Anderson <appraiser1@mac.com>
Sent: Friday, October 17, 2025 4:47 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comments on siting

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Ellen Anderson
20 Dana Road
Petersham MA 01366

Rick Collins

Department of Energy Resources
100 Cambridge Street, 9th Floor

Boston, MA 02114
DOER.Siting.Permitting@mass.gov
Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations for Small “Clean” Energy Infrastructure. I am a resident of Petersham and an elected member of the town government. I am speaking for myself.
It is good to have this opportunity for people from all over the state to get together and talk about our need to plan for reducing use of fossil fuels while protecting those rural resources that help urban civilization to exist.

I believe that a

serious re-evaluation of Commonwealth of Massachusetts' energy policy is urgently required and that this is a good place to begin. It is increasingly obvious that the growth of renewable (rebuildable) energy has not reduced overall energy use. It is also clear that we have exceeded planetary boundaries in a way that threatens human civilization as well as all the rest of the natural world. Everyone sensible person should acknowledge by now that infinite growth on a finite planet is not possible. It is time for us to come together to question a state climate policy that aims to produce growth – especially growth requiring extraction and waste of important resources such as water, trees and farmland. Do we really want to sacrifice our forests and fields for Data Centers and AI?

Solar panels can help us get through the energy transformation that will happen if we are to survive. But they should be used as part of a strategy of overall energy reduction and appropriate technology entailing radical conservation of all resources – ie not replacing gas cars with electric cars but striving to eliminate private cars all together and reducing the need for moving people around and burning stuff.

Radical conservation implies changing the way we produce things and using the appropriate technology that we know is available. It requires looking at nature-based solutions to problems and finding resource-based work for people as we begin to heal the incredible damage we have done to the earth. We know what is going to happen if we continue to extract and burn. Solar panels are made of substances that are extracted from nature. They are formed using high heat that can only come from coal. It feels arrogant and disrespectful to the sacrifices made by people and places to call them green and clean when so much of nature is extracted and so many humans exploited to create them. As we plan to use solar panels to extend our use of fossil fuels should plan to use them wisely.

No natural lands should be used for solar panels. All of them should be attached to houses and essential institutions. Safe battery technology is available for small scale residential use. For larger institutional uses the old Edison batteries are a likely technology.

Also, the very existence of this complicated siting process illustrates that industrial solar is not a protected use under 40A contradicting the claim that this is a Dover amendment type situation.
Best regards,
Ellen Anderson contact: 978-724-3537

Ashby Conservation Commission
895 Main Street
Ashby, MA 01431

October 15, 2025

Via email: DOER.Siting.Permitting@mass.gov

RE : 225 CMR 29.00: SMALL CLEAN ENERGY INFRASTRUCTURE FACILITY SITING AND PERMITTING REGULATIONS

The Ashby Conservation Commission submits the following comments on the Department of Energy Resources ("DOER" or "Department") proposed regulations at 225 CMR 29.00 for Clean Energy Infrastructure Facility Siting and Permitting. Ashby is a small rural town in the north central region of the state with a population of around 3,200. Our boards and commissions are generally made up of volunteers who may or may not have professional support staff. The Ashby Conservation Commission is all volunteer with no professional support staff. We will comment further on the released Guidance documents during that comment period.

Comments on Draft Regulations

We are concerned about how applicants will be kept from running out the 12-month clock (29.10(2)) on small rural towns like ours to gain constructive approvals with general conditions. At the Fitchburg Information Session on October 8th, we were told the solution would be "3-day turnarounds." In the proposed regs at 29.10(4) we see DOER's proposal is applicants must respond to communications within 3 business days and submit revisions within 7 business days. What is the remedy if the applicant doesn't respond within the proposed timeframes? Keep in mind that municipal boards and commissions may only meet once or twice monthly so missed responses needed for one meeting may actually cause weeks of delay.

We are concerned about constructive approval as defined in 29.12. We are wondering who enforces and who monitors the projects of these approvals. At the joint information session, the Department held with MACC, the Massachusetts Association of Conservation Commissions, the Department spokesperson stated that enforcement of consolidated permits "will be left to the municipality." It is not reasonable for municipalities to be cut out of the permitting process and then expected to enforce the Department's permit. The general conditions must include a robust monthly environmental monitoring reporting scheme for whoever is required to monitor and enforce the permit issued. They also must include some ability to include stop work orders and fines in the enforcement process.

We are concerned with the chain of ownership and how that transfers responsibility for adherence to regulations. The intent of the majority of solar development companies is to sell these facilities to banks, corporations and the like. Will there be any mechanism to hold developers responsible for shoddy work discovered post-construction once a sale has been completed.

We see in 29.04(2) for Adding Facility Type to the Definition of Small Clean Energy Generation Facility that "Following a rulemaking by the Department in consultation with the Board, the Department may add additional facility types to the definition of a Small Clean Energy Generation Facility, provided that the type of generation facility added produces no greenhouse gas emissions or other pollutant emissions known to have negative health impacts." We express our opposition to this because the Department's regulations as proposed were not written and reviewed with the forethought of some unknown future facility type in mind. Adding a facility type will require full review and accommodation for all that the new technology involves.

Regarding 29.06(1) in leaving so much to non-binding guidelines: writing non-binding regulations leaves openings for interpretation and avoidance.

Regarding 29.07(4) Request for Score Review please clarify in the regulations who the party requesting review of disputing Total Site Suitability Score or Criteria-specific Suitability Scores can be : is it either the Applicant, the Town Government or Key Stakeholders? or only the Applicant?

Regarding 29.07(6) and (7), we fear you will be pitting municipal Boards & Commissions trying to protect the environment, public health, the rural feel of their communities, etc. against their cash-strapped municipal governments who may find themselves in difficult financial times narrowly focused on the pursuit of mitigation fees. How could we, the Boards and Commissions, support this? Our job specifically is protecting the wetlands of the Commonwealth, not trading them for cash or playground equipment or some such agreement. One man's "rational nexus" may not be the same as another's. Who will be the arbiter?

Regarding 29.08 meeting with staff or board/commission chair, this should be a selected/delegated board or commission member or their paid staff. The chair as the only option will not work. Volunteer Chairs already have a lot required of them.

Regarding 29.09(2) "in a manner and form" for consolidated local permit applications, manner and form must include full size, 1"=20' scale, hard-copy of site plans and maps be provided with the application, along with the required electronic copy of the full application. Local municipalities cannot be made responsible for getting our own hard copies printed. The same timeliness for hard copy for new revisions must apply.

Regarding 29.10 modeling the new siting portal after eDEP, we would note that eDEP doesn't allow Conservation Commission's access to site plans, wetland delineation forms, or any other supporting files such as narrative. Multiple times at the DOER Information Sessions, I have heard it stated that the eDEP system sends wetland permit applications automatically to the municipality: this is not our experience. The applicants have to manually email the electronic copy to the DEP Circuit Rider and the municipality. Also, some of the electronic permit reporting required of Conservation Commissions is manual and duplicative, and multiple of the WPA forms are not supported. This is perhaps not the best portal to emulate.

Regarding 29.10(1)(b) when a Local Government fails to determine completeness in 30 days. The proposed regulations say the "Consolidated Local Permit Application shall be deemed to be complete and subject to the common conditions and requirements for constructive approval prescribed in 225 CMR 29.12." Does failure to determine completeness within 30 days result in a) an application being automatically deemed complete and the Local Government consolidated permitting process continuing from there, or b) an application being automatically deemed complete **and** automatic constructive approval granted? Clarification in the regulations is required.

Regarding 29.13 who will be the Town's "point person." At the Fitchburg Information Session it was suggested you would most likely select the Town Clerk because all towns have one. Please consider the Town Clerk may

a) not necessarily be qualified, b) may not have the bandwidth with all that is already required of them and c) whoever is required to take on this role will likely require additional salary to do so thereby creating a new budget expense for small towns. Your regulations at 29.02 say: “the Town Clerk shall serve as the default Local Government Representative unless specified otherwise by bylaw or ordinance.”

It is shortsighted, with all that forests provide us (water purification, rainfall collection, wildlife corridors and habitat, etc.), to decide whether a forest is worth preserving simply by how high it scores on a federal carbon monitoring system. We will comment further on this during the comment period for the Site Suitability Guidance.

Responses to Questions for Public Feedback on Draft Regulations

225 CMR 29.07 Site Suitability/Minimization and Mitigation
Q: Should a community have the right to deny an application if the site suitability score is too high?
A: Yes, denial must be in the regulation. Communities must have the right to deny wholly unsuitable proposals.
Q: How should a municipality calculate how much mitigation is enough to offset poor scores?
A: Regardless of how mitigation is calculated, municipalities **must** be allowed to determine that **no** amount of money is enough to offset poor scores.

225 CMR 29.09/29.10 Consolidated Local Permit Application & Consolidated Local Permit Application Review
Q: What tools would be helpful to ensure municipalities meet the 12-month timeframe?
A: Access to all project documents in one place online. An online checklist of requirements with realtime status of each item showing who needs to act and the deadline of each requirement.

225 CMR 29.12 Common Conditions and Requirements for Constructive Approval
Q: What conditions would be important to include?
A: Mandatory periodic, e.g. monthly, environmental monitoring. Also, a fee schedule for non-compliance.

225 CMR 29.14 Enforcement
Q: Are there other topics related to enforcement these regulations should address?
A: Regulatory violations, e.g. violating wetlands due to failed stormwater management. Will enforcement of components of the consolidated local permit be managed in the same way as if they were individually permitted? Who enforces violations that occur on constructive approvals?

Thank you for the opportunity to comment.

Respectfully submitted,

The Ashby Conservation Commission
George A. Bauman, Chair
Roberta Flashman
Cathy Kristofferson
Robert Leary
conscom@ashbyma.gov

BEALS AND THOMAS

October 17, 2025

Rick Collins, Director, Division of Clean Energy Siting and Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Via: Email to DOER.Siting.Permitting@mass.gov

Reference: Comments on:
Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulation

Director Collins:

Beals and Thomas, Inc. (B+T) appreciates the opportunity to provide comment on Massachusetts Department of Energy Resources (DOER) Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulations. B+T is a multidisciplinary consulting firm with significant land use entitlement, natural resources, and inland and coastal wetlands experience. Over the past 30 years we are proud to have played a part in the evolution of New England's energy portfolio. Our interdisciplinary teams have successfully facilitated numerous energy projects from concept through design, permitting, and construction. Our extensive experience within the energy industry includes involvement in over 180 utility line surveys, over 130 solar developments, over 20 substations, and nearly a dozen power plant projects.

We commend DOER for its goals to streamline the permitting process for clean energy projects to better enable the Commonwealth to meet its future electricity demand and climate goals.

We participated in the beneficial public information session on October 9, 2025. We have reviewed the draft regulations, and offer the following comments on the proposed revisions and the broader context of 225 CMR 29.00:

- While we support DOER's efforts to direct clean energy facilities towards landfills, brownfields and other developed areas, we echo comments made during the October 9, 2025 information session that the *Site Suitability Assessments for Clean Energy Infrastructure* draft guidance does not adequately factor in the need to site clean energy facilities proximate to existing distribution lines, in areas with utility capacity. At a minimum, we recommend adding a score modifier based on these factors.

- 225 CMR 29.10(2)(a) allows the Local Government to request a De Novo Adjudication of an application by the EFSB Director, in cases where they are unable to meet the twelve-month deadline to issue a decision. We recommend revising this section to include procedures for Applicants to request a De Novo Adjudication as well, in the event a municipality ceases to be responsive after accepting an application.

- We understand that a Consolidated Local Permit is intended to serve as an Order of Conditions (OOC) issued by a municipal Conservation Commission. We note that an OOC exempts certain projects from the need to obtain a Massachusetts Department of Environmental Protection (MassDEP) 401 Water Quality Certificate under 314 CMR 9.00, specifically those projects allowing loss of less than 5,000 square feet cumulatively of bordering and isolated vegetated wetlands and land under water, and/or allowing less than 100 cubic yards of dredging. We respectfully request that the DOER issue guidance that the Consolidated Local Permit provides similar exemptions. Requiring clean energy projects with de minimis wetlands impacts, such as those related to crossings for upland access, to go through the 401 Water Quality Certification process creates an unnecessary permitting burden.

Thank you for considering our comments, and please do not hesitate to reach out if you have questions on our input. We recognize and respect the hard work that went into these draft regulations and look forward to promulgation of sound standards that will further the Commonwealth's goals in a clear and achievable way.

Sincerely,

BEALS AND THOMAS, INC.

Mary Kate Schneeweis
Senior Environmental Planning Specialist

MKS/sws/mac/Energy Siting Regs B+T Comments

October 17, 2025

Via electronic filing: DOER.Siting.Permitting@mass.gov

RE: S&P Follow on Rulemaking Comments

Attn: Rick Collins
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Dear Mr. Collins

Nexamp appreciates the opportunity to provide feedback on the Small Clean Energy Facility Siting & Permitting Draft Regulation that was published on September 26, 2025.

As the largest developer, owner, and operator of community solar assets in the U.S., Nexamp has been at the forefront of efforts to make clean energy affordable and accessible for all Americans. Many of our community solar projects include energy storage. We are also developing a significant standalone energy storage pipeline across various jurisdictions. By managing all aspects of a project's lifecycle in-house—from development, engineering, and construction through operations and customer management—Nexamp brings rapid renewable energy deployment and high-quality jobs to the communities we serve. In 2015, Nexamp launched the first open-to-all community solar program that eliminates credit checks, up-front fees, and long-term commitments to help customers save up to 20% on annual electricity costs.

Nexamp appreciates the DOER's work to establish a clear and consistent framework for siting and permitting clean energy and energy storage facilities across Massachusetts. However, we are concerned that the draft regulations may add additional burdens and process contrary to the intent of the 2024 Climate Act, which was specifically intended to streamline and accelerate permitting for clean energy projects. Several provisions would benefit from additional clarity and refinement to ensure the regulations function as intended while balancing local engagement and statewide goals. Nexamp offers thoughts on the following critical issues below for MA DOER consideration and review:

Resolving Conflicting State and Local Standards

We appreciate that DOER intends to provide state standards and a model bylaw, among other efforts, to both standardize treatment of clean energy projects and to assist local jurisdictions in processing applications. However, there is significant ambiguity in the draft regulations regarding how any conflicts between local standards and state standards would be resolved and the implications for projects in the permitting process. We encourage DOER to consider a mechanism like the waiver process to the New York's Office of Renewable Energy Siting (ORES) structure which allows the state to resolve discrepancies between state standards and local codes in addition to the guidance from the DOER's Regulatory Circuit Rider. Without such a mechanism, local restrictions that conflict with state-level standards could stall or block

otherwise compliant projects. We recommend adding a comparable waiver provision or another measure of DOER oversight, to maintain consistency and ensure timely permitting.

Twelve-Month Review Period and Local Conditions

We strongly support the 12-month maximum review period, but guardrails are needed to prevent repeated rounds of local comments or conditions that can effectively extend the process indefinitely. DOER should specify:

- How many rounds of municipal comments are permitted;
- Time limits for submission of new conditions; and
- Clear definitions of what constitutes “substantive” versus “minor” revisions.

Such structure would ensure the statutory timeline is meaningful.

Adoption of Additional Local Standards

The extent to which local governments can adopt additional standards beyond the health and safety guidelines should be more clearly and narrowly defined. Local Boards of Health have frequently caused unpredictable delays by introducing new requirements late in the permitting process. The new regulation should explicitly define BOH’s and other agencies roles and timing within the 12-month review period and specify what is considered “reasonably necessary” under Section 29.06 concerning public health, safety, and environmental standards.

Definition of Key Stakeholders

The definition of Key Stakeholders in the guideline is broad both in terms of which entities are considered Key Stakeholders, and the proximity to the project location. We recommend reducing the radius by which an organization is defined as a Key Stakeholder based on its proximity to the project location from one (1) mile to one-quarter (1/4) mile. Additionally, the developer should not be required to identify all key organizations in a town or municipality on their own. The local AHJ should not only be able to identify the key stakeholders but also be responsible for public notice through their existing processes, as further described in the next section.

Public Notice and Stakeholder Engagement (§ 29.08(f))

While broad stakeholder engagement is important, public notice requirements should be removed from the developer’s pre-filing requirements. Public notice is an important part of the permitting process, but the specific requirements including media notification, public meeting spaces, etc., vary greatly between municipalities and should be up to individual AHJs. To avoid confusion and conflicting input channels, DOER should streamline the requirement so that public notices and meetings are coordinated through the local permitting authority rather than potentially adding duplicative requirements. The availability of a public space equipped to hold hybrid public meetings is dependent on the infrastructure of individual AHJs. Additionally, the requirements for notifying media outlets and maintaining project-specific websites may be excessive for certain project scales and should be right-sized to ensure proportional transparency.

Compensatory Environmental Mitigation Fees

We request the DOER clarify the instances in which local governments may impose compensatory environmental mitigation fees on a project to ensure that projects that participate in programs that already have such fees are not unduly burdened. For example, projects in the SMART program are already subject to a mitigation payment. There should not be a "double dipping" of mitigation fees, and, in our view, the SMART requirements should be the fees that apply provided the project is participating in SMART. The forthcoming *Guideline on Minimization and Mitigation Measures* should expressly exclude SMART projects from compensatory environmental mitigation fees under this guideline as additional costs will be detrimental to project viability.

Thank you for the opportunity to provide comments. Please do not hesitate to reach out if there are any questions.

Thank you,

Lisa Boba
Director, Energy Storage Policy
Nexamp
lboba@nexamp.com

LODESTAR ENERGY

Date: October 17, 2025

The Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

RE: Comments on Draft Regulations - 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting Regulations

Dear Department of Energy Resources,

Lodestar Energy LLC ("Lodestar") appreciates this opportunity to provide written comments to the Department of Energy Resources ("DOER") regarding the proposed Small Clean Energy Infrastructure Facility Siting and Permitting Regulations in 225 CMR 29.00 ("the Proposed Regulations"), released on September 26, 2025.

Lodestar is a renewable energy developer that has constructed over 15 solar projects representing more than 50 MW of generation in Massachusetts across our decade-plus history. We have been active in the Commonwealth since 2014, and have participated in the early SREC programs, Net Energy Metering ("NEM"), and the various SMART iterations. Given our background and familiarity with the state, Lodestar is concerned that the Proposed Regulations could unintentionally delay project development if implemented as written.

We joined industry in celebrating the passage of Governor Healey's An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers (the "Climate Act") because of its promise to create an alternative siting and permitting process for project development, not a single, new permitting route. A dual pathway framework is preferable to developers like Lodestar because it provides the greatest amount of flexibility while not introducing undue burdens in the permitting process.

The Proposed Regulations introduce several ambiguities. First, it is unclear to Lodestar if the consolidated permit will be required for all small clean energy infrastructure projects, or if projects may elect to pursue a traditional permitting pathway. Lodestar would strongly prefer retaining the option for local permitting while maintaining the option for a consolidated approach.

We are concerned the Proposed Regulations lack specificity regarding key terms, definitions, and requirements that have a material impact on project development. As written, "Key Stakeholders" is overly broad, resulting in a lack of clarity as to who exactly developers should engage with throughout the development process. Additionally, because Key

Stakeholders can appeal a project's Site Suitability Score, the broad definition effectively means developers can assume a 30-day delay due to a Site Suitability Score being contested for every project. This delay will have material impacts on projects. Lodestar respectfully asks that DOER align "Key Stakeholders" with stakeholders who may be reasonably expected to be impacted by the project, and limit Site Suitability Score appeals to abutters and local municipalities.

Additionally, it is unclear what level of project design DOER is requiring at application submission. The Proposed Regulations call for "All materials needed to secure electrical, plumbing, excavation, earth removal, or curb cut permits, or any other permits from the Local Government's Building Department, Public Works Department, or other local authorities having jurisdiction". Requiring this level of project plan detail at the outset of the permitting process would lock projects into designs, requiring costly redesigns or creating delays if changes are needed later. We request the Department clarify this by specifying all materials needed for all "non-ministerial" permits at the outset.

Lodestar asks DOER to clarify whether public engagement must be completed before the completeness review or if it can occur during the consolidated application review process. As written, it is ambiguous whether a local government representative may deny pre-filing completeness if public engagement has not yet occurred, even though the Pre-Filing Checklist suggests a concurrent timeline is permissible.

As a solar developer, Lodestar has significant concerns that the Proposed Regulations introduce a second mitigation fee to projects participating in the SMART 3.0 program. Based on draft guidance and public presentations, Lodestar believes that the Department does not intend to burden small clean energy projects with duplicitous mitigation fees. Establishing this intent in the regulations, and not in guidance, will give small clean energy projects the cost certainty they need for financing.

The Department should ensure harmony between the SMART program and the Consolidated Permit. Clarifying that a project is only required to make one mitigation payment is critical to supporting continued small clean energy solar projects post the sunsetting of the ITC. In practice, Lodestar has calculated SMART mitigation fee estimates up to $1,000,000.

While the exact methodology for calculating the Consolidated Permit mitigation fee is not outlined in these regulations, because the Site Suitability scoring process is similar to the scoring used to calculate the SMART mitigation payment, Lodestar is concerned projects could face a second six-figure payment. For a 5 MW solar project in a CIP area, this dual fee structure creates an untenable financial burden, potentially rendering countless projects economically unviable.

LODESTAR ENERGY

Lodestar appreciates the time and effort the DOER has spent in preparing the Proposed Regulations. Creating a consolidated permitting process is a significant challenge. We recognize that industry groups have raised broader concerns about these regulations that we have not detailed here. We hope our comments, offered from the perspective of a small developer, supplement those of the broader industry and help DOER understand implementation challenges as it works to balance a variety of interests in creating the final regulations.

Sincerely,



Oliver Sandreuter
Director of Business Development

10/17/25

Dear DOER representatives,

This is a slightly expanded version of my public comments at the October 15th hearing.

I do appreciate the effort and skill that your team is applying to improve the current process and believe you're respectful and sincere in trying to incorporate the input you're receiving from stakeholders coming from diverse vantage points. I have just a few points and questions to consider in your process with drafting regulations and model bylaws small and large clean energy infrastructure.

- How will DOER's regulations improve the disempowered situation our towns already face, especially where the Dover amendment is being used to scare town boards from interfering with a project that residents deem is poorly sited or managed. Or where our towns' bylaws (if they have them) are disregarded to the extreme of lawsuits. Our rural communities in Western MA have been battling with this oppressive condition, handicapped by archaic legislation and harsh interpretation. And then there's towns where the local government is not representing the will of the majority of residents, so how can your new regulations help residents be heard.
- I don't know how towns already understaffed, with ill-equipped committees, inadequate technical capacity will be able to competently and fairly complete the review process in the allotted time period, especially at the launch.
- A few changes that could help restore transparency and respect for local authority could be to:
    - Broaden the definitions of abutter and key stakeholders to a greater area
    - Broaden what local officials receive information and Notice of Intent to multiple boards; ConComs, Planning Board, Board of Health, Town council- in small towns redundancy is a good thing, given the unequal distribution of power and skill
    - Maintain local authority and decision-making power:

        - Health boards have a critical independent role and local departments should approve of the Emergency response plan
        - Clarify the appeals process and local denial vs state override
- But one of my biggest concerns is the concept and use of mitigation fees. Please Consider that **Mitigation strategies** can often serve as self-deceptive rationalizations for going forward with projects lacking foresight and wisdom. Let me expand briefly on this point:

We can't easily repair or replace a lost healthy ecosystem. First do no harm is a theoretically agreed upon fundamental principle but in actuality our society tends towards- First do the harm and then sometimes attempt mitigation. Clearcut a mature forest here and plant new trees there. No harm done. Not so. They've eradicated the biodiversity, microbiology, ecosystem health of a living community that nature has carefully evolved for so many years. Furthermore, we should be guided by the precept of beneficence; First do good, vs non-maleficence (first do no harm). We know it's complicated because people disagree on what doing the right thing is. We're understandably influenced by our different histories, our anxiety over our livelihood being threatened, our training and beliefs challenged…we're flawed and so are the laws and systems we work hard to develop. I personally find looking to natural systems and laws for guidance a good practice. They govern life on Earth whether we want to admit it or not. Why not follow the simplicity of that. I hope you use that guidance as well in your work.

Thank you,

Lenore Bryck

255 Strong St. Amherst MA 01002

lenore@lenorebryck.com

ClimateActionNowWMass

EcoClimate Organizer

Dear DOER and Rick Collins,

I appreciate the opportunity to comment on the proposed rules.

First, I must say that these rules seem designed to simply streamline approvals for developers and effectively eliminate local decision-making altogether. If that is the intent, the Commonwealth should be transparent about creating a state-level permitting agency rather than pretending towns retain control.

That said, my specific concerns with the rules as written include:

1. Definition of Abutter: The proposed definition is too narrow. In local special permit processes, "abutters to abutters" are often notified, reflecting the real reach of project impacts. If abutter status carries any procedural weight, it should not be restricted to immediately adjoining parcels.

2. Definition of Key Stakeholders: The one-mile limit is arbitrary. Projects can—and often do—affect people far beyond that distance. Anyone with a legitimate interest should be considered a key stakeholder. Otherwise, the rule privileges certain individuals and organizations while excluding many who are genuinely affected.

3. Notice of Intent to File Application: Requiring notice to only one "Local Government Representative" centralizes too much power. Notifications should be sent to multiple officials—at minimum, five people—to ensure transparency and reduce the risk of bias or oversight.

4. Emergency Response Plan: Approval by local departments is not enough. There should be a mechanism for public review, since residents may have essential knowledge about risks or local conditions.

5. Mitigation Fees: Allowing fees to be paid to towns or designated nonprofits risks appearing as a form of influence. This structure should be reexamined to avoid any perception of "pay-to-play."

6. Local vs. State Authority on Nuisances: If conflicts arise between local and state determinations on health or nuisance impacts, local findings must carry weight. Otherwise, local authority becomes meaningless.

7. Appeals and Local Control: The regulations provide no clear process for appealing specific components of a permit. Preventing De Novo review of individual decisions removes an essential safeguard. Even one unjust decision can have lasting consequences.

Respectfully,

Jill Buchanan
541 West Pelham Road
Shutesbury, MA 01072

Via Electronic Mail

October 17, 2025

Massachusetts Department of Energy Resources
Division of Clean Energy Siting and Permitting
c/o Rick Collins
100 Cambridge Street, 9th Floor
Boston MA, 02114
DOER.Siting.Permitting@mass.gov

re: Comments on the Draft Siting and Permitting Regulations (225 CMR 29.00)

Dear Mr. Collins,

Advanced Energy United offers the following comments on the proposed language for 225 CMR 29.00 to establish Siting and Permitting Regulations for small clean energy facilities in Massachusetts ("Draft Regulations").

Respectfully submitted,

/s/ Shawn Kelly
Shawn Kelly
Director, Advanced Energy United
skelly@advancedenergyunited.org

/s/ Kat Burnham
Kat Burnham
Senior Principal, Advanced Energy United
kburnham@advancedenergyunited.org

Advanced Energy United Comments on the Draft Siting and Permitting Regulations for Small Clean Energy Infrastructure

Introduction

Advanced Energy United ("United") appreciates the continued stakeholder engagement process on clean energy siting and permitting and this opportunity to provide written comments on the Department of Energy Resources' ("DOER") 225 CMR 29.00 Draft Regulations on Small Clean Energy Infrastructure Facility Siting and Permitting ("Draft Regulations"). United is a national association of businesses that works to accelerate the move to 100% clean energy and electrified transportation in the U.S. The term advanced energy encompasses a broad range of products and services that constitute the best available technologies for meeting our energy needs today and tomorrow. These include electric vehicles, energy efficiency, demand response, energy storage, solar, wind, hydro, nuclear, heat pumps (air- and ground-sourced), and smart grid technologies. United represents more than 100 companies in the $374 billion U.S. advanced energy industry, which employs 4.1 million U.S. workers and over 136,000 in Massachusetts.

One of the 2024 Climate Law's objectives for siting and permitting was to address barriers created by a patchwork of local processes that can cause clean energy projects from unreasonably being denied or delayed. This was demonstrated in the legislation through the creation of:

> "[A] division of clean energy siting and permitting, which shall establish standard conditions, criteria and requirements for the siting and permitting of small clean energy infrastructure facilities by local governments and provide technical support and assistance to local governments, small clean energy infrastructure facility project

proponents and other stakeholders impacted by the siting and permitting of small clean energy infrastructure facilities at the local government level."[1]

As written, the Draft Regulations will continue to allow Local Governments[2] to unreasonably deny clean energy projects if they are determined to do so. This is a critical juncture to establish a process that includes meaningful local stakeholder engagement that informs and enhances the construction of practical small clean energy infrastructure. It is necessary to ensure that small clean energy facilities in Massachusetts are fairly assessed and responsibly developed, but that goal cannot be achieved if local clean energy development is in effect barred from adamant municipalities. That is a disservice to communities across the Commonwealth who need affordable and reliable energy resources, and it is not consistent with the intentions of the 2024 Climate Law.

We respectfully offer the following observations and recommendations which we believe should be considered[3] to improve the effectiveness of the Draft Regulations.

Local Application Process and Undermining Projects

The Draft Regulations correctly include a provision for Constructive Approval, which essentially approves an application for a Consolidated Local Permit based on the non-issuance of a decision by a Local Government within twelve months of receipt of a complete Consolidated Local Permit Application. This is a strong first step the prevents Local Governments from failing to act on applications if they are opposed to clean energy development. Unfortunately, Local Governments determined to prevent any clean energy projects, no matter how beneficial they are to the Commonwealth, from being developed in their jurisdictions will easily be able to find loopholes in the current Draft Regulations.

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[1] Section 17 of Chapter 239 of the Acts of 2024, which amends the General Laws by adding Chapter 25A, Section 23(b).

[2] The Draft Regulations define Local Government as a municipality or regional agency, including, but not limited to, the Cape Cod commission, established by chapter 716 of the acts of 1989, and the Martha's Vineyard Commission, established by chapter 831 of the acts of 1977, that has permitting authority over Small Clean Energy Infrastructure Facilities.

[3] United served as member of the Commission on Energy Infrastructure Siting and Permitting



Under the Draft Regulations, rather than simply not acting on applications and having them approved under the Constructive Approval 12-month rule, local governments can decide that an application is incomplete, no matter how unreasonable that determination is. The applicant would have 30 days to cure any deficiencies that the Local Government specified. The lack of specificity on deficiencies allows for too much subjectivity and a Local Government determined to see an application rejected will be able to employ several ways to accomplish that rejection. For example, municipalities could make the requirements so unrealistic that an applicant could never satisfy them. Alternatively, it could make requirements that seem reasonable and accomplishable, but then simply inform that applicant that they did not meet the requirements.

To ensure the Constructive Approval mechanism is fair and effective, DOER should develop a standard completeness checklist. In the alternative, Local Governments could create their own checklists that are subject to DOER approval. The regulation should specify that a municipality cannot require information requests that are not specified on the checklist.

Total Site Suitability Score and Criteria-specific Suitability Score Ambiguity

United appreciates the DOER's intent to allow local and community stakeholders to be heard and informed throughout the permitting and siting process. However, we have concerns that the language is overly broad and could lead to overly burdensome requirements for clean energy developers. Specifically, the requirements in 29.07 (2) (a) that:

> Applicants shall estimate the Total Site Suitability Score and Criteria-specific Suitability Scores for the proposed Small Clean Energy Infrastructure Facility prior to seeking a Formal Score Determination pursuant to 225 CMR 6 29.07(2)(b). Applicants shall share

these estimated scores with Key Stakeholders in any pre-filing engagements that occur prior to the receipt of a Formal Score Determination.

The requirement that "Applicants shall share these estimated scores with Key Stakeholders in any pre-filing engagements that occur prior to the receipt of a Formal Score Determination" is too vague and does not define how the estimated scores should be shared and does not specify exactly what "pre-filing engagements" are. We recommend making it clear how the estimated scores are shared with Key Stakeholders and that this can be performed at one public forum as opposed to providing directly to all Key Stakeholders. This will ensure that developers are not required to add burdensome costs to their project (e.g., individual mailings) that requires them to individually contact each Key Stakeholder and that developers are not required to continuously present the same information at multiple meetings. The sharing of estimated scores at one public forum will also eliminate the need to state, "any pre-filing engagement" which could lead to additional overly burdensome costs.

De Novo Adjudication

The intent to allow for a De Novo Adjudication is a noble one as it affords a Local Government that "lacks the resources, capacity or staffing to review a Consolidated Local Permit Application within twelve (12) months, it may, not later than sixty (60) days after receipt of such application or at any time thereafter with the consent of the Applicant, request in writing a De Novo Adjudication of such application by the EFSB Director pursuant to 980 CMR 14.02(1)(c) and 14.02(2)(b). "[4] There seems to be a discrepancy between that intent and language in the Draft Regulations where it later states, "Pursuant to 980 CMR 14.02(2)(a), a petition for a De Novo Adjudication must be filed within thirty (30) days of the Local Government's decision on a Consolidated Local Permit Application or Constructive Approval of a Consolidated Local Permit Application."[5] The discrepancy lies in the Constructive Approval

[4] 29.10 (2)(a) Draft Regulations.
[5] 29.10 (5)(b) Draft Regulations.



aspect. A Constructive Approval occurs 12 months after a non-decision on a Consolidated Local Permit Application. Based on this language, a Local Government with the intent to stymie a clean energy project could allow a Consolidated Local Permit Application to sit for 12 months, resulting in a Constructive Approval, but it could then file a petition for a De Novo Adjudication within 30 days of the Constructive Approval and that application would be pushed into the De Novo Adjudication, further delaying the project timeline and adding costs to the developer.

Conclusion

United appreciates the opportunity to comment on DOER's Draft Regulations. Please feel free to reach out to us with any questions or concerns about our comments.

Sincerely,

/s/ Shawn Kelly
Shawn Kelly
Director, Advanced Energy United
skelly@advancedenergyunited.org

/s/ Kat Burnham
Kat Burnham
Senior Principal, Advanced Energy United
kburnham@advancedenergyunited.org

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:18 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Public Comment Due today

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Lisa Maier Cacciolfi <lcacciolfi@verizon.net>
Sent: Friday, October 17, 2025 3:12 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Fw: Public Comment Due today

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Ms Harrelson,

My name is Mark Cacciolfi and I am a registered voter in the Town of Wareham. I have been following the solar initiative exploits of the Commonwealth and their unrelenting push to get solar farms on out long historical wetlands. I was unaware that today was the last day for public opinion and I want to re-iterate what my friend and fellow Wareham resident Faith Berry has commented below.

Please know I am 100% against using our wetlands or conservation/wildlife areas for the use of solar energy. If the Commonwealth or the Town want solar, consider the use of the land on the High-Tension Power Lines for such projects. The land is cleared and the infrastructure to tap into already exsist.

Respectfully

Mark Cacciolfi

On Friday, October 17, 2025 at 12:32:15 PM EDT, Faith Berry <faithannberry@gmail.com> wrote:

What I did today. you can comment if you wish.

---------- Forwarded message ---------
From: **Faith Berry** <faithannberry@gmail.com>
Date: Fri, Oct 17, 2025 at 12:29 PM
Subject: Public Comment Due today
To: Katherine Harrelson <katherine.clwc@gmail.com>, Joseph Still <jstill@wareham.gov>

To WHom it may concern at DOER,

First of all I am an associate board member on the Conservation Commission for the Town of Wareham and neither I or other Commission members were made aware of your hearings or public comment period by your agency, (I found out from a local NGO email).. I think there should be an extension to the public comment period to ensure that all local elected town and tribal leaders can have the time and information needed to make informed decisions on the comment solicited by DOER.

One comment regarding the proposed legislation is that the time period of 12 months to approve or disapprove a so;lar siting period is not long enough for local towns (whose board members are mainly volunteers) to make decisions concerning solar siting projects for the town. Also there is nothing stated in your guidelines that says anything about the project proposer not showing up to hearings or asking for extensions which happens quite frequently and prolongs hearing times when boards usually only meet once or twice a month. For example what would the guidelines propose if for example a project proposer never shows up for a hearing? Are they then automatically approved? Something needs to be put in the guidelines to prevent this. Also at hearings I have seen project proposers attend unprepared to answer questions about components of the project, negative environmental impacts, ground water safety, fire safety and thus requiring them to get the information and bring it forward at another meeting, perhaps these issues could be addressed by stating that for the time the proposer does not show up or come prepared to answer all questions about the project including what type of panels are buying used and how the system addresses safety and environmental guidelines adequately for the board the project is automatically extended the time frame to the next meeting..

Due to solar being an emerging technology safety guidelines and standards are being developed by NFPA and other safety entities something needs to be in the guidelines to ensure they are meeting safety standards as they are developed and be upgraded if needed to meet the most current codes in the future.

Our local town fire departments are not adequately resourced and trained to handle large battery storage fires which could further impact water resources and groundwater supplies in wetlands, over sensitive sole source aquifers and other town water supplies. The state has a responsibility to insure the health and safety of its citizens and promises to do so under 314 CMR 4 314 CMR 4: The Massachusetts Surface Water Quality Standards | Mass.gov How will this need of pour local departmentsbe addressed? The town should not have to pay for training and resources needed to respond to a battery facility storage fire, this cost should be incurred by the project proposer since the response will be specific to their solar project.

These guidelines need to more strongly penalize projects proposed in wetlands, forests and our precious agricultural lands. For example lands converted to solar farms will be taxed as industrial property. Lets encourage the development on these projects on already developed industrial lands.

If these companies go bankrupt or otherwise fold what guidelines are in place that if a catastrophic event occurs to say the water supply because of contamination from the solar project or fire response needed etc.that the funding entities, bank, state of MA will be held financially responsible to cleanup and or any long term remediation needed. This would include disposal of all materials and clean up and remediation of the site.

Thank you for your thoughtful consideration,

Faith Berry

Greenfield Solar
2 Fiske Ave
Greenfield MA 01301
413-772-3122

DOER siting and permitting Oct 17, 2025

Thank you for this opportunity to comment on the rollout of new siting and permitting regulations.

Greenfield Solar is a residential and small commercial solar installer in Western Mass for over 16 years. We have worked with many of the small rural towns planning and zoning boards for siting solar pv systems. Every one is different from the next in one way or another.

Many small and rural towns in Western and Central Mass have volunteer boards that will need extensive training and technical support to understand and act on the issues of siting and permitting for solar and storage systems. Many boards only meet once a month at best for 1-2 hrs. There is little capacity to add a new adoption timeline and a constrained 12 month permitting process. Adoption or adaptation of new solar and storage by laws as well as changes in permit forms will be beyond these volunteer boards ability to absorb and realistically enact by the March 2026 deadline.

DOER needs to allocate for consultant fees for technical and administrative support for any changes to by laws, permitting forms and administration of the new siting and permitting process. Additionally, rural small towns will need technical and administrative support during the 12 month application period for any solar or storage system permit. Funding and/or staff assignment will need to be allocated for each town as they receive a permit application.

If DOER follows the NG and Eversource cluster and group studies, that will give you an idea of what towns are going to be impacted sooner rather than later. Then you can focus resources on those towns to get them up to speed faster than towns with no projects in any studies.

As for the deadline to adopt the new regulations, allow towns under a certain population to be exempt from the March 2026 deadline which is reasonable for larger towns with paid staff who can manage the process. If a town has only a parttime paid planning board clerk, that would be fairly indicative of the need to require a longer time frame to adopt new by laws or permit forms. If the small town is in a cluster or group study, then DOER needs to allocate resources for technical or administrative support in other to fast track adoption. Though either way the 2027 deadline for construction start is going to be difficult at best to achieve.

I appreciate having a western mass designated staff for siting and permitting but realistically, they are likely to be swamped as nearly all rural small towns have a parttime planning clerk and little resources for the highly technical analysis of solar and storage projects. Nor resources for adopting new by laws and permit forms as each board will need to modify, edit and revise current by laws and forms. Working with multiple volunteer board members is worse than herding cats.

Additionally, DOER will need to assist with definitions used in solar by laws to align terms. Town bylaws already use the terms “small solar system vs large solar system” but with completely different size limitations and requirements for permitting. Since <25kW systems are exempt for this sitting and permitting regulation, the residential system sizes will need to adjusted for nearly all town bylaws. So now residential will be <25kW, but what if a town has interim sizing regulations that don’t align. Each town will need to locate all references to solar sizing in town by laws. Again small and rural towns don’t have the capacity to do the research and compile all instances of solar sizing terms. This is an administrative nightmare for non technical volunteer boards.

Funding for additional staff may be required especially if DOER finds many of the cluster and group study projects are in western mass towns. Which is exactly why this legislation was enacted. Western Mass towns do not have the capacity to process permit applications in a timely and satisfactorily manner and are all over the map in regulations. Bringing them into a uniform process is laudable but will require time and resources.

Lastly does small clean energy infrastructure facility siting and permitting include Small modular reactors? SMRs? If so there will be huge push back to exclude SMRs. DOER will need to state specifically that SMRs are not included in the definition.

Questions for public feedback.

Public health, Safety and environmental standards: Follow the same requirements for SMART 3.0 eligibility.
Setback should follow the same requirements as the rest of each town's setback requirements.

Suitability/Minimization and Mitigation
A community should have the right to deny if the suitability score is too high. Not sure what that score should be.
Minimization till the score is reduced to acceptable levels

Prefiling requirements
Mailing to all 300' abutting homeowners and all town residents of proposed project with narrative, image of site plan and technical details outlining clean energy project capacities, contact info for questions, hearing sessions and town boards involved and website link.
Project Website links on town website
At least 2 in person information sessions at a local town building. School or Town Hall or Library or Senior center. During evening hours.
Publish press release of project in at least 1 local daily paper and 1 in the weekly paper if available detailing permit application and clean energy project and hearing info sessions. Ads for public hearing sessions published at least twice

Consolidated local permit application
Small rural towns need technical and administrative support to work with all town boards as required to meet the 12 month timeframe.
DOER needs to develop with each town the checklist needed to determine is an application is complete. Small rural towns will need technical and admin support to evaluate an application for completeness.
There will need to be the ability for towns to ask for more details or ask questions of the applicant as applications are being reviewed. There is no way all aspects of an application can be deemed complete at the onset without review by each board responsible for their area.

Enforcement
If there is a successor who wants to change the terms of the permit, the whole 12 month review period will start again. It may not be necessary depending on the change, but there is no ability to define changes which will not require the full 12 month review.

Concurrency and Transition Periods
As described above, all small rural towns will be extremely challenged to meet the March 2026 deadline. Additionally, many will be challenged to meet the 12 month deadline as well at least for the 1st permit application. All will need technical and administrative support for adopting new bylaws and permit forms, reviewing a permit application to meet the checklist and during the 12 month permit review process.

Would be glad to talk further on any topic.

Thank you

Claire Chang
Greenfield Solar

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BY ELECTRONIC DELIVERY ONLY

October 17, 2025

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CC: Director Rick Collins, Division of Clean Energy Siting and Permitting

Re: **DOER Proposed Rulemaking: Consolidated Local Guidelines for Small Projects, 225 CMR 29.00**
Comments submitted by Conservation Law Foundation

Dear Director Collins and DOER staff:

I. Introduction

Conservation Law Foundation ("CLF")[1] appreciates the opportunity to comment on the Department of Energy Resources' ("Department" or "DOER") proposed rulemaking, as required by *An Act promoting a clean energy grid, advancing equity and protecting taxpayers* ("2024 Climate Act"),[2] concerning regulations governing the permitting process for Small Clean Energy Infrastructure Projects.[3]

As the Commonwealth continues to take significant steps toward achieving its climate targets, effective and equitable policy frameworks are critical to guide the development of clean energy infrastructure. Even more so, clean energy is essential to meeting the Commonwealth's climate goals of achieving net-zero greenhouse gas emissions by 2050, as required by the Global

[1] CLF is a nonprofit, member-supported public interest advocacy group that acts to solve the environmental challenges that threaten people, natural resources, and communities across New England. CLF works to ensure that laws and policies are developed, implemented, and enforced to protect and restore New England's natural resources, economy, and environment, to safeguard the health of our communities, and implement a just and equitable transition to Massachusetts' clean energy future.
[2] St. 2024, c. 239.
[3] *See* 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting, https://www.mass.gov/doc/225-cmr-2900-small-clean-energy-infrastructure-facility-siting-and-permitting-draft-regulation/download.

Warming Solutions Act ("GWSA")[4] and An Act to Create A Next-Generation Roadmap for Massachusetts Climate Policy ("Roadmap Law").[5] If properly implemented, the 2024 Climate Act will play a pivotal role in balancing the urgency of meeting Massachusetts' climate targets with the need for community engagement and environmental justice. This is especially needed in light of federal inaction on climate mitigation.

The proposed regulations take a major step to ensuring that the intention of the 2024 Climate Act is met, but several components, including addressing cumulative impacts, definitional clarity, procedural timelines, mitigation frameworks, and guidance alignment require further improvement to ensure implementation is fair and equitable across municipalities.

CLF's comments below provide constructive feedback on how the proposed regulations can be strengthened to better address various components of the 2024 Climate Act. With careful adjustments, Massachusetts can continue to lead the way in addressing the climate crisis while ensuring that the benefits of this transition are felt across all communities.

II. CLF's Comments and Recommendations

A. General Comments

The proposed DOER regulation does not include any provisions relating to cumulative impact analysis. To maintain consistency with the statute and any review or permitting conducted by the Board for small clean energy infrastructure facilities ("SCEIFs"), DOER must require that a cumulative impact analysis be conducted in a manner consistent with recommendations from the Office of Environmental Justice and Equity ("OEJE").[6] This process should draw from the regulation that will be issued by Energy Facilities Siting Board ("the Board" or "EFSB") at 980 CMR 15.00 for SCEIFs.[7] CLF recognizes that this process should differentiate between the risks posed by SCEIFs and those posed by large clean energy infrastructure facilities ("LCEIFs").

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[6] In determinations regarding SCEIFs, M.G.L. c. 164 § 69H requires the Energy Facilities Siting Board ("the Board" or "EFSB") to describe findings that "due consideration has been given to any cumulative burdens on host communities." The Board's enabling statute also requires the Board to utilize "standards for applying the cumulative impacts analysis standards and guidelines developed by the office of environmental justice and equity" in its governance of the siting and permitting for small clean energy infrastructure facilities ("SCEIFs"). *See* M.G.L. c. 164 § 69T (imposing this requirement on LCEIFs) and §§ 69U, 69V (applying those same standards to requests by an applicant for issuance of a consolidated permit for small clean transmission and distribution infrastructure facilities (§ 69U) and small clean energy generation facilities (§ 69V)).
[7] M.G.L. c. 164 § 69H requires that the Board "promulgate regulations for cumulative impact analysis as part of its review of . . . small clean energy infrastructure facilities."

Inclusion of a cumulative impact analysis will ensure that DOER's proposed regulation(s) complies with the statutory mandate to create "uniform sets of public health, safety, environmental and other standards . . .[and] that local governments shall require for the issuance of permits for small clean energy infrastructure facilities." EFSB will have jurisdiction over SCEIF permit applications filed directly with the Board and over De Novo appeals submitted by local governments, applicants, or other parties. EFSB will be required to consider cumulative impact analyses in these stages of permit applications. Therefore, to maintain uniformity across permitting for SCEIFs, DOER must include cumulative impact analysis requirements in its proposed regulation(s) for SCEIFs. Consistent procedures and standard conditions will benefit all parties involved in the permitting process for SCEIFs by promoting equitable application of the regulations and carefully planned outcomes.

DOER should include cumulative impacts analysis requirements in its final regulation(s) by: (1) issuing its own rules that are consistent with OEJE guidance, or (2) referring directly to EFSB rules. Because EFSB is also required to include cumulative impact analysis for review of permits pertaining to SCEIFs, DOER could include EFSB's provisions related to SCEIFs into its own rules. This will enable consistency throughout the regulatory process and allow DOER's regulations to move forward while EFSB finalizes its approach. Because cumulative impact analysis requirements were not included in the original proposal, CLF requests that DOER provide additional time for feedback on the cumulative impact regulations the agency adopts for facilities covered under these regulations before they are finalized.

Additionally, in recognition of the benefits that can come from community solar, the Department should encourage access to community solar and its economic benefits, while balancing mitigation measures, especially in environmental justice communities.[8] Developers should be incentivized to site solar projects on previously developed sites, including buildings, parking lots, and low-impact sites. Developers should be deterred from developing projects that will contribute to cumulative impacts on environmental justice populations that have been disproportionately affected by the negative consequences of energy infrastructure.

B. 225 CMR 29.02: Definitions

Several key terms that are central to the regulatory scheme outlined in later sections of the regulation are missing or insufficiently defined in the regulation. Yet, CLF notes that the Department has released preliminary draft guidelines related to site suitability, public health, safety and environmental standards, common conditions and requirements in case of constructive approval, and minimization and mitigation measures. CLF will comment on the guidelines at the designated comment period when it is determined.

[8] *See* CLF comments on SMART 3.0 (July 24, 2025).

However, even with the guidance, the regulation leaves important terms undefined. For example, terms such as "highly suitable" and "highly unsuitable" are used in 225 CMR 29.07(5) as thresholds that determine whether an applicant is exempt from mitigation or eligible for "Compensatory Environmental Mitigation." Yet, because terms lack regulatory definitions, their application risks being inconsistent and inequitable.

There are also no definitions for "Minimization" and "Mitigation Measures" in the regulation. These terms are also central to the regulation and consistent decision-making regarding appropriate mitigation measures. Additionally, "Compensatory Environmental Mitigation Measures" are not defined as distinct from "Fees," which could lead to confusion about what constitutes "mitigation."

Further, the regulation does not define "Site Suitability Score Modifiers," which can substantially affect permitting outcomes. To ensure clarity and consistent application, "Modifiers" should be defined in the regulation with clear criteria for eligibility, application, and scoring.

When developing cumulative impact analysis requirements, DOER should also adopt a definition of cumulative impacts analysis that is consistent with definitions recommended by OEJE and EFSB.

C. 225 CMR 29.04: Applicability

225 CMR 29.04(2) allows the Department, in consultation with the Board, to add new facility types to the definition of Small Clean Energy Generation Facilities to allow for evolving clean energy technologies, so long as they produce no greenhouse gases or harmful pollutant emissions throughout the resource's lifecycle. However, the regulation does not specify the criteria, process, or standards guiding the Department's ability to make these additions. For transparency and stakeholder confidence, the Department should clarify:

- What criteria will be used to evaluate and approve new facility types?
- How and in what manner will public and stakeholder consultation be conducted and documented?
- What safeguards or review periods will prevent rapid or insufficiently studied additions?

Including these details in the regulation or accompanying guidance would ensure that the process remains fair and transparent and that outcomes advance Massachusetts' progress toward an equitable clean energy transition and achievement of our climate mandates.

D. 225 CMR 29.05: Concurrency and Transition Periods

While the statute sets a deadline of March 1, 2026, to finalize implementing regulations, 225 CMR 29.05(2) sets a mandatory compliance deadline of December 1, 2026. This nine (9) month buffer for implementation of the rule is reasonable and gives applicants and local governments time to adjust to the changes. Additionally, this will prevent disruption of in-progress projects. During this timeframe, local governments should reach out to the public to inform them of the changes that are being made through the new processes, including ways to engage in the permitting process.

E. 225 CMR 29:06: Public Health, Safety, and Environmental Standards

CLF intends to provide specific comments on the recently released Guideline on Public Health, Safety, and Environmental Standards during the Department's designated comment period. It is essential that the final guidance includes clear, comprehensive, and enforceable criteria to ensure consistency, transparency, and adequate protection of public health and the environment.

F. 225 CMR 29.07: Site Suitability

In 225 CMR 29.07, the Department has set a framework for assessing site suitability through a scoring system detailed in its recently released Site Suitability Guidance. Under this process, applicants are required to estimate and disclose a total Site Suitability Score during the pre-filing engagement process and submit a formal Site Suitability Report that includes documentation supporting the score, the rationale for siting, and information about the project's potential social and environmental burdens. Applicants, local governments, and other key stakeholders are eligible to submit a request for review of the scores in the Site Suitability Report to the Department if they contest the scores. Additionally, local governments may either offer Compensatory Environmental Mitigation ("CEM") or impose CEM Fees to satisfy the Applicant's Minimization and Mitigation obligations. Some elements, as detailed below, must be revised and clarified to ensure that the regulation aligns with the intent of the 2024 Climate Act.

i. Clarify Key Terms to Ensure Accountability

The regulation includes key concepts such as "Score Modifiers" and "highly suitable" and "highly unsuitable" which trigger or exempt projects from mitigation requirements under 225 CMR 29.07(5)-(6). However, these sections are undefined and may leave local governments and communities uncertain about which conditions apply. These definitions should not be left to guidance alone and should be explicitly defined in the regulations.

ii. Structure Fees to be Accountable and Equitable

The regulation must ensure that fees are used in a transparent, equitable, and climate-aligned manner. In 225 CMR 29.07(7), the inclusion of Minimization and Mitigation Measures ("MMM"), including Compensatory Environmental Mitigation ("CEM") and CEM Fees, is useful to ensure that communities and decision-makers understand that clean energy projects can have some impacts. However, the regulation must clearly state that communities affected by project impacts will be the direct beneficiaries of such spending.

iii. Clarify "Rational Nexus"

In 225 CMR 29.07(5)(a), the provision introduces a "rational nexus" standard for mitigation requirements. The phrase "rational nexus" is vague, and DOER must ensure that mitigation measures are targeted. DOER should amend the regulation to require that mitigation be tied to specific, identifiable, measurable adverse impacts which directly result from the project.

iv. Improve Procedural Fairness

225 CMR 29.07(4) states that the Department's determination of a Site Suitability Score "shall be final and not subject to appeal." Affected parties, particularly members of environmental justice communities and local governments, should have a narrow but meaningful pathway to contest materially inaccurate or procedurally deficient scores.

v. Improve Meaningful Engagement

Currently, the regulation does not clarify how the Site Suitability process interacts with the 12-month deadline for local permit issuance established in the 2024 Climate Act. Delays in scoring or disputes over suitability may inadvertently lead to constructive approvals without sufficient community review. Environmental justice communities, in particular, must be provided with sufficient time and resources to participate meaningfully in the site evaluation process.

vi. Ensure Compensatory Environmental Mitigation Benefits Local Communities

225 CMR 29.07(6) permits Local Governments to offer Compensatory Environmental Mitigation ("CEM") in situations where a project receives a "highly unsuitable" Site Suitability Score. The regulation must be drafted in a way that ensures mitigation is tied directly to specific harms from the proposed project, rather than in a way that trades harm to the community for benefits to the local government. This is especially true in environmental justice populations. As mentioned before, the use of "rational nexus" is vague and creates ambiguity about what

qualifies as mitigation. DOER must clarify the "rational nexus" standard and ensure mitigation does not only provide general benefits to the local government while failing to address other burdens on affected communities.

vii. Improve Community Involvement

To improve 225 CMR 29.07, DOER should require meaningful engagement with impacted communities in the design and implementation of any mitigation measures.

G. 225 CMR 29.08: Pre-Filing Requirements

This section establishes a detailed pre-filing process. However, there are still ways DOER can improve this feature to ensure that early and meaningful engagement occurs with local governments, stakeholders, and the public before permit applications are submitted. While there are useful components in this provision, including hybrid/ recorded meetings, minimum notice periods, mailed notices, inclusion of media outlets like radio, social media, and newspapers, there are still concerning gaps in key areas of 225 CMR 29.08(2)(f).

i. Expand Environmental Justice Considerations

The regulation should require enhanced outreach requirements, including but not limited to, publication of notices in multiple languages, provision of translation and interpretation services at meetings, and more frequent meetings or engagement opportunities, specifically for projects situated in or near an environmental justice population as designated by the Roadmap Law.[9] A cumulative impact analysis should also inform siting decision in environmental justice communities during the pre-filing engagement process.

Outreach in environmental justice communities must be conducted in a manner that is responsive to community input. Although the Pre-Filing Period is sixty (60) days, this should not prevent applicants from engaging with communities and using this engagement to influence site selection prior to the Pre-Filing Period. The Department and municipal governments should look favorably upon meaningful, early community engagement.

As part of the Site Footprint locus maps, the applicant should also identify schools, childcare facilities, hospitals and other medical treatment centers, and other public gathering or meeting places that will be impacted by the project. Public meetings should be scheduled at times that are accessible to working families and held in venues that contain childcare options. Meetings should also be held at locations that are accessible by public transit.

[9] St. 2021, c. 8.

For timeline clarity, in the guidance documents, a detailed timeline or flowchart would aid applicants and local officials to ensure timelines are met. On stakeholder engagement, guidance should clarify how "appropriateness" of engagement plans will be evaluated, especially for projects of varying scale.

For the benefit of both the project applicants and the community, DOER should maintain a list of individuals and entities who preemptively express interest in being notified about projects in certain areas. The applicant should then be required to use this list alongside other notification requirements to identify potential key stakeholders at the start of their pre-filing engagement. All notices should include a plain language description of the proposed project. Any information provided as a part of this process should be kept on file and be made available to the public at offices of the local government or in another publicly accessible space.

Finally, DOER should require project applicants to make details about the project available online. While larger projects could be required to maintain a project website, smaller projects could be required to post notice and project details on a website maintained by the Municipality or DOER. These resources should be available in languages commonly spoken in the affected community and align with language access guidelines.

ii. Allow for Independent Verification

In 225 CMR 29.08(3), the provision states that an applicant must submit a "self-attested Pre-Filing Engagement Completion Checklist." This provision is concerning as there is no independent verification that the process was accurate or inclusive. Compliance with pre-filing engagement regulations should be subject to third-party review to assess whether applicants meaningfully engaged in a community and not simply a self-attested "checklist."

Additionally, the self-attestation plan requires all engagement activities to occur within the Pre-Filing Period. Engagement activities prior to the Pre-Filing Period, especially those that influence siting decisions based on community feedback, should be encouraged and credited. At the same time, applicants should be required to accurately and completely document community feedback received without summary.

H. 225 CMR 29:09: Consolidated Local Permit Application

225 CMR 29.09 outlines the required content for a Consolidated Local Permit Application. Clarity is needed in several key areas of this provision. First, regarding how the application will be submitted, the guidance issued by the Department should include standardized forms and an application checklist. The Guidance should also clarify how workforce development, diversity, and compliance disclosures will be evaluated. The

Department should also require a cumulative impact analysis in environmental justice populations per OEJE guidance as a part of this process.

I. 225 CMR 29.10: Consolidated Local Permit Application Review Process

225 CMR 29.10 sets out a detailed process for local review of Consolidated Local Permit Applications, including timelines for determining application completeness, issuing permit decisions, and resolving disputes. There are several areas where clarification is necessary to ensure fair, efficient, and consistent implementation across municipalities.

iii. Enhance Local Capacity

Municipalities will require support to meet deadlines, especially smaller municipalities with limited planning capacity, to avoid constructive approval of many projects. While the "constructive approval" mechanism is meant to encourage timeliness, as stated in 225 CMR 29.10(1)(b), it risks enabling projects to move forward without adequate review, especially in communities with limited capacity. To avoid this, the Department should clarify ways to help municipalities meet deadlines and potentially include a standardized completeness checklist.

iv. Clarify De Novo Adjudication

It is important to allow De Novo adjudication at the Board. However, some clarifications will improve the provision in 225 CMR 29.10(5). The regulation should clarify how the De Novo process interacts with constructive approval timelines and whether a project can proceed with construction during adjudication. Additionally, it is important to ensure affected community members, especially members of environmental justice populations, understand the review process. This must be addressed during the outreach process.

J. 225 CMR 29.11: Regulatory Circuit Rider

The Regulatory Circuit Rider is a useful mechanism to provide technical assistance. To strengthen this provision, the regulation and/or accompanying guidance should clarify the scope and limitations of the Circuit Rider's Role, particularly in the case of disputes. For example, will the Circuit Rider's guidance carry binding effect? The Department should ensure that Circuit Riders are adequately resourced and staffed. Additionally, the function of the Circuit Rider should be clearly communicated to municipalities and applicants early in the process.

K. 225 CMR 29.12: Common Conditions and requirements for Constructive Approval

225 CMR 29.12 outlines the process through which an application may be deemed approved by default if a local government fails to issue a timely decision within the 12-month deadline established in 225 CMR 29.10. While the inclusion of a clear timeline reflects the goals of the 2024 Climate Act to accelerate permitting for clean energy infrastructure, the constructive approval mechanism raises several equity and implementation concerns that must be addressed in the regulation or accompanying guidance.

i. Avoid Unintentional Approvals due to Capacity Constraints

If constructive approval is applied without sufficient safeguards, it could allow projects to move forward without full municipal or community input, particularly in under-resourced jurisdictions. The Department should:

- Establish procedural safeguards to ensure local governments receive timely reminders and assistance as they approach the 12-month review deadline.
- Clarify whether and how a pending de novo adjudication or unresolved dispute may pause or extend the timeline for constructive approval.

ii. Improve Transparency

The regulation should require that any constructive approval determination be made publicly available, both via local government channels and the Department's website. The Department should also consider notifying key stakeholders when constructive approval is triggered, particularly in environmental justice populations.

iii. Clarify Applicability

The Department should develop clear dispute resolution procedures if parties disagree about whether a constructive approval has occurred.

L. 225 CMR 29:13: Model Small Clean Energy Infrastructure Facility Permitting Bylaw

225 CMR 29.13 authorizes the Department to develop a Model Small Clean Energy Infrastructure Facility Permitting Bylaw to guide local governments in implementing the consolidated local permit process. While the 2024 Climate Act does not explicitly authorize or require the Department to promulgate a model bylaw, the bylaw can serve as a useful tool for municipalities. CLF will comment on the model bylaw by the November 14 deadline.

M. 225 CMR 29.14: Enforcement

225 CMR 29.14 allows successors in interest to petition the local government to modify the pre-existing obligations attached to SCEIFs permits. It is important that municipalities are not obligated to grant these petitions. However, DOER should clarify that this procedure cannot be used to alter requirements arising out of community benefit plans and community benefit agreements. These plans and agreements may have been obtained through negotiations with groups other than the local government. As such, it would not be possible to properly account for the parties' interests via local government review alone.

III. Additional Commentary

i. Re-evaluate regulations

DOER should include an amendment in the regulations to allow a review of the requirements outlined in 225 CMR 29.00 in the next two years and provide an opportunity for public comments to determine whether any components should be amended. This provision has previously been included in the Cumulative Impact Regulations on air pollution control in 310 CMR 7.00.[10] This will allow the Board to ensure that the regulations are aligned with the spirit of the 2024 Climate Act, which is to ensure that the Commonwealth meets its 2030 and 2050 climate targets and mandates as outlined by the GWSA and the Roadmap Law, while also meaningfully including environmental justice populations.

ii. Enhance Language Access

DOER should include provisions requiring language access for all pre-filing engagement proceedings, cumulative impact analysis requirements, consolidated permit application proceedings, and all other public proceedings and submissions required by these regulations. These language access requirements should be at least as robust as those required by proceedings before the EFSB. DOER should reference EFSB's requirements related to their Language Access Plan. Should DOER include requirements in reference to EFSB's Language Access Plan, it should also adopt the recommendations included in CLF's comment letter related to language access for the EFSB 2024 Climate Act regulations focusing on compliance with Executive Order No. 615.

IV. Conclusion

As outlined above, CLF makes several recommendations as to how the proposed regulations can be strengthened to better address various components of the 2024 Climate Act. These changes are necessary if the Commonwealth wants to achieve its 2030 and 2050 climate

[10] 310 CMR 7.00: Cumulative Impact Analysis Final Amendments (March 28, 2024), https://www.mass.gov/doc/310-cmr-70214-cumulative-impact-analysis-amendments/download.

targets and additional statutory mandates. CLF is ready and able to work with DOER and other agencies to amend current regulations, as needed, to meet the pressing timeline facing Massachusetts. CLF looks forward to continuing to work together to achieve just, equitable, and effective solutions for the Commonwealth.

Respectfully Submitted,



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This Letter is submitted with the support of:

- Alternatives for Community & Environment (ACE)
- Clean Water Action
- GreenRoots
- Pipe Line Awareness Network for the Northeast
- Union of Concerned Scientists

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BY ELECTRONIC DELIVERY ONLY

October 17, 2025

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DOER.Siting.Permitting@mass.gov
CC: Rick Collins

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Comments submitted by Conservation Law Foundation

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[6] In determinations regarding SCEIFs, M.G.L. c. 164 § 69H requires the Energy Facilities Siting Board ("the Board" or "EFSB") to describe findings that "due consideration has been given to any cumulative burdens on host communities." The Board's enabling statute also requires the Board to utilize "standards for applying the cumulative impacts analysis standards and guidelines developed by the office of environmental justice and equity" in its governance of the siting and permitting for small clean energy infrastructure facilities ("SCEIFs"). *See* M.G.L. c. 164 § 69T (imposing this requirement on LCEIFs) and §§ 69U, 69V (applying those same standards to requests by an applicant for issuance of a consolidated permit for small clean transmission and distribution infrastructure facilities (§ 69U) and small clean energy generation facilities (§ 69V)).
[7] M.G.L. c. 164 § 69H requires that the Board "promulgate regulations for cumulative impact analysis as part of its review of . . . small clean energy infrastructure facilities."

Inclusion of a cumulative impact analysis will ensure that DOER's proposed regulation(s) complies with the statutory mandate to create "uniform sets of public health, safety, environmental and other standards . . .[and] that local governments shall require for the issuance of permits for small clean energy infrastructure facilities." EFSB will have jurisdiction over SCEIF permit applications filed directly with the Board and over De Novo appeals submitted by local governments, applicants, or other parties. EFSB will be required to consider cumulative impact analyses in these stages of permit applications. Therefore, to maintain uniformity across permitting for SCEIFs, DOER must include cumulative impact analysis requirements in its proposed regulation(s) for SCEIFs. Consistent procedures and standard conditions will benefit all parties involved in the permitting process for SCEIFs by promoting equitable application of the regulations and carefully planned outcomes.

DOER should include cumulative impacts analysis requirements in its final regulation(s) by: (1) issuing its own rules that are consistent with OEJE guidance, or (2) referring directly to EFSB rules. Because EFSB is also required to include cumulative impact analysis for review of permits pertaining to SCEIFs, DOER could include EFSB's provisions related to SCEIFs into its own rules. This will enable consistency throughout the regulatory process and allow DOER's regulations to move forward while EFSB finalizes its approach. Because cumulative impact analysis requirements were not included in the original proposal, CLF requests that DOER provide additional time for feedback on the cumulative impact regulations the agency adopts for facilities covered under these regulations before they are finalized.

Additionally, in recognition of the benefits that can come from community solar, the Department should encourage access to community solar and its economic benefits, while balancing mitigation measures, especially in environmental justice communities.[8] Developers should be incentivized to site solar projects on previously developed sites, including buildings, parking lots, and low-impact sites. Developers should be deterred from developing projects that will contribute to cumulative impacts on environmental justice populations that have been disproportionately affected by the negative consequences of energy infrastructure.

B. 225 CMR 29.02: Definitions

Several key terms that are central to the regulatory scheme outlined in later sections of the regulation are missing or insufficiently defined in the regulation. Yet, CLF notes that the Department has released preliminary draft guidelines related to site suitability, public health, safety and environmental standards, common conditions and requirements in case of constructive approval, and minimization and mitigation measures. CLF will comment on the guidelines at the designated comment period when it is determined.

[8] *See* CLF comments on SMART 3.0 (July 24, 2025).

However, even with the guidance, the regulation leaves important terms undefined. For example, terms such as "highly suitable" and "highly unsuitable" are used in 225 CMR 29.07(5) as thresholds that determine whether an applicant is exempt from mitigation or eligible for "Compensatory Environmental Mitigation." Yet, because terms lack regulatory definitions, their application risks being inconsistent and inequitable.

There are also no definitions for "Minimization" and "Mitigation Measures" in the regulation. These terms are also central to the regulation and consistent decision-making regarding appropriate mitigation measures. Additionally, "Compensatory Environmental Mitigation Measures" are not defined as distinct from "Fees," which could lead to confusion about what constitutes "mitigation."

Further, the regulation does not define "Site Suitability Score Modifiers," which can substantially affect permitting outcomes. To ensure clarity and consistent application, "Modifiers" should be defined in the regulation with clear criteria for eligibility, application, and scoring.

When developing cumulative impact analysis requirements, DOER should also adopt a definition of cumulative impacts analysis that is consistent with definitions recommended by OEJE and EFSB.

C. 225 CMR 29.04: Applicability

225 CMR 29.04(2) allows the Department, in consultation with the Board, to add new facility types to the definition of Small Clean Energy Generation Facilities to allow for evolving clean energy technologies, so long as they produce no greenhouse gases or harmful pollutant emissions throughout the resource's lifecycle. However, the regulation does not specify the criteria, process, or standards guiding the Department's ability to make these additions. For transparency and stakeholder confidence, the Department should clarify:

- What criteria will be used to evaluate and approve new facility types?
- How and in what manner will public and stakeholder consultation be conducted and documented?
- What safeguards or review periods will prevent rapid or insufficiently studied additions?

Including these details in the regulation or accompanying guidance would ensure that the process remains fair and transparent and that outcomes advance Massachusetts' progress toward an equitable clean energy transition and achievement of our climate mandates.

D. 225 CMR 29.05: Concurrency and Transition Periods

While the statute sets a deadline of March 1, 2026, to finalize implementing regulations, 225 CMR 29.05(2) sets a mandatory compliance deadline of December 1, 2026. This nine (9) month buffer for implementation of the rule is reasonable and gives applicants and local governments time to adjust to the changes. Additionally, this will prevent disruption of in-progress projects. During this timeframe, local governments should reach out to the public to inform them of the changes that are being made through the new processes, including ways to engage in the permitting process.

E. 225 CMR 29:06: Public Health, Safety, and Environmental Standards

CLF intends to provide specific comments on the recently released Guideline on Public Health, Safety, and Environmental Standards during the Department's designated comment period. It is essential that the final guidance includes clear, comprehensive, and enforceable criteria to ensure consistency, transparency, and adequate protection of public health and the environment.

F. 225 CMR 29.07: Site Suitability

In 225 CMR 29.07, the Department has set a framework for assessing site suitability through a scoring system detailed in its recently released Site Suitability Guidance. Under this process, applicants are required to estimate and disclose a total Site Suitability Score during the pre-filing engagement process and submit a formal Site Suitability Report that includes documentation supporting the score, the rationale for siting, and information about the project's potential social and environmental burdens. Applicants, local governments, and other key stakeholders are eligible to submit a request for review of the scores in the Site Suitability Report to the Department if they contest the scores. Additionally, local governments may either offer Compensatory Environmental Mitigation ("CEM") or impose CEM Fees to satisfy the Applicant's Minimization and Mitigation obligations. Some elements, as detailed below, must be revised and clarified to ensure that the regulation aligns with the intent of the 2024 Climate Act.

i. Clarify Key Terms to Ensure Accountability

The regulation includes key concepts such as "Score Modifiers" and "highly suitable" and "highly unsuitable" which trigger or exempt projects from mitigation requirements under 225 CMR 29.07(5)-(6). However, these sections are undefined and may leave local governments and communities uncertain about which conditions apply. These definitions should not be left to guidance alone and should be explicitly defined in the regulations.

ii. Structure Fees to be Accountable and Equitable

The regulation must ensure that fees are used in a transparent, equitable, and climate-aligned manner. In 225 CMR 29.07(7), the inclusion of Minimization and Mitigation Measures ("MMM"), including Compensatory Environmental Mitigation ("CEM") and CEM Fees, is useful to ensure that communities and decision-makers understand that clean energy projects can have some impacts. However, the regulation must clearly state that communities affected by project impacts will be the direct beneficiaries of such spending.

iii. Clarify "Rational Nexus"

In 225 CMR 29.07(5)(a), the provision introduces a "rational nexus" standard for mitigation requirements. The phrase "rational nexus" is vague, and DOER must ensure that mitigation measures are targeted. DOER should amend the regulation to require that mitigation be tied to specific, identifiable, measurable adverse impacts which directly result from the project.

iv. Improve Procedural Fairness

225 CMR 29.07(4) states that the Department's determination of a Site Suitability Score "shall be final and not subject to appeal." Affected parties, particularly members of environmental justice communities and local governments, should have a narrow but meaningful pathway to contest materially inaccurate or procedurally deficient scores.

v. Improve Meaningful Engagement

Currently, the regulation does not clarify how the Site Suitability process interacts with the 12-month deadline for local permit issuance established in the 2024 Climate Act. Delays in scoring or disputes over suitability may inadvertently lead to constructive approvals without sufficient community review. Environmental justice communities, in particular, must be provided with sufficient time and resources to participate meaningfully in the site evaluation process.

vi. Ensure Compensatory Environmental Mitigation Benefits Local Communities

225 CMR 29.07(6) permits Local Governments to offer Compensatory Environmental Mitigation ("CEM") in situations where a project receives a "highly unsuitable" Site Suitability Score. The regulation must be drafted in a way that ensures mitigation is tied directly to specific harms from the proposed project, rather than in a way that trades harm to the community for benefits to the local government. This is especially true in environmental justice populations. As mentioned before, the use of "rational nexus" is vague and creates ambiguity about what

qualifies as mitigation. DOER must clarify the "rational nexus" standard and ensure mitigation does not only provide general benefits to the local government while failing to address other burdens on affected communities.

vii. Improve Community Involvement

To improve 225 CMR 29.07, DOER should require meaningful engagement with impacted communities in the design and implementation of any mitigation measures.

G. 225 CMR 29.08: Pre-Filing Requirements

This section establishes a detailed pre-filing process. However, there are still ways DOER can improve this feature to ensure that early and meaningful engagement occurs with local governments, stakeholders, and the public before permit applications are submitted. While there are useful components in this provision, including hybrid/ recorded meetings, minimum notice periods, mailed notices, inclusion of media outlets like radio, social media, and newspapers, there are still concerning gaps in key areas of 225 CMR 29.08(2)(f).

i. Expand Environmental Justice Considerations

The regulation should require enhanced outreach requirements, including but not limited to, publication of notices in multiple languages, provision of translation and interpretation services at meetings, and more frequent meetings or engagement opportunities, specifically for projects situated in or near an environmental justice population as designated by the Roadmap Law.[9] A cumulative impact analysis should also inform siting decision in environmental justice communities during the pre-filing engagement process.

Outreach in environmental justice communities must be conducted in a manner that is responsive to community input. Although the Pre-Filing Period is sixty (60) days, this should not prevent applicants from engaging with communities and using this engagement to influence site selection prior to the Pre-Filing Period. The Department and municipal governments should look favorably upon meaningful, early community engagement.

As part of the Site Footprint locus maps, the applicant should also identify schools, childcare facilities, hospitals and other medical treatment centers, and other public gathering or meeting places that will be impacted by the project. Public meetings should be scheduled at times that are accessible to working families and held in venues that contain childcare options. Meetings should also be held at locations that are accessible by public transit.

[9] St. 2021, c. 8.

For timeline clarity, in the guidance documents, a detailed timeline or flowchart would aid applicants and local officials to ensure timelines are met. On stakeholder engagement, guidance should clarify how "appropriateness" of engagement plans will be evaluated, especially for projects of varying scale.

For the benefit of both the project applicants and the community, DOER should maintain a list of individuals and entities who preemptively express interest in being notified about projects in certain areas. The applicant should then be required to use this list alongside other notification requirements to identify potential key stakeholders at the start of their pre-filing engagement. All notices should include a plain language description of the proposed project. Any information provided as a part of this process should be kept on file and be made available to the public at offices of the local government or in another publicly accessible space.

Finally, DOER should require project applicants to make details about the project available online. While larger projects could be required to maintain a project website, smaller projects could be required to post notice and project details on a website maintained by the Municipality or DOER. These resources should be available in languages commonly spoken in the affected community and align with language access guidelines.

ii. Allow for Independent Verification

In 225 CMR 29.08(3), the provision states that an applicant must submit a "self-attested Pre-Filing Engagement Completion Checklist." This provision is concerning as there is no independent verification that the process was accurate or inclusive. Compliance with pre-filing engagement regulations should be subject to third-party review to assess whether applicants meaningfully engaged in a community and not simply a self-attested "checklist."

Additionally, the self-attestation plan requires all engagement activities to occur within the Pre-Filing Period. Engagement activities prior to the Pre-Filing Period, especially those that influence siting decisions based on community feedback, should be encouraged and credited. At the same time, applicants should be required to accurately and completely document community feedback received without summary.

H. 225 CMR 29:09: Consolidated Local Permit Application

225 CMR 29.09 outlines the required content for a Consolidated Local Permit Application. Clarity is needed in several key areas of this provision. First, regarding how the application will be submitted, the guidance issued by the Department should include standardized forms and an application checklist. The Guidance should also clarify how workforce development, diversity, and compliance disclosures will be evaluated. The

Department should also require a cumulative impact analysis in environmental justice populations per OEJE guidance as a part of this process.

I. 225 CMR 29.10: Consolidated Local Permit Application Review Process

225 CMR 29.10 sets out a detailed process for local review of Consolidated Local Permit Applications, including timelines for determining application completeness, issuing permit decisions, and resolving disputes. There are several areas where clarification is necessary to ensure fair, efficient, and consistent implementation across municipalities.

iii. Enhance Local Capacity

Municipalities will require support to meet deadlines, especially smaller municipalities with limited planning capacity, to avoid constructive approval of many projects. While the "constructive approval" mechanism is meant to encourage timeliness, as stated in 225 CMR 29.10(1)(b), it risks enabling projects to move forward without adequate review, especially in communities with limited capacity. To avoid this, the Department should clarify ways to help municipalities meet deadlines and potentially include a standardized completeness checklist.

iv. Clarify De Novo Adjudication

It is important to allow De Novo adjudication at the Board. However, some clarifications will improve the provision in 225 CMR 29.10(5). The regulation should clarify how the De Novo process interacts with constructive approval timelines and whether a project can proceed with construction during adjudication. Additionally, it is important to ensure affected community members, especially members of environmental justice populations, understand the review process. This must be addressed during the outreach process.

J. 225 CMR 29.11: Regulatory Circuit Rider

The Regulatory Circuit Rider is a useful mechanism to provide technical assistance. To strengthen this provision, the regulation and/or accompanying guidance should clarify the scope and limitations of the Circuit Rider's Role, particularly in the case of disputes. For example, will the Circuit Rider's guidance carry binding effect? The Department should ensure that Circuit Riders are adequately resourced and staffed. Additionally, the function of the Circuit Rider should be clearly communicated to municipalities and applicants early in the process.

K. 225 CMR 29.12: Common Conditions and requirements for Constructive Approval

225 CMR 29.12 outlines the process through which an application may be deemed approved by default if a local government fails to issue a timely decision within the 12-month deadline established in 225 CMR 29.10. While the inclusion of a clear timeline reflects the goals of the 2024 Climate Act to accelerate permitting for clean energy infrastructure, the constructive approval mechanism raises several equity and implementation concerns that must be addressed in the regulation or accompanying guidance.

i. Avoid Unintentional Approvals due to Capacity Constraints

If constructive approval is applied without sufficient safeguards, it could allow projects to move forward without full municipal or community input, particularly in under-resourced jurisdictions. The Department should:

- Establish procedural safeguards to ensure local governments receive timely reminders and assistance as they approach the 12-month review deadline.
- Clarify whether and how a pending de novo adjudication or unresolved dispute may pause or extend the timeline for constructive approval.

ii. Improve Transparency

The regulation should require that any constructive approval determination be made publicly available, both via local government channels and the Department's website. The Department should also consider notifying key stakeholders when constructive approval is triggered, particularly in environmental justice populations.

iii. Clarify Applicability

The Department should develop clear dispute resolution procedures if parties disagree about whether a constructive approval has occurred.

L. 225 CMR 29:13: Model Small Clean Energy Infrastructure Facility Permitting Bylaw

225 CMR 29.13 authorizes the Department to develop a Model Small Clean Energy Infrastructure Facility Permitting Bylaw to guide local governments in implementing the consolidated local permit process. While the 2024 Climate Act does not explicitly authorize or require the Department to promulgate a model bylaw, the bylaw can serve as a useful tool for municipalities. CLF will comment on the model bylaw by the November 14 deadline.

M. 225 CMR 29.14: Enforcement

225 CMR 29.14 allows successors in interest to petition the local government to modify the pre-existing obligations attached to SCEIFs permits. It is important that municipalities are not obligated to grant these petitions. However, DOER should clarify that this procedure cannot be used to alter requirements arising out of community benefit plans and community benefit agreements. These plans and agreements may have been obtained through negotiations with groups other than the local government. As such, it would not be possible to properly account for the parties' interests via local government review alone.

III. Additional Commentary

i. Re-evaluate regulations

DOER should include an amendment in the regulations to allow a review of the requirements outlined in 225 CMR 29.00 in the next two years and provide an opportunity for public comments to determine whether any components should be amended. This provision has previously been included in the Cumulative Impact Regulations on air pollution control in 310 CMR 7.00.[10] This will allow the Board to ensure that the regulations are aligned with the spirit of the 2024 Climate Act, which is to ensure that the Commonwealth meets its 2030 and 2050 climate targets and mandates as outlined by the GWSA and the Roadmap Law, while also meaningfully including environmental justice populations.

ii. Enhance Language Access

DOER should include provisions requiring language access for all pre-filing engagement proceedings, cumulative impact analysis requirements, consolidated permit application proceedings, and all other public proceedings and submissions required by these regulations. These language access requirements should be at least as robust as those required by proceedings before the EFSB. DOER should reference EFSB's requirements related to their Language Access Plan. Should DOER include requirements in reference to EFSB's Language Access Plan, it should also adopt the recommendations included in CLF's comment letter related to language access for the EFSB 2024 Climate Act regulations focusing on compliance with Executive Order No. 615.

IV. Conclusion

As outlined above, CLF makes several recommendations as to how the proposed regulations can be strengthened to better address various components of the 2024 Climate Act. These changes are necessary if the Commonwealth wants to achieve its 2030 and 2050 climate

[10] 310 CMR 7.00: Cumulative Impact Analysis Final Amendments (March 28, 2024), https://www.mass.gov/doc/310-cmr-70214-cumulative-impact-analysis-amendments/download.

targets and additional statutory mandates. CLF is ready and able to work with DOER and other agencies to amend current regulations, as needed, to meet the pressing timeline facing Massachusetts. CLF looks forward to continuing to work together to achieve just, equitable, and effective solutions for the Commonwealth.

Respectfully Submitted,



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This Letter is submitted with the support of:

- Alternatives for Community & Environment (ACE)
- Clean Water Action
- GreenRoots
- Pipe Line Awareness Network for the Northeast
- Union of Concerned Scientists

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October 17, 2025

Rick Collins,
Department of Energy Resources,
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Re: Siting and & Permitting Rulemaking Comments

Dear Mr. Collins

The Central Massachusetts Regional Planning Commission (CMRPC) is the Regional Planning Agency (RPA) that serves the City of Worcester and 39 surrounding communities in Southern Worcester County. Our region is incredibly geographically and demographically diverse. It includes the 2nd largest city in New England, many suburban communities that bridge the world between Boston and Worcester County and no less than 20 rural communities with substantial agricultural economies. Its this diversity that makes us strong and resilient. This region is home to many hi-tech companies, many farms, bio-tech companies, historic landmarks, and acres upon acres of forests and natural landscapes. We also host the Wachusett and Quabbin Reservoirs.

I have attended several sessions explaining the goals behind the new SMART program and the new siting and permitting regulations and guidelines. I have listened to conversations with many of my colleagues from other RPAs and environmental organizations, including Mass Audubon, Conservation Law Foundation, Sierra Club and others. We have hosted one regional dialogue with the some of our member communities where your colleague Stephen Meno, presented the new updates and addressed questions and concerns of those in attendance.

CMRPC works with many communities to assist with their efforts to seek opportunities presented by the state's Green Communities program. We have also been awarded a grant from the Environmental Protection Agency (EPA) to develop a Comprehensive Climate Action Plan (CCAP) to achieve net zero emissions by 2050. All this to say that we believe in the value and importance of promoting alternative energy sources to reduce our dependence on fossil fuels and to make our energy sources more resilient.

Our primary concerns with the new siting and permitting regulations and guidelines include ensuring that all of our communities, large and small, have adequate resources and opportunities to make decisions that are protective of their resources and that they will be adequately compensated for any risk to or loss of those resources.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last

decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development). I feel that areas that provide drinking water and prime agricultural soils should be entirely off-limits unless and until technology is sufficient to thoroughly protect the resources. Having also recently attended a MARPA session with Tori Kim of the Massachusetts Environmental Policy Act (MEPA) division, I wonder why the same level of diligence and process is not similarly applied to energy facility siting. They are proposing to expand MEPA to residential areas; why not energy facilities too.

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities. We feel strongly that our small rural and under-resources communities need support to responsibly and thoughtfully participate throughout the process. They should be given resources to engage a third-party consultant to advise them. That third party consultant should be of their own choosing and not someone assigned by the state or the developer. Guidance on mitigation efforts will be crucial for municipal leaders as they make decisions to protect their communities and position themselves to be compensated for risk and loss of assets.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

At some level, watching as many of our communities are grappling with multiple development proposals, it almost seems as though developers seek out communities with low capacity and use that as a means to take advantage of the circumstance and lack of capacity to further their development goals. There should be limits to how many proposals any municipality should contend with in a given period of time. And to take that even further, a limit to how many facilities a community should actually host. The challenge of creating a diversified energy grid is a state-wide problem that demands a state-wide solution that provides more evenly distributed benefits and burdens.

Attending (remotely) the Oakham hearing of the Energy Facility Siting Board (EFSB) last night (October 16, 2025), I was struck by how many very articulate and passionate individuals came out to speak about their concerns. Oakham's population is less than 2,000. Those concerns were often connected to public safety, risk of devasting fires, risk to emergency response personnel, loss of drinking water supplies, loss of habit, concerns for public health, impact on roadway infrastructure, concerns about impacts of noise, and the impact on land values and the resulting loss of population that may result. I also feel that impacts are not solely confined to a town's border and that neighboring communities should be consulted and provided similar resources to be fully engaged in the process. This became apparent at the Town of Barre was dutifully monitoring the hearing in Oakham.

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects. I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities, these will help build the public's trust and ensure the durability of our clean energy future.

Respectfully,



Trish Settles, AICP
Deputy Executive Director
Regional Collaboration and Community Planning

Pioneer Valley Planning Commission

October 14, 2025

Mr. Rick Collins, Director
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RE: S&P Follow on Rulemaking Comments - 225 CMR 29.00 - Small Clean Energy Infrastructure Facility Siting and Permitting

Dear Director Collins:

Thank you for the opportunity to provide comments on the draft regulations. These comments have been prepared by the Pioneer Valley Planning Commission's Land Use and Environment Department, including Director Kenneth Comia, AICP, Chief Environment Planner Patty Gambarini, and Senior Environment Planner Angela Panaccione. The Department works closely with municipalities throughout the region on a wide range of land use and environmental planning activities, including zoning, comprehensive planning, housing, and climate resilience. Our staff also have extensive experience supporting municipal permitting processes and developing and facilitating local permitting frameworks that balance regulatory clarity, environmental protection, and community goals.

While we appreciate the opportunity to provide feedback and recognize the considerable effort that has gone into preparing these draft regulations and accompanying guidance documents, we must note that the comment period for this volume of information has been extremely limited. Several key guidance documents—such as the *Site Suitability Assessments for Clean Energy Infrastructure*, the *Standards and Guidelines for Community Benefits Plans and Agreements*, and the *Model Small Clean Energy Infrastructure Facility Permitting Bylaws*—were released at different times, allowing even less opportunity for careful review and thoughtful comment. Additional documents, including the *Guideline on Public Health, Safety, and Environmental Standards*, *Guideline on Minimization and Mitigation Measures*, *Guideline on Pre-Filing Stakeholder Engagement*, and *Guideline on Common Conditions*, only became available on October 10, 2025, with separate comment periods yet to be announced. We also understand from discussions with DOER that the *Guideline on the Consolidated Local Permit Application* has not yet been released.

We commend the Department's effort to advance these important initiatives. However, the compressed timeline has made it difficult for those in the municipal permitting field to conduct

a thorough review and interpretation of the materials—and even more challenging for members of the public to engage meaningfully. Extending the review and comment period would support a more informed, transparent, and collaborative process.

It would also be extremely helpful to have a schematic clearly illustrating the process and timelines involved with the prefiling requirements through to the issuance of the consolidated local permit.

Based on the given comment period and the available information, we offer the following comments:

RE: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting

We have two general comments about additional elements that should be included in 225 CMR 29.00.

29.02 Definitions.

The definition of Mitigation is not consistent throughout the draft regulations and the Draft Standards and Guidelines Community Benefit Plan, II, Trackable Benefits. In this paragraph, the appropriate and more consistent term would be Minimization.

29.04(1): Adding facility types to Small Clean Energy Generation Facility by the Department This should be revised to exclude facilities that produce not just pollutant emissions, but also waste known to have negative health impacts. Amendment could read:

> …the Department may add additional facility types to the definition of a Small Clean Energy Generation Facility, provided that the type of generation facility added produces no greenhouse gas emissions or other pollutant emissions and/or waste known to have negative health impacts.

29.04(2): Adding facility types to Small Clean Energy Generation Facility is proposed to be done without public input. There should be a comment period for any addition since this is a definition in the Regulations.

29.06(1): line 6, please add “sedimentation” after “erosion” to read “erosion, sedimentation and runoff prevention.” These two terms (erosion and sedimentation) may have been used interchangeably in the past but they have different meanings and separate types of control measures. It would be more accurate to list them as separate terms.

29.07(2)(b) Prefiling Requirements for Applicants/Formal Score Determination: In addition to the site plan, the Applicant submission at this point should include an existing conditions plan showing at a minimum:

1. Existing resources site analysis map that identifies, locates, and describes noteworthy features to be designed around, including:

___ Rivers, streams, and wetlands, and existing drainage patterns
___ Flood plains
___ Areas of flat, moderate, and steep slopes, and natural existing drainage patterns
___ Native vegetation, significant and/or rare vegetation, mature trees, woodlands
___ Farmland soils (all categories)
___ Cultural or historic resources, including stone walls
___ Threatened or endangered species, and vernal pools
___ Unusual geological formations, including exposed ledge
___ Scenic views or viewsheds
____Hydrologic soils group

And a Hydrologic Soils Group Map and Descriptions from https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx

These additional requirements should be articulated here so that the existing conditions site analysis informs the site plan. This will encourage and support a better design process for the site that integrates better with existing conditions.

29.06(2): it is unclear how a Local Government would adopt additional standards if section 29.13 states the Department would be developing the Bylaw for Local Governments.

Given the importance of drinking water supply to public health and the need to enable all communities in protecting supply, it is essential to call out specific safeguards for public surface supply and public and private groundwater supplies. At a minimum, elements to include here are:

For Battery Energy Storage facilities:

- Prohibit activities in reservoir Zone A areas, groundwater Zone II areas, and sole source aquifers
- Establish a buffer zone to protect existing private wells that is based on a hydrogeological assessment and identification of bedrock fracture networks (where applicable)

29.07(7): it is unclear how Local Governments may impose compensatory Mitigation Environmental fees without the availability of the Guidance document. The funds will be placed in a separate fund but what is the guidance on who manages the fund and how funding can be spent? It is unclear when in the process this action takes place. If this is part of the Consolidated Local Permit Application, it should be specifically listed in that section.

29.08(1) Pre-filing Requirements: Be sure to add here the prefiling requirements articulated in 29.07(2), including the Total Site Suitability evaluation, site plan, and the other recommendations included above here in this comment letter.

29.08(2)(f)1. Public Notice Requirements: Applicants should *coordinate with,* not just *host* and be *open to,* the Key Stakeholders on the meeting date, public location and whether the capacity for a hybrid meeting is available. Many communities do not have this capability. We suggest the following revisions:

> The Applicant shall coordinate a public meeting with Key Stakeholders, and shall provide public notice not less than 14 days before the scheduled public meeting. The public meeting shall be held in a publicly accessible location and in a hybrid format, where available. The meeting shall be recorded and made available to the public within five (5) days of the meeting date. The meeting shall conform to Department specifications in its *Guideline on Pre- Filing Stakeholder Engagement*.

29.08(2)(f)2. Public Notice Requirements: Applicant should provide proof of notification to abutters, consistent with other regulatory requirements, in the application. Notice should be sent certified mail, return receipt requested or certificate of mailing. A timeframe for sending the notification should be specified. Mailing should be sent not less than 14 days before the scheduled public meeting. We suggest the following revisions:

> The Applicant shall provide notice to Abutters and Key Stakeholders of the proposed Site Footprint via Certified mail, return receipt requested or certificate of mailing not less than 14 days prior to the scheduled public meeting. Determination of ownership and common boundary shall be made with reference to the current local tax assessors' records and maps. Notice shall include but not be limited to the following:

29.09 Consolidated Local Permit Applications (CLPA).

- 29.09(1): Permit fees are assessed according to a document that is unavailable for public comment.
- 29.09(2)(d): Electrical, plumbing, and building permits are typically submitted after the final design and review by other departments in case there are design changes to avoid



unnecessary plan revisions and resubmittals. If the municipal review is anticipated to take 12 months to review, is it expected that the applicant is going to have a project team lined up such that copies of trade licenses etc. can be submitted? The referenced guidance document is not available for public comment.

- Please add "sedimentation" to subsection (h) to read a "description of all stormwater and erosion and sedimentation control measures description as required under the Local Government's stormwater permit bylaw or ordinance, and federal and state law".
- The local Board of Health is not mentioned; perhaps it could be added "as applicable," to subsection (j).
- The disclosures outlined under subsection (k) may be unnecessary, as these documents are not typically required as part of other economic development proposals. It is also unclear which municipal department would be responsible for receiving or reviewing such disclosures, and how this information would influence permit issuance in the absence of a regulatory requirement. It may be helpful for this section of the draft regulations to clarify which specific municipal board or entity is intended to review the information referenced here.

29.10(4)(a) Information Requests and Process for Denial. The applicant is required to respond to a Local Government request for information within 3 business days and provide the revised documents within 7 business days, or the project may be denied. The Local Government request must be made in person or using contact information on the application. Please delete the phrase, "are made in person or." It can be impractical and unrealistic to expect a municipality to have adequate staff to take the time to travel to the applicant's place of business to make such a request in person. The sentence could instead read "An Applicant shall respond to all communications made by the Local Government or the Department within three business days, provided that communications are made using the contact information listed on the Consolidated Local Permit Application."

29.10(5) De Novo Adjudication. What is the length of time for the Director of the (Energy Siting Facilities) Board to complete a de novo review? It would be consistent to require the review to take place within 12 months. This should be added as subsection (c).

29.12. Common Conditions. *Guideline on Common Conditions* is not available for public comment.

29.13(1) appears to extend beyond the Department's authority by prescribing a Model Small Clean Energy Infrastructure Facility Permitting Bylaw. A municipal bylaw is adopted locally under Home Rule authority, and the Department's intent to dictate the municipal review process would be more appropriately incorporated directly into the Regulations rather than through a model bylaw. Additionally, the process for municipal modification of the bylaw under

subsection (3) lacks clarity, and the referenced document has not been made available for public review or comment.

29.14 Enforcement

- How will the permit apply to successors in interest if the permit is not required to be recorded at the Registry of Deeds? Recording of the permit should be a regulatory requirement added to this draft Regulation. It would best fit as a new section between drafted sections 29.(10)(4) and 29.10(5).
- This section does not discuss enforcement of the permit conditions. What is the authority for inspections and enforcement to ensure the conditions are met? Which municipal authority is responsible for enforcement of the CLP?
- Are there fines and/or civil penalties for not complying with the CLP?

Addressing Abandonment or Decommissioning

Add a section addressing project abandonment or decommissioning to ensure that associated costs do not become a public burden. The State Model Solar Bylaw includes sample language that could serve as a useful reference for developing this provision.

Abandonment or Decommissioning
Removal Requirements

Any large- scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 3.12.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

RE: Preliminary comments offered on Guidance on Site Suitability Assessments for Clean Energy Infrastructure

I. Purpose. grammatical edits:

- 1st paragraph, 5-6th line: please edit to be "and guidance to inform applicants on state, regional, and local regulations, ordinances, by-laws, and permitting processes on ways to avoid,"
- 2nd paragraph, 2nd line: please edit to be "Facilities for DOER and municipalities to use in the review of applications for Consolidated Permits, Consolidated Local Permits, and"

III. Definitions:

- Burdened Areas appears out of alphabetical order.
- Define CIA within the definition section.
- Previously developed areas. Reconsider golf courses, they are vegetated and have topsoil; they are generally not "degraded land".
- Protected open space is missing watershed protection as a purpose. Please refer to Article 97 of the Amendments to the Constitution of 1996.
- Would the Site footprint also include any new Rights of Way?
- Solar canopy, please add that definition here rather than having to refer to another document.
- Total Site Suitability Score. Please clarify the definition to "The Total Site Suitability Score shall not be greater than 25 (least desirable), nor less than 0 (highly desirable)."

IV.C.i. Development Potential.

- Golf courses do not appear to be consistent with degraded or previously developed areas to receive an automatic score of 0. Golf courses are frequently within the Chapter 61 Program, providing the municipality with a right of first refusal. The courses are typically vegetated, and not degraded.
- Increased coordination between MA GIS datalayer for open space and municipalities must be achieved if MassMapper is used to provide information on open space. MassMapper has been updated by EEA without coordination of the conservation commission, resulting in verified open space parcels being removed from the datalayer, despite documentation being provided to EEA.
- Further, applicants should consult with the assessor's office and the Conservation Commission, as well as the Registry of Deeds. Conservation Commissions create the municipal Open Space and Recreation Plan and are intimately familiar with local protected open space. There are times when the assessor's records don't reflect conservation land holdings yet and the conservation commission should be consulted providing an opportunity to remedy that. Please edit the line "Applicants are encouraged to confirm the

site's protected status with the local assessor, conservation commission, and/or Registry of Deeds."

- The next line should be clarified by editing as "Solar Canopies sited over existing parking lots…".
- The paragraph beginning "Large and Small Clean Energy Transmission and Distribution Infrastructure Facilities crossing through Protected Open Space may apply for a waiver..." presents significant concerns. Granting a waiver solely from the EFSB Director for facilities proposed on Article 97 land is inconsistent with constitutional requirements. Activities that would result in a change or conversion of use on such land cannot be authorized through an administrative waiver, we believe this would require legislative approval through a constitutional amendment. The local conservation commission should be consulted on the appropriateness of conversion of protected open space. A route through protected land may appear more convenient or cost-effective, but that does not make it an appropriate option if it results in a conversion of use or causes negative environmental impacts. It should be clearly stated that compliance with Article 97 of the Amendments to the Constitution of 1996 is required as well as full compliance with the Conservation Commission Act (MGL Ch. 131, Section 40), and Open Space Act (MGL c. 3, § 5A) and Regulations (301 CMR 52.00*)*.

IV.C.iii. Carbon Storage and Sequestration.

- Please confirm a definition for "developed open space" would mean only the portions of open space with existing impervious surfaces (in square feet), not the entire parcel of land. Please add to the III. Definition section.
- Undeveloped land should have a higher suitability score than 1.0. Forested lands sequester a significant amount of carbon. Any site that includes protected open space should start with a score of a minimum of 2.0 or higher.

IV.C.v. Agricultural resources

- Agricultural resources should also include "Farmland of Local Importance" as designated by the municipality and the USDA. The following edits should be incorporated in paragraph two: "Applicants of Applicable Facilities shall use this GIS layer to calculate Site Footprint overlap with areas designated as: (i) Prime Farmland; (ii) Farmland of Statewide Importance; (iii) Farmland of Local Importance and (iv) areas designated as Farmland of Unique Importance."

  The chart should be edited to integrate " Farmland of Local Importance."

Farmland Soils Class	Land Cover (Annual NLCD)	Agricultural Resources Index 0.0 = lowest agricultural value 5.0 = highest agricultural value
Any	Developed	0.0
Farmland of Unique Importance	Other Undeveloped	1.0
Farmland of Statewide Importance or Farmland of Local Importance	Other Undeveloped	2.0
Prime Farmland Soils	Other Undeveloped	3.0
Farmland of Unique Importance	Agriculture (Cultivated Crops, Pasture/Hay)	3.0
Farmland of Statewide Importance or Farmland of Local Importance	Agriculture (Cultivated Crops, Pasture/Hay)	4.0
Prime Farmland Soils	Agriculture (Cultivated Crops, Pasture/Hay)	5.0

IV.C.vi. Social and Environmental Burdens.
The final MassEnviroScreen tool is not available for review or comment.

IV.C.vii. Social and Environmental Benefits. "If the host municipality and Applicable Facility agree upon one or more benefits, they may sign an agreement, which shall result in a modification of the Applicable Facility's Total Site Suitability Score and result in binding conditions included as part of any permit issued to the facility."

- By determining the burdens and benefits during site suitability phase, this agreement precedes the submittal of an application and the actual review of the project by the municipal boards. The appropriateness of the score subtractor should be determined during the review process or near completion of the review to ensure that adequate mitigation is proposed by the applicant and accepted by the municipality.
- In the example, it appears there are only three potential benefits, not four, resulting in a reduction in 3 points not 4. In addition, the three benefits appear to be social benefits, not environmental. This particular example will need some clarification.

- The agreement and its conditions would not be binding if the permit is not required to be recorded with the Registry of Deeds, and the enforcement section does not establish a clear mechanism for ensuring compliance.

D. i. Other considerations, Drinking water supply. “Applicable Facilities should also avoid siting in a manner that would require construction or tree clearing activities; activities involving moving, processing, or compacting soil and/or other materials; or construction vehicle traffic within 100 feet of groundwater monitoring wells.”

- If the goal is to prevent impacts to drinking water supply, the avoidance of tree clearing activities and compacting soil should be clearly stated in multiple sections and a requirement, illustrated by a higher point system within the five criteria point system and would apply to activities proposed within Zones I and II, and A and B, not just within 100 feet of a monitoring well.

D. ii. Maintaining wetland bylaw jurisdiction is critically important. We believe the ESFB should not have the authority to unilaterally waive a local wetland bylaw (as noted in the footnote).

E. Criteria and Scoring Table.

- Farmland of Local Importance should be added to the Scoring Method of Agricultural Resources.

F. Score Modifier Table.

- Scoring Methods for Previously Developed Lands would be acceptable, provided that golf courses are removed as an example from the definition as a degraded area.

V.C.iv. line 3 add “sedimentation” to read “(e.g., implementing erosion and sedimentation control measures).”

VI.C.ii. Use of Criteria-Specific Suitability Scores line 3. “Minimization could include minimization of impacts on the project site (e.g., implementing erosion control measures).” This example should be removed. Controlling erosion and sedimentation on a construction site is a requirement of multiple laws and regulations. A more appropriate example might be “Minimization could include Low Impact Development Techniques, alternative site designs or phasing).”

VII. Future updates to Methodology and Guidance.

- Including “a stakeholder engagement process, the release of draft guidance and opportunity for public comment on the draft, and a public hearing” is important for transparency and earning public trust in the process.

- The last sentence should be edited as follows: “The public comment period on the draft shall remain open for at least three weeks, unless EEA determines a shorter time period is appropriate and adequate based on the complexity of the revision.”

RE: Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

The title should be revised to reflect the document’s focus on Community Benefit Plans, as it provides minimal information about Benefit Agreements. Expanding this section would better support municipalities seeking guidance on developing and implementing such agreements.

There also appears to be confusion between the Community Benefit Plan and Agreement, and the Minimization and Mitigation Measures outlined in the Site Suitability Report. Clarification is needed on whether these are separate requirements, or if the Community Benefit Plan and Agreement are intended to address the Minimization and Mitigation Measures identified through the site suitability process. The sequencing of these documents should also be clarified, as it seems that completion and local review of the Site Suitability Report would logically precede Step 5 in the Step-by-Step Engagement Process described in Section III.B.

II, Trackable Benefits. In this paragraph, the appropriate and more consistent term would be Minimization.

Similarly, Section V.A.4. if the minimization and mitigation required is to be proportional to the findings of the Site Suitability Report, the report and review would need to be done before reaching step 4: Identified Community Priorities. Perhaps that could be made clearer. “Environment” should be added to 4.b. themes (e.g. health, workforce, environment, infrastructure) and 5.b.vi (e.g., EJ, infrastructure, economic development, environment, etc.) categories.

VI. Examples of Meaningful Commitments table, under Priority Area Environmental & Public Health Protection, both columns should include “Meet Article 97, Conservation Commission Act and Open Space Act requirements”.

Thank you for the opportunity to provide comments. Some of the questions raised here may ultimately be addressed within the accompanying Guidance documents; however, without adequate time for full review, they are included for consideration in this submission.

We appreciate the significant effort that has gone into drafting these materials. Striking a balance among climate goals, executive orders, and related initiatives is a complex undertaking, and the draft regulations reflect thoughtful attention to this challenge—particularly through the site suitability scoring framework, which meaningfully accounts for environmental impacts.

Please feel free to contact our staff if further clarification or discussion of any suggested edits would be helpful.

Sincerely,

Kimberly H. Robinson
Executive Director

Kenneth Comia, AICP
Director, Land Use and Environment Department

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of [your community], I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.
8. Local Denial & State Override – Clarify whether a town’s “no” can be overruled; local protections must have weight.
9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.
10. Finally, we urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Community Land and Water Coalition

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:25 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments on 225 CMR 29.00 Small Clean Energy Siting

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: buzz.constable@gmail.com <buzz.constable@gmail.com>
Sent: Friday, October 17, 2025 4:51 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Cc: Secretary Tepper (EEA) <Secretary.Tepper@mass.gov>; Gaertner, Kurt (EEA) <kurt.gaertner@mass.gov>
Subject: Comments on 225 CMR 29.00 Small Clean Energy Siting

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Secretary Rebecca Tepper, Chairman
Elizabeth Mahony, Commissioner
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114
Attn: Energy Facilities Siting Board
DOER.Siting.Permitting@mass.gov

Re: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting;
Guidance on Site Suitability Assessments for Clean Energy Infrastructure; and
Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

For Consideration by the Energy Facilities Siting Board

Madame Chairman:

Thank you for the opportunity to comment on the above-referenced Regulations and Guidelines, indispensable pieces in the jigsaw puzzle of energy facility siting being created to meet our climate and energy goals.

Others have participated more deeply and commented more comprehensively than I on this topic, and I limit myself to a few points for your consideration.

- Article 97 -- I lead with this minor point because confusion has arisen and is easily resolved. Section IV C iv in the Guidelines state "….Facilities crossing through Protected Open Space may apply for a waiver if they can demonstrate…". There is significant concern that this may be interpreted as providing a waiver from Article 97 of the Massachusetts Constitution or compliance with the Open Space Act (MGL c. 3, § 5A) and the long-awaited Regulations pertaining thereto, rather than to the scoring regime. Please clarify in the Guidelines that this is not intended.
- Transparency – Particularly in the political climate incensed by federal actions, confidence in government regulatory programs requires clarity in design and administration. Even those intimately involved in development of your administration's alternative energy siting programs struggle with the array of Guidelines, Assessments, Models and Standards which are rolled out in unpredictable fashion, often relating to matters for which documents have not been released. While the need to create new energy facilities is urgent, perhaps you should create a roadmap for these materials (as multi-dimensional as that might be), and provide for a final, public presentation and review after the programs have been implemented.
- Enforcement -- 225 CMR 29.14 currently refers only to successor interests and responsibility. Confidence in these regulations mandates there be enumeration of who has enforcement responsibilities and rights. If the Commonwealth has these stated elsewhere, it should be referenced here. This is also the opportunity to indicate the extent to which municipalities or others have standing to enforce any of the permits or community benefit plans or agreements with which they are involved.
- Appeals – Those concerned with government administration today are easily riled by phrases such as "not subject to appeal", especially for decisions made by agencies with focused objectives which sometimes may conflict with other public needs. While limiting appeals is unquestionably necessary to meet the deadlines imposed by law and by environmental conditions, I urge you replace these words (e.g., at 225 CMR 29.07 (4) and the Guidelines at Section IV B (iv) & (v)) with one or more of the tools to restrain frivolous suits, such as standards of review, bonding, liability for bad faith claims and expedited appeals processes).

Please note that these comments are offered in my individual capacity and do not represent approved statements of any of the non-profit organizations with which I have some affiliation.

With respect and appreciation for the vital, urgent objectives of this work and support for transparent promulgation and administration of the panoply of energy siting rules, I remain

Very Truly Yours

Buzz Constable

William G. Constable, Esq.
17 Old Lexington Rd
Lincoln, MA 01773
617-719-1771

RE: S&P Follow On Rulemaking Comments
October 17th, 2025, 12:20 pm.

To The Massachusetts DOER Representatives;

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure.
As a resident of Shutesbury, I urge that the regulations ensure fairness, transparency, and respect for the local authority.
Please change the regulations to address the following:

***Definition of "Abutter" – Too narrow; should include "abutters to abutters."**

***Definition of "Key Stakeholder" – The one-mile limit excludes people who may still be affected; broaden it.**

***Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.**

***Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.**

***Mitigation Fees – All fees going directly to municipalities or town-designated nonprofits may be an unfair way for a developer to get local approvals.**

***Local Authority & Nuisances – Local health and safety boards must retain decision-making power.**

***Appeals Process – Needs clarity on who can appeal and how.**

***Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.**

***Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.**

****Finally, I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.**

Sincerely yours,

~Mary Lou Conca
Shutesbury, Massachusetts
mammalou69@outlook.com
(413)259-1376

WILLIAMS COSBY
59 Middle Road
Hawley, MA 01339

Comments regarding Draft Regulations 225 CMR 29.00

THIS IS AN UNFUNDED MANDATE.

As proposed, The Town of Hawley does not have the resources necessary to execute the proposed regulations.

Common conditions in the event of constructive approval or local conditions overturned on appeal should include provisions for financially compensating local communities for expenses including but not limited to:

Permitting and construction impacts : extra hours for town officials, emergency services personnel, wear and tear on town roads, etc.

Long term compensation -
Assurances that the community will receive tax payments or fair PILOT payments for completed projects.

Good things about this proposal : We need responsibly sited clean energy. These regulations will forward this goal and will expedite the process.

As a member of Hawley's Conservation Commission for 10 years, I see beneficial parallels to the administration of the Wetlands Protection Act.
A standardized application procedure benefits applicants and consultants who might assist either towns or developers and should make the process of developing such facilities easier.
Required common conditions in the event of constructive approval is a good idea as this at least provides some protection for local communities, especially those whose current bylaws do not adequately address this topic.

However, I also see problems from this perspective.
An EFSB circuit rider could be helpful to towns in navigating this new permitting landscape. However, as an agent of the EFSB, these persons may have a different agenda than potential host communities. I have experienced this with DEP's Wetlands circuit rider.
A solution to this would be to authorize the selectboards of small towns to hire, at the applicant's expense and without the burden of having to pass a new bylaw, an experienced independent agent to assist the local representative and affected town boards. This would be similar to how under state law, existing town boards

may hire independent peer reviewers, paid for by the project proponents, to assist them in administering complicated cases that involve their jurisdiction.

<u>Site Suitability Score</u>
Criteria scoring, relative weight of individual criteria scores, appeals of scoring decisions all are determined without local control. While I understand the value of developing such a score, there will be cases where the results of such scoring overlook local circumstances due to unforeseen suitability considerations. Indeed, there may be instances where a project receives a higher score due to an individual criteria score that the local community does not think is a very important siting consideration. A mechanism needs to be established for local communities to weigh in on the scoring formula applied to a specific project.

<u>Multiple Towns</u>
I'm not seeing how a project that is located in or impacts multiple towns will be handled at all, let alone permitted within 12 months. This encourages developers who would favor constructive approval so as to avoid potential opposition from host communities to pursue multi-town projects.
Imagine this scenario: Ten 450 foot tall 2.5 MW wind turbines are proposed along a 2 mile ridgeline spanning 2 towns. Road damage from heavy trucking of materials and components, utility upgrades, stormwater from access road construction, visual and sound impacts will affect communities beyond the actual footprint of the project. How does this project avoid constructive approval?

<u>General comments:</u>
The devil is in the details: **.As specific guidance will affect sections of the proposed regulations, the comment period on guidance documents should happen concurrently with draft regulation comments.**

One size does not fit all: **Hawley has 350 residents. You have heard from communities 10 times our size about the disadvantage small towns will have in administering these regulations due to lack of resources, reliance on a small pool of volunteers, etc.. The default Local Representative is the Town Clerk. Our Town Clerk only works a few hours a week, has other jobs, does not reside in this town, is regularly asked to expand her duties and responsibilities due to other state mandates. Our planning board is all volunteer, has no professionals as members and no budget. The same situation generally applies to the ZBA, Cons. Com., Board of Health and Fire Dept. / Emergency management. The selectboard should be authorized to appoint a Local Representative without the need to pass a bylaw. To the extent that extra funds would be needed to compensate this person, said funds should be paid for by the applicant.**

Short comment period: Small town boards staffed by volunteers with other commitments meet infrequently. Arranging meeting times that work for everyone in compliance with the Open Meeting Law can be difficult. Deliberation outside

of posted meetings is not allowed. Hawley's board chairs were not sent these draft regulations directly which resulted in a loss of time to respond with comments. I ask you to devise a way to extend the comment period.

Thank you

Will Cosby
59 Middle Road
Hawley, MA 01339

I serve my community in the following capacities:
Hawley Select Board chair, BOH, ZBA
Hawley Conservation Commission
Hawley Personnel Committee
Hawley Green Community Advisor
Franklin County Regional Council of Government, Secretary
Franklin County Regional Transit Authority Advisory member
Franklin County Solid Waste District Advisory member
Others as well…

October 17, 2025

Submitted via e-mail to DOER.Siting.Permitting@mass.gov

Massachusetts Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

RE: Comments of PureSky Energy on draft regulation: 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting

Dear Department of Energy Resources,

PureSky Energy (PureSky) respectfully submits these comments on the Department of Energy Resources (DOER) proposed draft Small Clean Energy Infrastructure Facility Siting and Permitting regulations (225 CMR 29.00).

PureSky Energy is a leading developer, owner, and operator of U.S. community solar and storage projects, headquartered in Denver, Colorado. Since entering the U.S. market in 2016, the company has rapidly grown and now operates a portfolio with a generation capacity of approximately 233MW across forty-four sites that are either operational or under construction. The Company has a large pipeline of solar and battery storage projects in existing and new U.S. markets, positioning it as a leader in the distributed generation industry. PureSky's mission is to make clean energy accessible and affordable for local communities across the United States, working toward a brighter, more sustainable future for generations to come.

PureSky has a strong presence in the Massachusetts solar market and is dedicated to the long-term sustainability of this competitive and growing industry while providing ongoing savings to residents and businesses. We currently operate 12 projects in the Commonwealth, totaling approximately 51 MW_{dc}, with an additional 3 projects under construction that will add around 20 MW_{dc} to our capacity.

In November 2024, Governor Healey signed An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers (the "Climate Act") into law. Among other things, the Climate Act aims to implement significant reforms to the siting and permitting processes for clean energy facilities across the Commonwealth by addressing well-known barriers to developing affordable distributed solar and energy storage systems. One of the goals of these reforms is to ensure that the benefits of the clean energy transition are shared fairly among all residents of the Commonwealth.

As DOER is aware, recent federal policy challenges facing renewable energy, especially solar, have created a very limited window for projects to qualify for federal tax credits. Projects that qualify for these credits could be among the most economical and cost-effective sources of new generation capacity in the Commonwealth, making distributed solar vital for the Commonwealth's energy future. As demonstrated during the recent June heatwave, local solar generation helps reduce peak load, improves grid reliability, and lowers energy costs for all ratepayers. Given this situation, it is essential to ensure that siting and permitting reforms effectively streamline and facilitate the deployment of clean energy, while also conserving natural resources efficiently.

However, PureSky is concerned that the draft regulations, as currently drafted, may unintentionally hinder clean energy development by creating new barriers that run counter to the Climate Act's goal to streamline and support clean energy deployment, include effective community input, and protect natural resources and environmental justice communities. Therefore, PureSky endorses the Clean Energy Group's recommendation for DOER to continue engaging with stakeholders to ensure that the final regulations do not unintentionally make it more difficult, time-consuming, and costly to develop clean energy resources in Massachusetts.

For example, the draft regulations require applicants to file a Notice of Intent 60 days before submitting an application, while giving the municipality 30 days to review and determine if the Notice of Intent filing is complete. If the municipality finds the application incomplete, the applicant has 30 days to fix any issues, followed by another 30 days for the municipality to review and an additional 30 days to address any remaining deficiencies. Because this process extends the 12-month review timeline for applications, it can result in a potential 16-month permitting process. The extra review steps could unnecessarily delay a project. To prevent the pre-filing process from causing unnecessary delays, DOER, with input from stakeholders, should develop a prefiling checklist like the one used for the SMART program. This checklist will give all parties involved clear, objective evaluation criteria.

Additionally, due to the quickly expiring federal tax credits, it is crucial to implement an efficient, streamlined permitting process for small clean energy projects as soon as possible. Currently, the proposed regulations permit municipalities to delay implementation until December 2026. Keeping the current permitting process in place for an extended period could prevent projects from being operational in time to qualify for federal tax incentives. Therefore, PureSky recommends that the final regulations instruct municipalities to adopt the streamlined permitting process starting July 1, 2026.

Lastly, PureSky notes that it is unclear how the proposed Compensatory Environmental Mitigation and potential Mitigation Fees interact with the Mitigation Fee established in the SMART 3.0 program.[1] The potential mitigation fees under the SMART 3.0 program, which could reach $50,000 per acre, already make some projects uneconomical. Adding an additional, unknown mitigation fee will likely make more projects economically unviable,

[1] 225 CMR 28.09: Mitigation Fee

possibly diverting land to permanent development and ultimately increasing local emissions.

PureSky thanks DOER for considering these comments. Please do not hesitate to contact me with any questions.

Respectfully submitted,



Matthew Deal
Director, Markets & Policy
PureSky Energy
202.528.5008
Matthew.deal@pureskyenergy.com

Comments regarding Draft Regulations 225 CMR 29.00

Good things: We need responsibly sited clean energy. These regulations will forward this goal and will expedite the process.

As Chair of Hawley's Conservation Commission for 40 years, I see beneficial parallels to the administration of the Wetlands Protection Act.
A standardized application procedure benefits applicants and consultants who might assist either towns or developers and should make the process of developing such facilities easier.
Required common conditions in the event of constructive approval is a good idea as this at least provides some protection for local communities, especially those whose current bylaws do not adequately address this topic.

However, I also see problems from this perspective.
An EFSB circuit rider could be helpful to towns in navigating this new permitting landscape. However, as an agent of the EFSB, these persons may have a different agenda than potential host communities. I have experienced this with DEP's Wetlands circuit rider.
A solution to this would be to authorize the selectboards of small towns to hire, at the applicant's expense and without the burden of having to pass a new bylaw, an experienced independent agent to assist the local representative and affected town boards. This would be similar to how under state law, existing town boards may hire independent peer reviewers, paid for by the project proponents, to assist them in administering complicated cases that involve their jurisdiction.

Site Suitability Score
Criteria scoring, relative weight of individual criteria scores, appeals of scoring decisions all are determined without local control. While I understand the value of developing such a score, there will be cases where the results of such scoring overlook local circumstances due to unforeseen suitability considerations. Indeed, there may be instances where a project receives a higher score due to an individual criteria score that the local community does not think is a very important siting consideration. A mechanism needs to be established for local communities to weigh in on the scoring formula applied to a specific project.

Multiple Towns
I'm not seeing how a project that is located in or impacts multiple towns will be handled at all, let alone permitted within 12 months. This encourages developers who would favor constructive approval so as to avoid potential opposition from host communities to pursue multi-town projects.
Imagine this scenario: Ten 450 foot tall 2.5 MW wind turbines are proposed along a 2 mile ridgeline spanning 2 towns. Road damage from heavy trucking of materials and components, utility upgrades, stormwater from access road construction, visual and sound impacts will affect communities beyond the actual footprint of the project. How does this project avoid constructive approval?

General comments:

The devil is in the details: .As specific guidance will affect sections of the proposed regulations, the comment period on guidance documents should happen concurrently with draft regulation comments.

One size does not fit all: Hawley has 350 residents. You have heard from communities 10 times our size about the disadvantage small towns will have in administering these regulations due to lack of resources, reliance on a small pool of volunteers, etc.. The default Local Representative is the Town Clerk. Our Town Clerk only works a few hours a week, has other jobs, does not reside in this town, is regularly asked to expand her duties and responsibilities due to other state mandates. Our planning board is all volunteer, has no professionals as members and no budget. The same situation generally applies to the ZBA, Cons. Com., Board of Health and Fire Dept. / Emergency management. The selectboard should be authorized to appoint a Local Representative without the need to pass a bylaw. To the extent that extra funds would be needed to compensate this person, said funds should be paid for by the applicant.

Short comment period: Small town boards staffed by volunteers with other commitments meet infrequently. Arranging meeting times that work for everyone in compliance with the Open Meeting Law can be difficult. Deliberation outside of posted meetings is not allowed. Hawley's board chairs were not sent these draft regulations directly which resulted in a loss of time to respond with comments. I ask you to devise a way to extend the comment period.

Submitted:
Lloyd Crawford
Hawley Conservation Commission Chair
Hawley Finance Committee Chair
Planning Board member

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:02 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Douglas Dawson <i.am.ddawson@gmail.com>
Sent: Friday, October 17, 2025 12:17 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you allowing residents of Western Massachusetts- which is currently a corporate focus for new combined solar/battery installations- the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Wendell MA, I urge that the regulations ensure fairness, transparency, and respect for local authority.
I am requesting- urging, rather because this is such an important local issue that the regulations are re written to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.
9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.
10. Finally, I also urge you to address the fact that many municipalities in Western Massachusetts have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Douglas Dawson
31 Checkerberry Lane
Wendell MA 01379

To: Massachusetts Department of Energy Resources Siting and Permitting (DOER.Siting.Permitting@Mass.gov)
Subject: S&P Follow on Rulemaking Comments

Dear DOER Representatives, October 17, 2025

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Montague, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. The definition of abutter should include abutters to abutters – the people who will be impacted by the siting of clean energy infrastructure do not necessarily live in a tight concentric circle of land directly adjoining the proposed location of such infrastructure.

2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected so please broaden it.

3. The Notice of Intent should go to multiple local boards and commissions at the same time, such as the planning board, conservation commission and the selectboard. In small towns, communication between boards can be spotty, and important notifications can be lost or delayed in the shuffle. The developer will have the resources to afford postage for more than one mailing to an impacted community, one would hope.

4. Local departments need to be authorized to approve the adequacy of any Emergency Response Plan. It is one thing for the DOER or some Boston-based agency to say: “The Town of Monroe (population 118) has the capacity to fight a runaway fire at a proposed lithium- ion battery storage facility,” for example, but it is quite another for the chief of the Town of Monroe’s volunteer fire department to agree with such a statement.

5. Local health and safety boards must retain decision-making power about how the proposed facility will impact the water, air, soil, and the health and safety of the people who live in their communities. If this does not seem obvious to you, then I suggest you read up on the history of Love Canal, in Niagra Falls, or the West Valley, NY.

6. Please clarify the procedures for the appeals process to explain which local boards or what directly impacted residents may appeal a proposed siting and how.

7. Local Denial viz a viz State Authority: Clarify whether a town’s decision to reject a developer’s proposal can be overruled by state authority. Do local protections have any weight? If towns are to have no authority to accept or reject a proposed siting within their borders, than why notify them in the first place?

8. Implementation of new regulations will require funding and training. Please ensure these fiscal needs are recognized in the final regulations. Small towns, often targeted by developers for this very reason, have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure that any town in the Commonwealth can reasonably carry out fair and thorough review processes.

Sincerely,
David Detmold, Montague, MA

TOWN OF EASTON
Conservation Commission
Department of Planning & Economic Development
136 Elm Street, Easton, Massachusetts 02356
Tel: (508) 230-0630 Website: www.conservationcommission.org

October 15, 2025

Energy Facilities Siting Board
Department of Energy
100 Cambridge Street, 9th Floor
Boston, MA 02114
DOER.Siting.Permitting@mass.gov

RE: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting;
Guidance on Site Suitability Assessments for Clean Energy Infrastructure; and
Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

To Energy Facilities Siting Board:

Thank you for the opportunity to provide comments on this important reform. Clean energy is needed for Massachusetts to meet our climate resilience goals and is a benefit to the environment. However, the comment period for this volume of information is extremely short. Additionally, several of the guidance documents referenced in the draft regulations (Site Suitability Assessments For Clean Energy Infrastructure, and draft Standards and Guidelines for Community Benefits Plans and Agreements, followed by Model Small Clean Energy Infrastructure Facility Permitting Bylaw: Allowing Use of Solar Photovoltaic Installations and Model Small Clean Energy Infrastructure Facility Permitting Bylaw: Allowing Use of Solar Photovoltaic Installations: Allowing Use of Battery Energy Storage Systems) became publicly available at different times, providing even less time to adequately and carefully review each one to provide meaningful comments. And further, there are several guidance documents (including Guideline on Public Health, Safety, and Environmental Standards, Guideline on Minimization and Mitigation Measures, Guideline on PreFiling Stakeholder Engagement and Guideline on Common Conditions) that have only become available on October 10, 2025 and will have a different comment period to be announced at a future date. Is the referenced Guideline on the Consolidated Local Permit Application available yet? I understand wanting to expedite adopting these new initiatives and regulations but this process has been extremely confusing for the those in the permitting realm to fully comprehend, and have time to review, nevermind for the general public. Additional time to review and comment would be greatly appreciated.

It would also be extremely helpful to have a schematic clearly illustrating the process and timelines involved with the prefiling requirements through to the issuance of the consolidated local permit.

Based on the given comment period and the available information, I offer the following comments:

RE: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting

29.02 Definitions.
Key stakeholders appear to be abutters sharing a common boundary within the draft Regulation but in the Draft Standards and Guidelines Community Benefit Plan, Key Stakeholders are also organizations within a mile of the proposed facility. Logistically, how will the municipality verify the appropriate stakeholders have been notified with these definitions? It is not possible to generate this list from the Assessor's records as abutter lists are currently generated for Planning, Zoning and Conservation permits. Please add guidance for identifying these "organizations within a mile of the proposed facility".

Similarly, the definition of Mitigation is not consistent throughout the draft regulations and the Draft Standards and Guidelines Community Benefit Plan, II, Trackable Benefits. In this paragraph, the appropriate and more consistent term would be Minimization.

29.04(2): Adding facility types to Small Clean Energy Generation Facility is proposed to be done without public input. There should be a comment period for any addition since this is a definition in the Regulations.

29.06(1): line 6, please add "sedimentation" after "erosion" to read "erosion, sedimentation and runoff prevention". These two terms (erosion and sedimentation) may have been used interchangeably in the past but they have different meanings and separate types of control measures. It would be more accurate to list them as separately industry terms.

19.06(2): it is unclear how a Local Government would adopt additional standards if section 29.13 states the Department would be developing the Bylaw for Local Governments.

29.07(7): it is unclear how Local Governments may impost compensatory Mitigation Environmental fees without the availability of the Guidance document. The funds will be placed in a separate fund but what is the guidance on who manages the fund and what the funding can be spend on? It is unclear when in the process this action takes place. If this is part of the Consolidated Local Permit Application, it should be specifically listed in that section.

29.08(2)(f)1. Public Notice Requirements: Applicants should *coordinate with,* not just *host* and be *open to,* the Key Stakeholders on the meeting date, public location and whether the capacity for a hybrid meeting is available. Many communities do not have this capability. I suggest the following revisions:

> The Applicant shall ~~host~~ coordinate a public meeting ~~open~~ with ~~to~~ Key Stakeholders, ~~.~~ ~~The Applicant~~ and shall ~~-~~ provide public notice not less than 14 days before the scheduled public meeting. The public meeting ~~, which~~ shall be held in a publicly accessible location and in a hybrid format, where available. ~~and in a publicly accessible location.~~ The meeting shall be recorded and made available to the public within five (5) days of the meeting date. The meeting shall conform to Department specifications in its *Guideline on Pre- Filing Stakeholder Engagement*.

There is a discrepancy with the *Guideline on Pre- Filing Stakeholder Engagement* on in section 1.4. that says the meeting recording should be available within 72 hours of the meeting.

29.08(2)(f)2. Public Notice Requirements: Applicant should provide proof of notification to abutters, consistent with other regulatory requirements, in the application. Notice should be sent certified mail, return receipt requested or certificate of mailing. A timeframe for sending the notification should be specified. Mailing should be sent not less than 14 days before the scheduled public meeting. I suggest the following revisions:

"The Applicant shall provide notice to Abutters and Key Stakeholders of the proposed Site Footprint via ~~United States Postal Service First Class Mail®.~~ Certified mail, return receipt requested or certificate of mailing not less than 14 days prior to the scheduled public meeting. Determination of ownership and common boundary shall be made with reference to the current local tax assessors' records and maps. Notice shall include but not be limited to the following:"

29.09 Consolidated Local Permit Applications (CLPA).

- 29.09(1): Permit fees are assessed according to a document that is unavailable for public comment.
- 29.09(2)(d): Electrical, plumbing, and building permits are typically submitted after the final design and review by other departments in case there are design changes to avoid unnecessary plan revisions and resubmittals. If the municipal review is anticipated to take 12 months to review, is the applicant really going to have a project team lined up such that copies of trade licenses etc can be submitted? The referenced guidance document is not available for public comment.
- Please add "sedimentation" to subsection (h) to read a "description of all stormwater and erosion and sedimentation control measures description as required under the Local Government's stormwater permit bylaw or ordinance, and federal and state law".
- The local Board of Health isn't mentioned; perhaps it could be added "as applicable", to subsection (j).
- Disclosures under subsection (k) appear to be superfluous. These do not appear to be documents that are regularly submitted with other economic development proposals to my knowledge. It is unclear which department within a municipality would receive or review such a disclosure and what bearing that has on issuance of the permit if there is no regulatory requirement for those items. Perhaps this section of the draft regulations should list which specific municipal board is responsible for reviewing the information in this section.

29.10(4)(a) Information Requests and Process for Denial. The applicant is required to respond to a Local Government request for information within 3 business days and provide the revised documents within 7 business days, or the project may be denied. The Local Government request must be made in person or using contact information on the application. Please delete the phrase, "are made in person or". It is impractical and unrealistic to expect a municipality to have adequate staff to take the time to travel to the applicant's place of business to make such a request in person. The sentence could read "An Applicant shall respond to all communications made by the Local Government or the Department within three business days, provided that communications are made ~~in person or~~ using the contact information listed on the Consolidated Local Permit Application."

29.10(5) De Novo Adjudication. What is the length of time for the Director of the (Energy Siting Facilities) Board to complete a de novo review? It would be consistent to require the review to take place within 12 months. This should be added as subsection (c).

29.13(1) It is unclear why is the Department writing the municipal bylaw (Model Small Clean Energy Infrastructure Facility Permitting Bylaw). A bylaw is a Home Rule Petition adopted by the municipality. The Department should write the municipal review process into the Regulations if it intends to dictate how a municipality will review an application. And what is the process for the municipality to modify the bylaw under subsection (3)? This document is not available for public comment.

29.14 Enforcement.

- How will the permit apply to successors in interest if the permit is not required to be recorded at the Registry of Deeds? Recording of the permit should be a regulatory requirement added to this draft Regulation. It would best fit as a new section between drafted sections 29.(10)(4) and 29.10(5).
- This section does not discuss enforcement of the permit conditions. What is the authority for inspections and enforcement to ensure the conditions are met? Which municipal authority is responsible for enforcement of the CLP?
- Are there fines and/or civil penalties for not complying with the CLP?

RE: Guidance on Site Suitability Assessments for Clean Energy Infrastructure

I. Purpose:

- 1st paragraph, 5-6th line: please edit to be "and guidance to inform applicants on state, regional, and local regulations, ordinances, by-laws, and permitting processes on ways to avoid,"
- 2nd paragraph, 2nd line: please edit to be "Facilities for DOER and municipalities to use in the review of applications for Consolidated Permits, Consolidated Local Permits, and"

III.Definitions:

- Burdened Areas appears out of alphabetical order.
- Define CIA within the definition section.
- Previously developed areas. Why are golf courses included? They are vegetated and have topsoil; they are generally not "degraded land".
- Protected open space is missing watershed protection as a purpose. Please refer to Article 97 of the Amendments to the Constitution of 1996.
- Would the Site footprint also include any new Rights of Way?
- Solar canopy, please add that definition here rather than having to refer to another document.
- Total Site Suitability Score. Please clarify the definition to "The ~~maximum~~ Total Site Suitability Score ~~is~~ shall not be greater than 25 (least desirable), nor less than 0 (highly desirable)."

IV.C.i. Development Potential.

- Golf courses do not appear to be consistent with degraded or previously developed areas to receive an automatic score of 0. Golf courses are frequently within the Chapter 61 Program, providing the municipality with a right of first refusal. The courses are typically vegetated and not degraded.
- Increased coordination between MA GIS datalayer for open space and municipalities must be achieved if MassMapper is used to provide information on open space. MassMapper has been updated by EEA without coordination of the conservation commission, resulting in verified open space parcels being removed from the datalayer, despite documentation being provided to EEA.
- Further, applicants should consult with the assessor's office AND the Conservation Commission as well as the Registry of Deeds. Conservation Commissions create the municipal Open Space and Recreation Plan and are intimately familiar with local protected open space. There are times when the assessor's records don't reflect conservation land holdings yet and the conservation commission should be consulted providing an opportunity to remedy that. Please edit the line "Applicants are encouraged to confirm the site's protected status with the local assessor, conservation commission, and/or Registry of Deeds."
- The next line should be clarified by editing as "Solar Canopies sited over existing parking lots…".
- I strongly oppose the next paragraph beginning with "Large and Small Clean Energy Transmission and Distribution Infrastructure Facilities crossing through Protected Open Space may apply for a waiver if they can demonstrate no other suitable route or location exists." An activity that automatically receives the lowest score because of the location (Article 97 land) **should not be given a waiver** solely from the EFSB Director that there is no other suitable route. **This action would require a constitutional amendment**, not simply a waiver from the Director. The local conservation commission should be consulted on the appropriateness of conversion of protected open space. There may not be a more *convenient* or *less expensive* route than going through protected land, but that does not mean it is not a *suitable* route to prevent a conversion of use or negative environmental impact. It should be clearly stated that compliance with Article 97 of the Amendments to the Constitution of 1996 is required as well as full compliance with the Conservation Commission Act (MGL Ch. 131, Section 40), and Open Space Act (MGL c. 3, § 5A) and Regulations (301 CMR 52.00*)*.

IV.C.iii. Carbon Storage and Sequestration.

- Please confirm a definition for "developed open space" would mean only the portions of open space with existing impervious surfaces (in square feet), not the entire parcel of land. Please add to the III. Definition section.
- Undeveloped land should have a higher suitability score than 1.0. Forested lands sequester a significant amount of carbon. Any site that includes protected open space should start with a score of a minimum of 2.0 or higher.

IV.C.v. Agricultural Resources

- Agricultural resources should also include "Farmland of Local Importance" as designated by the municipality and the USDA. The following edits should be incorporated in paragraph two: "Applicants of Applicable Facilities shall use this GIS layer to calculate Site Footprint overlap with areas designated as: (i) Prime Farmland; (ii) Farmland of Statewide Importance;

(iii) Farmland of Local Importance and (iv~~ii~~) areas designated as Farmland of Unique Importance."

The chart should be edited with "Farmland of Statewide Importance or Farmland of Local Importance".

Farmland Soils Class	**Land Cover** (Annual NLCD)	**Agricultural Resources Index** 0.0 = lowest agricultural value 5.0 = highest agricultural value
Any	Developed	0.0
Farmland of Unique Importance	Other Undeveloped	1.0
Farmland of Statewide Importance or Farmland of Local Importance	Other Undeveloped	2.0
Prime Farmland Soils	Other Undeveloped	3.0
Farmland of Unique Importance	Agriculture (Cultivated Crops, Pasture/Hay)	3.0
Farmland of Statewide Importance	Agriculture (Cultivated Crops, Pasture/Hay)	4.0
Prime Farmland Soils	Agriculture (Cultivated Crops, Pasture/Hay)	5.0

IV.C.vi. Social and Environmental Burdens.
The final MassEnviroScreen tool is not available for review or comment.

IV.C.vii. Social and Environmental Benefits. "If the host municipality and Applicable Facility agree upon one or more benefits, they may sign an agreement, which shall result in a modification of the Applicable Facility's Total Site Suitability Score and result in binding conditions included as part of any permit issued to the facility."

- By determining the burdens and benefits during site suitability phase, this agreement precedes the submittal of an application and the actual review of the project by the municipal boards. The appropriateness of the score subtractor should be determined during the review process or near completion of the review to ensure that adequate mitigation is proposed by the applicant and accepted by the municipality.
- In the example, it appears there are only three potential benefits, not four, resulting in a reduction in 3 points not 4. In addition, the three benefits appear to be social benefits, not environmental. Can you please clarify this example?
- How will be agreement and conditions be binding if the permit is not required to be recorded and the enforcement section does not provide any actual enforcement of the permit?

D. i. Other Considerations, Drinking Water Supply. "Applicable Facilities should also avoid siting in a manner that would require construction or tree clearing activities; activities involving moving, processing, or compacting soil and/or other materials; or construction vehicle traffic within 100 feet of groundwater monitoring wells."

- If the goal is to prevent impacts to drinking water supply, the avoidance of tree clearing activities and compacting soil should be clearly stated in multiple sections and a requirement, illustrated by a higher point system within the five criteria point system and would apply to activities proposed within Zones I and II, and A and B, not just within 100 feet of a monitoring well.

D. ii. Maintaining wetland bylaw jurisdiction is important however, **the ESFB should not have the authority to unilaterally waive a local wetland bylaw (as noted in the footnote).**

E. Criteria and Scoring Table. Farmland of Local Importance should be added to the Scoring Method of Agricultural Resources.

F. Score Modifier Table. Scoring Methods for Previously Developed Lands would be acceptable, provided that golf courses are removed as an example from the definition as a degraded area.

V.C.iv., line 3, add "sedimentation" to read "(e.g., implementing erosion and sedimentation control measures)."

VI.C.ii.Use of Criteria-Specific Suitability Scores. 3rd line. "Minimization could include minimization of impacts on the project site (e.g., implementing erosion control measures)." This example should be removed. Controlling erosion and sedimentation on a construction site is a requirement of multiple laws and regulations. A more appropriate example might be "Minimization could include Low Impact Development Techniques, alternative site designs or phasing)."

VII. Future updates to Methodology and Guidance.

- Including "a stakeholder engagement process, the release of draft guidance and opportunity for public comment on the draft, and a public hearing" is important for transparency and earning public trust in the process.
- The last sentence should be edited as follows: "The public comment period on the draft shall remain open for at least three weeks, unless EEA determines a shorter time period is ~~necessary~~appropriate and adequate based on the complexity of the revision."

RE: Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

The title would be better revised. This document is entirely about the Community Benefit Plans. There is very little about the Agreements. However, I think municipalities would welcome more information about the Benefits Agreements and should be expanded.

There is confusion about the Community Benefit Plan and Agreement, and the Minimization and Mitigation Measures resulting from the Site Suitability Report. Are these two different requirements? Wouldn't the CBP and CBA focus on addressing the Minimization and Mitigation Measures *required for site suitability*? Wouldn't the applicant need to have the Site suitability report done and reviewed by the Local Government in order to advance to Step 5 of the Step By Step Engagement Process in III.B.? Please clarify the sequencing of these documents.

II, Trackable Benefits. In this paragraph, the appropriate and more consistent term would be Minimization.

Similarly, **Section V.A.4.** if the minimization and mitigation required is to be proportional to the findings of the Site Suitability Report, the report and review would need to be done before reaching step 4: Identified Community Priorities. Perhaps that could be made clearer. "Environment" should be added to 4.b. themes (e.g. health, workforce, environment, infrastructure) and 5.b.vi (e.g., EJ, ~~I~~infrastructure, e~~E~~conomic d~~D~~evelopment, environment, etc.) categories.

VI. Examples of Meaningful Commitments table, under Priority Area Environmental & Public Health Protection, both columns should include "Meet Article 97, Conservation Commission Act and Open Space Act requirements".

RE: Guideline on PreFiling Stakeholder Engagement

Please add page numbers.

Stakeholder Engagement Plan, bullet two: suggested edit:
"Identify any potential deficiencies or areas of concern prior to filing a Consolidated Local Permit Application ("Application"), such as conflicts with local zoning, and identify opportunities to mitigate impacts identified in the Site Suitability Report; and"

Notification of Key Stakeholders: Logistically how would an applicant identify or a municipality verify these organizations? It is not possible to generate this list from the Assessor's records as abutter lists are currently generated for Planning, Zoning and Conservation permits. Please add guidance for identifying these "organizations within a mile of the proposed facility".

1.2.1 Pre-filing Engagement Certification Checklist: bullet two: suggested edit:
"A list of the names and addresses of all abutters and Key Stakeholders that will be noticed during the Pre-Filing Period, including a map showing the abutters and Key Stakeholders property in relation to the project site;"

1.2.2, last paragraph: suggested edit:

"After the Pre-filing Period closes, Applicants should continue conducting stakeholder engagement throughout the entire application phase. This includes updating the project webpage with meeting schedules before permitting boards and committees, posting updated plans and documents, as well as conducting any additional stakeholder meetings, and following noticing requirements for public hearings."

1.4, last paragraph, bullet three: suggested edit: consistency with the draft regulations that state within five days.
"Meetings should be video recorded and then posted online in a manner accessible by the public within 72 hours."

RE: Guideline on Public Health, Safety, and Environmental Standards

Page 2, Standards that Apply to All Clean Energy Infrastructure Facilities (CEIF): suggested edits to **Archaeological Resources:**
"Pursuant to 950 CMR 70.00, CEIFs shall follow requirements for compliance with the "Antiquities Act," M.G.L. c. 9, §§ 26 through 27C. The purpose is to standardize the procedures for conducting archaeological field investigations in Massachusetts in order to ensure the conservation of archaeological resources and the highest quality of archaeological research."

Page 3, Decommissioning/ Abandonment, suggested edits:
"CEIFs shall prepare a decommissioning plan that includes removal of all structures, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses and any previously forested area prior to the installation is reforested." And last paragraph suggested edits to be consistent with the Common Conditions Guidelines: "A CEIF shall be considered abandoned when it ceases to operate or undergo active repair or replacement, for more than ~~eighteen~~ twelve (~~18~~12) months, without written consent of the Local Government."

Page 6, Visual Impacts, suggested edit of typographical error:
"The Applicant shall develop a landscaping plan for the CEIF's site(s) no later than thirty (30)~~0~~ days before construction commencement."

Page 7, Wetlands Protection, suggested edit:
"Facilities in jurisdictional wetlands resource areas and corresponding buffer zones must comply with the Wetlands Protection Act (WPA"), M.G.L. c. 131, § 40, and the requirements of the WPA regulations at 310 CMR 10.00. Facilities shall follow Local Government wetlands protection bylaws~~. unless otherwise directed by the Board~~." **I strongly oppose to the Board having unilateral ability to waive a municipal wetland protection bylaw.**

RE: Guideline on Common Conditions

Page 1, item 1, table: All Facilities, suggested edits:

- **Final Plan Submittals: "**Final plans shall include final legal addresses, as approved by the Assessor, for the subject lot and all structures on the subject lot prior to the holding of a pre-construction meeting. Final plans shall be signed and stamped by a Professional Land Surveyor (PLS) and Registered Professional Engineer (RPE). Final plan submittals shall be delivered to the Local Government a minimum of ~~at least~~ one (1) week prior to the pre- construction meeting and shall include an original set of plans on mylar in addition to hard copies of the final plan in accordance with the relevant municipal departments. The Applicant shall also provide an electronic file of all sheets of the final plan as well as AutoCAD files for the project." - The draft Regulations should include a requirement to record the final plan at the appropriate Registry of Deeds or Land Court if the applicant is submitting it as a mylar.

Pre-Construction Meeting: "A pre-construction conference with the Applicant, Planning Department, Conservation Commission, Department of Public Works, and appropriate municipal staff shall be held prior to any commencement of activities on the site ~~construction~~. The Applicant shall contact the appropriate department to schedule this meeting." - The pre-construction meeting should take place prior to any land clearing or ground disturbance, not necessarily construction.

Community Outreach Plan: "The Applicant shall, in consultation with the Local Government and other stakeholders, develop a community outreach plan for SCEIF construction. The community outreach plan shall be made available to the Local Government no later than ~~30~~ 60 days prior to construction commencement, and shall list all residents, officials, businesses, and others with whom the Applicant will engage with." – Submittal timeframes should be consistent to avoid confusion.

Visual Impacts: 2nd paragraph, first sentence: "The Applicant shall develop a landscaping plan for the SCEIF's site(s) no later than thirty (~~30~~60) days before construction commencement. At minimum, the plan shall detail existing topography and vegetation,…" – Submittal timeframes should be consistent to avoid confusion. **And last sentence:** "The plan shall include native, drought-resistant Plantings and clearly list the scientific and common names, number of plants, size of plants and planting details. Landscape plan shall include methods of watering for initial plant stabilization and deer/rabbit browse protection methods."

Vegetation: "Vegetative buffering and screening at an SCEIF shall meet all local requirements, provided that the plantings used shall be native drought- resistant species. All disturbed surfaces shall be permanently stabilized with vegetation."

Soil: "Except for well drained, stable gravel, six (6) inches of topsoil shall be applied to areas stripped of topsoil during contouring or other site preparation. Wherever practicable, the Applicant shall re-use sufficient on-site topsoil from excavated areas to establish a vegetative cover that blends disturbed areas into the surrounding landscape when the work on the project is completed. Topsoil shall not be imported unless the Applicant demonstrates to the relevant Local Government Representative a demonstrated engineering need, and such imports must be approved by the Local Government prior to any introduction, with particular attention paid to preventing importation of invasive species. Applicant shall be responsible for eradicating any imported invasives species. No topsoil may be removed from the site. Provisions shall be made to stabilize any topsoil banks or berms."

Stormwater~~:~~ and Stormwater Prevention Pollution Plan: Add to the paragraph "The Applicant is responsible for addressing any erosion or sedimentation issues. Permanent construction-term stormwater basins shall be constructed in the initial phases of the project to ensure they are fully stabilized prior to receiving post-construction term runoff. The storm water management system is designed according to DEP's Storm Water Management Standards and the Handbook (February 2008) and in compliance with WPA 310 CMR 10.05(6)(k). Any portions not functioning as designed shall be corrected by the applicant/owner at the applicant/owner's expense."

Phase: Operation and Maintenance: Add a Condition regarding fencing:
Fencing: "Fencing shall not create a barrier to wildlife movement or migration. Fencing shall be raised approximately 6 inches above the existing ground surface to allow mammals to

escape being trapped within the fenced area or allow mammals to move through the site. Fencing may be modified with approval of the Local Government if sheep or goats are used to maintain vegetation within the facility."

Maintenance of Existing Recreational Uses: "The Applicant shall work with the Local Government to ensure that any existing recreational uses are maintained and publicly accessible. If there is any need to alter existing recreational uses (e.g. relocating a portion of a trail), the Applicant shall work with the Local Government Representative to identify the optimal location. To maintain connectivity, construction of any relocated recreational use shall occur during the land clearing stage." – This appears to be an Article 97 conversion requiring full compliance with Article 97 and should be noted as such.

As-Built Plans: "Plan sheets and AutoCAD files of the As-Built Plan for the project shall be submitted concurrently with the hard copies. As-Built plans shall include all wetland resource areas, approved work, grading, stormwater management areas etc. Elevations on the as-built plans shall reference the municipal GIS datum."

Decommissioning/ Abandonment: 2nd paragraph: "In the absence of a proposed date of decommissioning or written notice of extenuating circumstances, a SCEIF shall be considered abandoned when it ceases to operate, meaning the SCIEF is not performing the normal functions associated with the SCEIF and its equipment on a continuous and ongoing basis, for more than twelve (12) months, without written consent of the Local Government." - How will the municipality know the facility has ceased to operate? The 12 month timeframe is appropriate but does not match the 18 months listed in the Guideline Uniform Set of Baseline Health, Safety and Other Standards. 18 months is too long.

Decommissioning/ Abandonment: 3rd paragraph: Decommissioning shall include removal of all structures, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses. If the site was forested prior to construction, the applicant shall be responsible for restoring the site to a forest. Disturbed earth shall be graded and re-seeded as necessary to minimize erosion unless the landowner requests in writing that the access roads or other land surface areas not be restored. – All surfaces should be restored. Municipalities will have road standards that would need to be met if the access road is proposed for another purpose, say a residential subdivision that would need separate permitting, and would not benefit the landowner to leave in place.

4.Standards that Apply Only to Small Clean Transmission and Distribution Infrastructure Facilities: Transmission & Distribution Facilities Only: Nighttime Construction Mitigation Plan, last sentence: "The plan shall detail any potential impacts beyond the Project site (e.g., illumination spill-over and glare, noise and traffic disruptions) and all proposed mitigation Measures, including any measures to protect local nocturnal or crepuscular wildlife."

RE: Guideline on Minimization and Mitigation Measures

Page 2, 1.1. Score Modifiers
Applicants should not be able to take a point off their score for implementing a required action, such as stormwater management measures or implementing erosion and sediment controls.

Those actions are already required to be taken by a multitude of other laws. Those two measures should be removed from the Qualified Minimization and Qualified Mitigation Measures in all sections.

Page 2, 1.1.1 Development Potential: Inclusion of golf courses in "Previously Developed Lands" should not receive an automatic score of 0 for Biodiversity, or Agricultural resources if the land is within a mapped agricultural soil. Golf courses also should not receive a score of 0 if they are stabilized with vegetation.

1.2.1 Climate Change Resilience: Qualifying Minimization Measures, Either Coastal or Riverine Flooding:

- **Measures 2 and 6, remove.** Credit should not be given for a legislatively required action.
- **Measures 4 and 5,** suggested edits: Establish buffer strips or filter strips of a minimum of 30 feet to a wetland, shoreline, waterbody, waterway, bank etc[1].
- **Measure 11: "**Raise SCEIF equipment height to a minimum of one foot above the Federal Emergency Management Agency (FEMA) base flood elevation ~~flood levels~~ to support pollinator-friendly design
- **Measures 7 and 14** reference wetland protection and replacement under MA Wetland Protection Act and could be combined. Since this section related to floodplain, Measures 7 and 14 should reference Bordering Land Subject to Flooding (floodplain) under MA Wetland Protection Act and the required floodplain compensation.

1.2.3 Biodiversity: Qualifying Minimization Measures, Habitat:

- **Measure 7,** "Build fences (that meet design specifications suitable for the environment) to significantly reduce the risk for vehicle collisions with large animals and reduce traffic mortality for small animals". - It is unclear what design specifications suitable for the environment are. The building of fences contracts Measure 1 to minimize impacts to wildlife movement and corridors. Suggested edit: "Fencing shall not create a barrier to wildlife movement or migration. Fencing shall be raised approximately 6 inches above the existing ground surface to allow mammals to escape being trapped within the fenced area or allow mammals to move through the site. Fencing may be modified with approval of the Local Government if sheep or goats are used to maintain vegetation within the facility.". see the solar bylaw 6.7.4 regarding bottom raised fencing.
- **Measure 8, remove.** Credit should not be given for a legislatively required action.
- **Add a Qualifying Minimization Measure regarding the type of sediment/erosion controls used that will reduce negative impacts of getting trapped within the sediment/erosion control materials.** Suggested edit: "Biodegradable sediment and erosion controls include silt fence, straw bales, rolled sediment control products (i.e. mulch socks, fiber rolls, wattles etc), mulch control netting, erosion control blankets, and turf mats). Photodegradable, UV degradable or Oxo-(bio)degradable plastics are not considered biodegradable. Haybales shall not be used as sediment control.**"**

1.2.4 Agricultural Resources:

- **1st line:** Add "Farmland of Local Importance" as designated by the municipality and the USDA as (iv.).
- **Measure 2, remove.** Credit should not be given for a legislatively required action.

[1] Buffer Zone Guidance, MACC, 2019

1.2.5 Social and Environmental Burdens: Add a new Qualifying Mitigation Measure that references the Municipal Vulnerability Preparedness (MVP) 2.0 social and economic goals or projects.

RE: Model Small Clean Energy Infrastructure Facility Permitting Bylaw: Allowing Use of Solar Photovoltaic Installations

2.0 Definitions.

As-of-Right or By Right Siting: Update to "select board", remove "selectmen".
Canopy: "…beneath for ~~a~~ another function…"
Site Footprint: wouldn't this also include the Rights of Way?

4.1 Compliance with Laws Ordinances and Regulations: suggested amendment

"Other applicable requirements may include but are not limited to: DOER's Regulations and Guidance for Small Clean Energy Infrastructure Facility Siting And Permitting (225 CMR 29.00), MassDEP noise standards, the State Fire Code, the Massachusetts Environmental Policy Act (MEPA), Massachusetts Wetland Protection Act and Regulations, and other applicable local bylaws."

6.1 General: suggested edit, "All plans shall be prepared, stamped and signed by a Professional Engineer and a Registered Professional Land Surveyor licensed to practice in the Commonwealth of Massachusetts."

RE: Model Small Clean Energy Infrastructure Facility Permitting Bylaw: Allowing Use of Solar Photovoltaic Installations: Allowing Use of Battery Energy Storage Systems

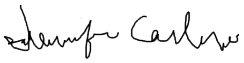
4.1 Compliance with Laws Ordinances and Regulations: suggested amendment

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Thank you for providing this opportunity to provide comment. I certainly appreciate the amount of work that has gone into drafting all of the documents on this complicated issue. Trying to balance all of the climate goals, and new executive orders and initiatives is a monumental task! On the whole, the draft regulations do a good job of trying to create that balance. A lot of care has been taken, particularly, in the site suitability scoring to evaluate environmental impacts and weigh those impacts in a meaningful way.

Please feel free to contact me to clarify or discuss any of the suggested edits offered.

Sincerely,



Jennifer Carlino
Land Use and Environmental Planner
jcarlino@easton.ma.us

CC: MSMCP massconpros@gmail.com
Dorothy McGlincy, MACC dorothy.mcglincy@maccweb.org
Connor Rocket, SE Regional Coordinator connor.rocket@mass.gov

88 Arnold Road, Pelham, Massachusetts 01002
Phone: 413-230-9771
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General Comments on Clean Energy Siting an Permitting Draft Regulations and Guidelines

What follows is both support for some changes in the draft regulations as well as concerns and some changes small towns like ours would like to see. In particular, towns like Pelham that are safeguarding Quabbin drinking water and have passed strong zoning to support regional and local drinking water sources and who value forests for a multitude of environmental services they provide, will oppose unnecessary destruction when better sites are available either in town or in an other community on already disturbed land.

As a former Conservation Commissioner, President of MACC, and Board Chair of a land trust, I am particularly worried about what I think are somewhat theoretical benefits of Clean Energy Infrastructure Facilities if they are not sited with extreme caution. The rush to install them everywhere seems aimed at allowing corporations to profit with some restrictions and permit damage to long term environmental values in a belated hope that feeding the desire for more types of energy will somehow improve the quality of life. In the face of climate change, may we instead be speeding up the destruction of the planet by failing to use and demand less?

The notion that energy installations will be in every town in the Commonwealth might be valid if we are talking about roof top and small scale ground mounted solar rather than huge numbers of acres being destroyed regardless of topography, water supply regulations and habitat requirements for various species. I worry about the longterm impact of biomass given its particulate matter releases and forest destruction and nuclear energy which brings all sorts of complex and problematic burdens. Further, it makes no sense to permit projects in Areas of Critical Environmental Concern or BioMap and CAPS areas. These should be protected outright or the designations are rendered meaningless. The same is true of Article 97 Land Disposition—if they are areas important to protect, development should be prohibited.

Of major concern to me at the moment (and something that should concern Boston and other eastern communities) is that Quabbin Foresters are keen to use herbicides and pesticides as they "manage the forest." I believe these should be prohibited unless a genuine need and rationale can be proven. And in the same way, Forest Cutting Practices as done by DCR is pro-logging rather than focused on conservation and carbon sequestration. This is particularly egregious in the Quabbin where water seems to be an afterthought for current managers there. Forest products are still needed, but they don't have to come from public or watershed lands in Quabbin and elsewhere. To the extent that large amounts of water are needed for some of these energy facilities, the need to protect aquifers from BESS and Data Centers and lithium ion and PFAS contamination is clear. I hope others have addressed a variety of issues that I have commented upon elsewhere but have not the expertise to

comment upon here. Ultimately, clean water will be more important to life than huge quantities of electricity regardless of the way the available energy is provided.

With that prelude, please note that I favor the following elements in the draft and trust they will be retained in the final draft:

29.05(1) A facility "shall comply with all criteria and standards including but not limited to setback requirements, zoning criteria. . . ." Because I view these installations as industrial uses, my assumption is that regulations will respect local zoning's current delineations of residential vs. industrial zones.

29.06(2) local governments retain the authority to adopt additional standards to protect public health, safety and welfare. This is very important and whereas some communities have less expertise than my own available, I hope appropriate assistance will be provided.

29.06(7) local municipality can impose fees for minimization/mitigation actions done on behalf of the site operator.

29.08 In general it is somewhat reassuring to see that generally, more engagement and information sharing with the host community and other key stakeholders will be required.

29.09(2)(f) the permitting process must comply with wetlands protection and also remediation/ restoration/replanting the landscape. It should also require that no or at least minimal compaction of soils be allowed in all parts of the site.

However, I feel some changes in specific sections of the draft should be made and I include additional comments below:

29.04(2) Change "provided that the type of facility added produces no greenhouse gas. . ." to language more protective of public health and the environment such as "provided that the type of facility added results in no greenhouse gas emissions or other pollutant emissions either during normal operations, construction or decommissioning process, or during non-normal operations like a fire or other emergency situation."

29.06(2) Strengthen the language "reasonably necessary to protect the public health, safety, or wellbeing." Who will pay for clean up costs and protect a community's financial status in the event of some failure of the facility that damages drinking water supplies, homes, or causes some other large scale event that results in public liability claims which a town cannot afford?

29.07(3) and (4) Regarding Site Suitability Report section (f) and (g). The town and people who truly understand the social relationships among neighboring communities or neighborhoods should be responsible for determining social benefits and burdens—not some outsider relying on a map or formula who doesn't understand what is and is not suitable for a community based on information

gathered at a distance. Also, a score is impersonal if seemingly scientific, whereas the on the ground realities may not be accurately reflected. How will disputes be settled?

29.07(5)(c) Presumably the Reviewer and *not* the Applicant decides whether the Site Suitability score is very favorable? Please clarify.

29.07 Communities should absolutely have the right to deny an application and deny siting permits to projects unsuitable for the proposed location. Clearly assistance may be needed by appropriate professionals in some situations.

29.08(2)(f)(1) and 29.08(2)(f)(2)(ii) In order for neighbors and other stakeholders to have sufficient information to understand the scope and impacts of the project, please add that the materials provided should include a description of the noise and emissions characteristics of the project during construction and ongoing operations. They should also be notified well in advance of any meetings held to discuss projects.

Respectfully,

Judith Eiseman, Chair
Pelham Planning Board

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:02 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments for BESS Standards

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Jim English <jkenglish12@gmail.com>
Sent: Friday, October 17, 2025 11:51 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comments for BESS Standards

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Firstly; **thank you** for taking the public's notes into consideration as new regulations are formulated.

I am a direct abutter to the Duxbury BESS proposal and have researched BESS very thoroughly over the past two months. A few suggestions that I'll keep brief:

1. Health, safety, welfare needs to be a priority; this is **new** (and exciting) technology, fires **DO** happen (just another in CA in Sept, another in October in AZ). While the tech is new and rapidly improving, **placement** must be the priority. **No residential builds until the tech is truly mature, maybe 20 years**? I say 20 because in Duxbury, that is the term of their lease agreement.

2. Buffers between the BESS and homes/schools/medical facilities/etc need to be logical and scale appropriately with the BESS size. Suggestion… something to the tune of the below. It cannot be one size fits all, and it should respect what the evacuation zone would be in the case of a fire. A 300 ft buffer when the evacuation zone is say 0.25mi is negligent.

- 0-1 MW: 0.25 mi from a dwelling
- 1-5MW: 0.5 mi from a dwelling

- 5-10 MW: 1.0 mi from dwelling

Jim English
769 West Street, Duxbury MA 02332
781 600 4178

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:17 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

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From: Lilli Green <lilliannggreen349@gmail.com>
Sent: Friday, October 17, 2025 1:45 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>; Collins, Rick (ENE) <Rick.Collins@mass.gov>
Subject: S&P Follow On Rulemaking Comments

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DOER and Rick Collins:

Thank you for giving people an opportunity to comment on this document, 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting. I sincerely hope the feedback makes a difference and changes are made to reflect the concerns of loss of local control or home rule and the loss of citizen rights and citizen voice. The changes this administration is forcing on municipalities and citizens is outrageous and not in keeping with the expectations I have had my entire adult life living in MA. Municipalities and citizens have had rights. This administration is ripping them away. I oppose this wholeheartedly.

These are some of the specific areas that I have questions of concerns about.

1. **What is an abutter? Ithink this is too narrow:**
"Abutter. An owner of land that shares a common boundary or corner with the parcel of land on which a Small Clean Energy Infrastructure Facility is sited or proposed to be sited, including land located directly across a street, road or way. A street, road or way is not an Abutter." **Comment: For special permits, for example abutters to**

abutters get notified. There should be a definition of abutter that includes more properties. If having abutter status actually matters, it should not be this limited.

2**. Who is a key stakeholder?**
"Key Stakeholders. Members of the public including local residents, public interest groups, and organizations within a community located within one mile of a proposed Small Clean Energy Infrastructure Facility that could be affected by that project, or a person or organization representing local residents. Key Stakeholders may include abutting residents (both owners and renters) and businesses, community-based organizations, environmental justice communities, elected or appointed municipal officials (e.g., mayor or town or city manager, relevant Council or Select Board members, Chair(s) of the Conservation Commission, Planning Board, Zoning Board, and Head of the Department of Public Works), regional planning officials, and federally recognized, state-acknowledged, or state recognized tribes". **Comment: People who live outside of one mile could be very affected and aggrieved**. **This definition of Key stakeholders should be expanded.**
Do you not recognize Barnstable County? Town or city administrators and county legislative bodies such as the Barnstable County Assembly of Delegates definately need to be included.
The one mile limit should just go away. There are too many circumstances where impacts from projects affect much more than one mile from the project. For all of the special people that you list, here are many more who are not those people. Are we less valuable? Should we all set up organizations saying we represent someone so that we can be a "key stakeholder"? If key stakeholder status matters, I think anyone who has an interest should be a key stakeholder.

3 The first notice for the project goes to one person-
" Notice of Intent to File Application. The Applicant shall submit a Notice of Intent to File Application during the Pre-filing Period. The Pre-filing Period shall be not more than sixty (60) days prior to the planned submission of a Consolidated Local Permit Application. Notices of Intent to File Applications shall be submitted to a Local Government Representative" **Comment: this should not be to just one person. This leaves too much influence in one person's hands. In our towns, but because someone is elected and appointed, this never means that these individuals can know and adequately looks out for everyone's concerns, espeically if there is disagreement or a conflict of values. Make it be at least five people with different interests who get all notifications.**

4 **The applicant submits an emergency response plan -**
"A draft Emergency Response Plan to be approved by the Local Government's fire, police, and emergency management departments" **Comment-Who decides what is a sufficient plan? Can citizens in the town disagree? What if they know more? The county should be able to weigh in also.**

5 **The mitigation fees are given to the towns or a non profit that the town chooses:**
"Compensatory Environmental Mitigation Fees established by the Local Government shall be paid by the Applicant in a manner to be established by the Local Government. Payment may be made to either the Local Government or a Non-Profit Entity". **Comment: Does this amount to bribery? This is rediculous. There are way too many loopholes. It doesn't make sense if one critically thinks about how the town and it's citizens can be harmed.**

6- Will local authorities be overridden by the state agencies when it comes to "nuisances".
"All materials necessary for any permits or decisions to be issued by local public health and safety authorities, including any plans addressing nuisances, approved emergency response plans, other materials required by the state and local public health and safety authorities, and all other information required by the Department in its Guideline on the Consolidated Local Permit Application; ".**Comment: If there a conflict about "does this constitute a nuisance or a health hazard", will the town's concerns be upheld. Will citizens have a say? To me the answer is a loud NO. Let's get our priorities in line. Your number one concern should be for the**

health and safety of MA citizens. The rules show this administration's clear and blatant disregard for the health and safety of our commonwealth's citizens. Disgraceful.

7 Comment and question: : There is not clear process for appealing decision in the document. Who can appeal? who makes final decisions? Some aspects of the law describe an appeal process, but it appears that's related only to the whole permit. Citizens should be able to appeal and there should be a clear cut, transparent and easy way to do so. It should be modified so there is confidence the citizen voice will be seriously considered and there is a fair and transparent guarantee it is entirely possible it could be ruled in favor of citizens.

8- This may make it easier in some ways, but what if a single decision is utterly aggregious? "A single decision on Individual Application Components is not eligible for an independent De Novo Adjudication or otherwise independently appealed or reviewed " **Human nature being what it is, it is easy to imagine a Board or other authority making "bad" decisions as a result of being pressured in one direction or another. It is unwise and unfair to not be able to appeal individual parts of a permit. I also realize that this in itself is a central strategy to expedited permitting. (As I have already submitted public comment to state expedited permitting strips away municipality rights and citizen rights and should not be implemented.) It is critically important to create an avenue of appeal, or leave the avenues currently available intact.**

8 Comment and question: - If a town says "no" to a project, will that decision just be overturned like what is happening to us now? Meaning almost every time? Your insistence that we will have local control of anything at all is troublesome, if not an outright fabrication.

9. This whole process where the AG and the courts have been shutting down almost all local control, this law and these regulations are just a formal and legal path to free up the courts and the AG's office. The effect is to shut down the local decision making process and make it so the developers don't have to spend money on lawyers to get their permits. Now our state agencies will guarantee the same outcomes. Why not just be like New Hampshire and have a state permitting agency. It would be more honest if this Administration had just done that. This process is WORSE for the towns, except now you are saying…just hand it all over to this administration. You are ruining our special and unique commonwealth. Even the MMA opposed the expedited permitting. They told our municipality and county leaders we could make things right with these rules. Obviously this administration could care less about the MMA, municipalities, county governments, and certainly not citizens. These rules are a travesty for MA.

Lilli-Ann Green
Wellfleet
Barnstable County Assembly Delegate-Wellfleet

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:24 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

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From: Lilli Green <lilliannggreen349@gmail.com>
Sent: Friday, October 17, 2025 4:08 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>; Collins, Rick (ENE) <Rick.Collins@mass.gov>
Subject: Fwd: S&P Follow On Rulemaking Comments

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DOER and Rick Collins:

I can not email my public comments as a pdf file. Circumstances will not permit me to do so.

Please confirm via email that my public comments have been received and accepted as public comments.

Thank you.

Lilli-Ann Green
Wellfleet
Barnstable County Assembly Delegate-Wellfleet

---------- Forwarded message ---------
From: **Lilli Green** <lilliannggreen349@gmail.com>
Date: Fri, Oct 17, 2025 at 6:45 PM
Subject: S&P Follow On Rulemaking Comments
To: DOER.Siting.Permitting@mass.gov <doer.siting.permitting@mass.gov>, Collins Rick (ENE) <rick.collins@mass.gov>

DOER and Rick Collins:

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"A draft Emergency Response Plan to be approved by the Local Government's fire, police, and emergency management departments" **Comment-Who decides what is a sufficient plan? Can citizens in the town disagree? What if they know more? The county should be able to weigh in also.**

5 **The mitigation fees are given to the towns or a non profit that the town chooses:**
"Compensatory Environmental Mitigation Fees established by the Local Government shall be paid by the Applicant in a manner to be established by the Local Government. Payment may be made to either the Local Government or a Non-Profit Entity". **Comment: Does this amount to bribery? This is rediculous. There are way too many loopholes. It doesn't make sense if one critically thinks about how the town and it's citizens can be harmed.**

6- Will local authorities be overridden by the state agencies when it comes to "nuisances".
"All materials necessary for any permits or decisions to be issued by local public health and safety authorities, including any plans addressing nuisances, approved emergency response plans, other materials required by the state and local public health and safety authorities, and all other information required by the Department in its Guideline on the Consolidated Local Permit Application; ".**Comment: If there a conflict about "does this constitute a nuisance or a health hazard", will the town's concerns be upheld. Will citizens have a say? To me the answer is a loud NO. Let's get our priorities in line. Your number one concern should be for the health and safety of MA citizens. The rules show this administration's clear and blatant disregard for the health and safety of our commonwealth's citizens. Disgraceful.**

7 Comment and question: : There is not clear process for appealing decision in the document. Who can appeal? who makes final decisions? Some aspects of the law describe an appeal process, but it appears that's related only to the whole permit. Citizens should be able to appeal and there should be a clear cut, transparent and easy way to do so. It should be modified so there is confidence the citizen voice will be seriously considered and there is a fair and transparent guarantee it is entirely possible it could be ruled in favor of citizens.

8- This may make it easier in some ways, but what if a single decision is utterly aggregious? "A single decision on Individual Application Components is not eligible for an independent De Novo Adjudication or otherwise independently appealed or reviewed " **Human nature being what it is, it is easy to imagine a Board or other authority making "bad" decisions as a result of being pressured in one direction or another. It is unwise and unfair to not be able to appeal individual parts of a permit. I also realize that this in itself is a central strategy to expedited permitting. (As I have already submitted public comment to state expedited permitting strips away municipality rights and citizen rights and should not be implemented.) It is critically important to create an avenue of appeal, or leave the avenues currently available intact.**

8 Comment and question: - If a town says "no" to a project, will that decision just be overturned like what is happening to us now? Meaning almost every time? Your insistence that we will have local control of anything at all is troublesome, if not an outright fabrication.

9. This whole process where the AG and the courts have been shutting down almost all local control, this law and these regulations are just a formal and legal path to free up the courts and the AG's office. The effect is to shut down the local decision making process and make it so the developers don't have to spend

money on lawyers to get their permits. Now our state agencies will guarantee the same outcomes. Why not just be like New Hampshire and have a state permitting agency. It would be more honest if this Administration had just done that. This process is WORSE for the towns, except now you are saying…just hand it all over to this administration. You are ruining our special and unique commonwealth. Even the MMA opposed the expedited permitting. They told our municipality and county leaders we could make things right with these rules. Obviously this administration could care less about the MMA, municipalities, county governments, and certainly not citizens. These rules are a travesty for MA.

Lilli-Ann Green
Wellfleet
Barnstable County Assembly Delegate-Wellfleet

Re: Public Health, Safety and Environmental Standards (225 CME 290.6)

- What health, safety, and environmental standards are important to include?
    - It is important to include the standard of no forest clearing for solar over sole-source aquifers. The forests and sand that exist have protected our drinking, swimming and fishing water in equilibrium for thousands of years. It is a rarity in our state to have water bodies that meet all three criteria - drinking, swimming and fishing. We have that in Southeastern Mass. It would be a dereliction of duty on the part of the State to compromise our water quality for renewable energy development. Please review the EPA's sole source aquifer designation for the Plymouth-Carver Aquifer to understand the delicate nature of our drinking water source.

Re: Site Suitability/Minimization and Mitigation:

- Should a community have the right to deny an application if the site suitability score is too high?
    - Yes, they should, and DOER should provide an outline of the evidence and criteria that must be met in order for a municipality to deny an application based on the site suitability score. These criteria must be able to stand up in appeals court under the current version of the Dover amendment.
- How should a municipality calculate how much mitigation is enough to offset poor scores?
    - The mitigation calculation should be prohibitively expensive in order to financially dissuade or prevent poorly sited solar projects. Unfortunately, the state seems to be taking the stance that the market, not the state, should decide where our solar projects are being placed. The only way to dissuade developers from chopping down and destroying our natural resources for solar development is to make the costs of doing so prohibitively expensive so that developers are prevented from building in our natural environment. Please recall that there are multiple lines of income when a landowner decides to develop their parcel for solar. They make money from the sale of the timber, from the sale of the sand, and through the sale of the electricity, potentially boosted by SMART incentives. Then, after 25 years, they can clear the solar panels out and develop the property for housing. So landowners stand to profit in the millions of dollars from this program. Therefore, the mitigation fees must range in the millions of dollars to dissuade landowners for developing for solar. For instance, for a project that wants to clear 50 acres of forest for solar, the mitigation fee per acre should be AT MINIMUM $50,000 per acre, so that the total fee for the project will be $2.5M. This is barely enough of a penalty to dissuade a landowner for cutting down their forests for solar, when you factor in the other benefits they receive from the development.

Re: Pre-Filing Requirements:

- What types of abutters and key stakeholders should be noticed and involved in this stage of the process?
    - It is imperative that Indigenous communities are consulted on any proposed land use change of their homelands. A cursory "email" with a notice of a meeting or a

pre-filing application is not enough. It needs to be a two-way communication, with applicants receiving a documented response from the Tribes they contacted, with an offer (and a documented response from the Tribe to the offer) of an in-person consultation regarding any proposed land-use changes.

Re: Consolidated local permit application:

- What tools would be helpful to ensure that municipalities meet the 12-month timeframe?
    - It would be helpful if the municipalities had the ability to stagger their review of solar applications by 6 months, so that municipalities were only reviewing a maximum of two applications at one time. For instance, on the first day these regs go into effect, the town would accept 1 application. Then six months later, they accept a second application. Six months later, they finish the first application and accept a third application, and so on. It is not unreasonable to assume that on the first day that these regulations go into effect that certain municipalities within our Commonwealth will receive up to five or six applications for solar projects all at once. If they are not able to effectively review or engage the project on all applications during that time the projects would then be permitted by default.

REVISION ENERGY

October 17, 2025

Massachusetts Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Re: Draft 225 CMR 29.00 Rules – Small Clean Energy Infrastructure Facility Siting and Permitting Regulations

ReVision Energy Inc. (ReVision) appreciates the opportunity to comment on the Department of Energy Resources' (DOER) draft rule 225 CMR 29.00 – Small Clean Energy Infrastructure Siting and Permitting Regulations (Draft Rule). ReVision is an employee-owned, B-Corporation clean energy construction company, with over 80 co-owners headquartered at our North Andover and Westfield locations. ReVision develops, installs, and maintains residential, community, and commercial solar, as well as storage, electric vehicle charging, and heat pumps. We do this work in service of our mission to "Make life better by building our just and equitable electric future."

ReVision appreciates DOER's efforts to establish a consolidated permitting process in accordance with the directives of the 2024 Climate Act. Streamlining the review and approval of clean energy facilities is essential to enabling a cleaner and more affordable grid for the Commonwealth. Recent federal tax credit rollbacks and rising electricity demand heighten the urgency reducing hurdles to project construction. Clear procedures to support cities and towns in the efficient review of proposed facilities are one critical step. ReVision urges DOER, in refining the Draft Rule and associated guidance, to provide reasonable distinctions in the requirements applicable to smaller facilities to ensure that these projects do not face undue or unintended barriers.

The 2024 Climate Act provides a broad definition of "small" clean energy infrastructure facilities. This definition encompasses wholly distinct categories of facilities, including in scale, development process, and potential impact. Certain requirements that may be appropriate for a 20 MW utility-scale solar facility may not be applicable to a 15 kW array sited in a field adjacent to a homeowner unable to install a rooftop system.

ReVision appreciates that Section 29.07 already contemplates the exemption of certain small facilities with characteristics that inherently limit the impact of the resource from Site Suitability and Mitigation requirements. We are concerned that other sections of the Draft Rule do not incorporate analogous provisions to right-size requirements to the scale of the proposed facility in question.

ReVision recommends that DOER amend proposed Section 29.08 "Pre-Filing Requirements" to similarly account for the smallest facilities subject to this rule. It is not reasonable or appropriate to require a homeowner installing a ground-mount array to offset onsite load, for example, to

undertake public notice and engagement requirements that may be suitable for multi-megawatt projects. Such requirements risk undermining the viability of solar installations for residential and commercial customers who lack suitable or sufficient roof space to accommodate an array.

We likewise recommend that DOER amend proposed Section 29.09 "Consolidated Local Permit Application" to avoid prescribing a list of required application components that may not be applicable to the smallest projects contemplated under the rule. ReVision recommends that the second sentence in proposed 29.09(2) be amended to the effect of: "The Applicant shall provide information including, as applicable." This approach would allow DOER to develop and update requirements for all facilities, including suitable exceptions for the smallest facilities, in relevant guidance. Again, ReVision is concerned that the rule as proposed could pose insurmountable barriers to small projects.

ReVision thanks DOER for the opportunity to submit these comments.

Respectfully submitted,

/s/ Nat Haslett

Nat Haslett
Director of Utility & Regulatory Affairs
ReVision Energy Inc.

Comments on the Draft Regulations at 225 CMR 29.00 - Small Clean Energy Infrastructure Facility Siting and Permitting

The DOER should remove the criterion for *Carbon Storage and Sequestration* as a metric for calculating a site suitability score (225 CMR 29.07 and associated guidance documents). If the criterion is left in place, the site suitability formula should de-weight its significance to accurately reflect that forest carbon sequestration has only a very minor effect in mitigating climate change and is far outweighed by the carbon offset benefit of solar energy.

The Commonwealth's ambitious plan to avoid the worst effects of the climate crisis requires we transition away from fossil fuels within the next two decades. To accomplish this goal, we must very rapidly build-out renewable energy capacity at a massive scale. And while forest preservation is a worthy goal for many reasons, the reality is that forest carbon sequestration cannot meaningfully offset our fossil fuel CO_2 emissions or lower atmospheric CO_2 levels (Lu *et al*. 2013; Meyer *et al*. 2022; Naef *et al*. 2025; Smith *et al*. 2015; Steffen *et al*. 2016; Thompson *et al*. 2025, Walker *et al*. 2022; Zickfeld *et al*. 2021). However, multiple studies support that solar energy facilities, even when built on forested land, offset far more fossil fuel CO_2 than the vegetation (and soil biome) can sequester (Crago *et al*. 2025; Eisenson 2022; Hanig 2019; Lee 2023a and 2023b; Synapse Energy 2021; Turney and Fthenakis 2011). Therefore, disincentivizing solar energy development on forested land based on an incorrect presumption or insinuation that it significantly mitigates climate change is misleading and counterproductive.

Additional Context

1. Solar energy development is a relatively minor cause of forest loss in Massachusetts. Between 2000 and 2050, traditional development (*eg*. residential and commercial development) is projected to cause the loss of about 174,141 acres of forested land (5.8 percent of our existing forested land), agricultural development (cropland) about 55,144 acres (1.8 percent of existing forested land), and solar development about 36,643 acres (1.2 percent of existing forested land) (Thompson *et al*. 2025, Table 5).
2. 36,643 acres of solar energy projects represents about 5.4 gigawatts of clean generation capacity (6.8ac/MW from Thompson *et al*. 2025). At our current level of fossil fuel reliance, this clean generation would provide a net carbon offset of about 33-million metric tons of CO_2 (Lee 2023b). This avoided CO_2 will not contribute to global warming nor require additional sequestration capacity.
3. Solar development on forested land has a very minimal effect on overall carbon flux (see Figure E1 below):

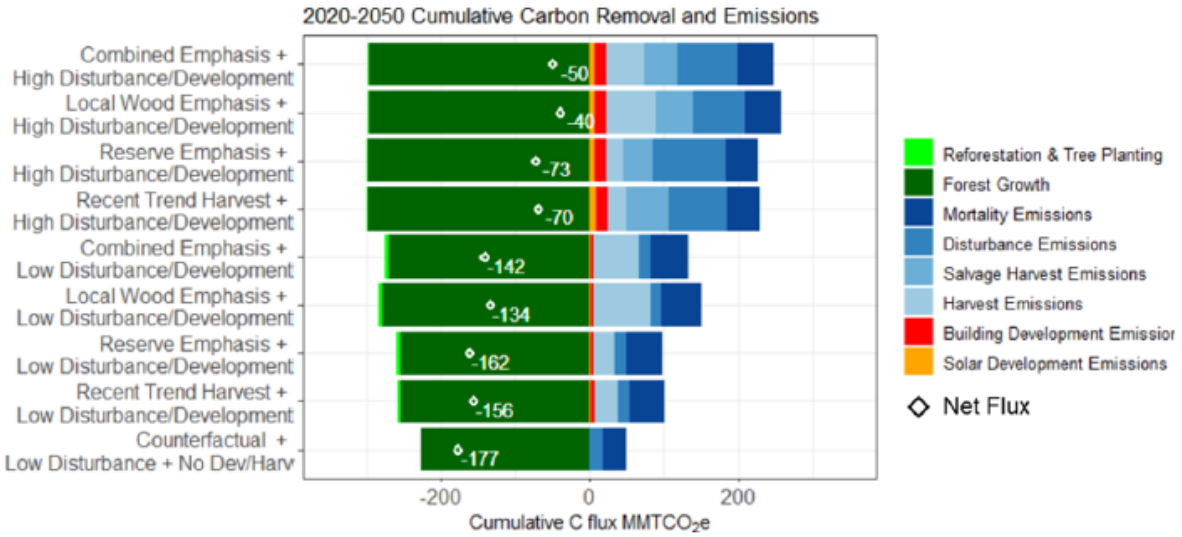


Figure E1 from Thompson et al. 2025. Cumulative carbon removals and emissions from 2020 and 2050 for eight integrated scenarios and a counterfactual scenario (no development or harvesting). Note the very minor effect solar development has on overall carbon flux under all scenarios and most notably, *the conspicuous omission of the carbon offsetting benefit of solar energy*.

4. Forest sequestration is a temporary and unreliable sink for fossil fuel carbon. Unpredictable factors such as the introduction of new insect pests or pathogens, wildfires, and severe storms can all cause widespread tree mortality which will result in the rapid re-release of stored carbon.

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Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:17 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments on new solar siting regulation

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Michelle Hatfield <michelle.margaret@gmail.com>
Sent: Friday, October 17, 2025 3:11 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comments on new solar siting regulation

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Comments on Draft Regulations: 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting

Submitted to: Massachusetts Department of Energy Resources
Email: DOER.Siting.Permitting@mass.gov
Subject: Comments
Submitted by: Michelle Hatfield, Duxbury, MA
Date: October 17, 2025

Dear DOER Clean Energy Siting and Permitting Team,

1. **Soil permeability should be added as factor to consider in overall scoring system**
   Solar energy production and storage installations pose significant risk to the shallow aquifer system in

Southeastern MA, which is protected only by sand, topsoil, and vegetation. The vulnerability of Plymouth-Carver sole

source aquifer to pollution is documented by the EPA:

1. The Plymouth-Carver Aquifer is the sole source of drinking water for nearly all of the residents within the service area.
2. There exists no reasonably available alternative drinking water source or combination of sources of sufficient quantity to supply the designated service area.
3. The petitioners, with EPA assistance, have appropriately delineated the boundaries of the designated aquifer area, the aquifer recharge area, the project review area and the aquifer's service area.
4. Although the quality of the aquifer's ground water is rated as good to excellent, it is highly vulnerable to contamination due to its geological characteristics. Because of this, contaminants can be rapidly introduced into the aquifer system from a number of sources with minimal assimilation. This may include contamination from several sources such as the following: chemical spills; highway, urban and rural runoff; septic systems; leaking storage tanks, both above and underground; road salting operations; saltwater intrusion; and landfill leachate. Since nearly all residents are dependent upon the aquifer for their drinking water, a serious contamination incident could pose a significant public health hazard and place a severe financial burden on the service area's residents.

Source: Plymouth/Carver FR (55 FR 32137), NOTICES, ENVIRONMENTAL PROTECTION AGENCY [FRL-3817-7] Sole Source Aquifer Designation for the Plymouth-Carver Aquifer, Massachusetts, Tuesday, August 7, 1990.

Fire control measures and their potential effect on drinking water supply have not been studied or tested extensively enough to allow the serious risk of contamination to our only source of drinking water. Lithium ion battery fires emit many toxic chemicals, and likewise the water or other agents used to extinguish such fires carry chemical pollutants that threaten ground water and therefore drinking water.

2. Municipal overload

Municipalities should be permitted to enact reasonable limits on the number of applications for such installations they are to consider at a given time. Otherwise the provision for constructive approval will doubtlessly be exploited by developers.

Cumulative impact considerations and protections for burdened communities must be strengthened and reinforced in the regulation.

Avoidance through segmentation: Because many BESS facilities are modular by design, a developer could segment a larger project into multiple sub-one-acre parcels or “pods,” each technically below the one-acre threshold, thereby avoiding meaningful environmental review, mitigation, and public scrutiny. The result would be an effective bypass of the Commonwealth’s environmental and public-health safeguards. Therefore all BESS installations should be subject to the full review process regardless of size.

3. **Biodiversity and Deforestation**

Adopt the moratorium on tree removal during nesting season as recommended by the gentleman from Barnstable during the Public Hearing.

Alternatively, enact a 5-year moratorium on clear cutting for solar installs, subsidies to built environment install only. Change the economics for decision-makers.

Trees do more than just sequester carbon. They serve an essential function in the water cycle, and provide cooling, shade, habitat, and wind breaks. Without shade and cooling, hotter air, therefore more air conditioning and energy usage. Without windbreaks, there will be more storm damage.

In conclusion, the Regulations should make it work financially to add solar to the built environment, and pause subsidies on installations that require deforestation.

Note: Deforestation opens up the possibility for earth removal (a.k.a. sand mining here in Southeastern MA) which interested parties are looking for any loophole to exploit because the price of sand is high. Sand mining endangers the aquifer both by direct exposure and by removing the natural filter of sand, and causes particulate pollution in the form of respirable crystalline silica.

TOWN OF HAWLEY
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TOWN OF HAWLEY INCORPORATED FEB 1ST 1792 MASSACHUSETTS

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October 16, 2025

Dear Members of the Energy Facilities Siting Board:

The Planning Board of the town of Hawley requests an extension of the October 17 comment period for the 225cmr 2900 Small Clean Energy Infrastructure Facility Siting and Permitting draft regulations. The small volunteer board has not had adequate time to review the document and would not be fulfilling our obligation to the town without more time to examine the regulations within the new legislation.

Concerns include but are not limited to, our part time Town Clerk serving by default as the Local Government Representative. We would like to see language added to the document allowing towns, at the expense of the applicant, to hire an independent consultant to review and assist the town as needed.

The town of Hawley is committed to preserving our rural character while allowing growth to occur. The purpose of our Protective Bylaw in part reads, to protect the health and safety of its inhabitants, to encourage the most appropriate use of the land within the Town, to protect the ecology and the rural nature of the town. Without the extension of the comment period, we cannot confidently meet this purpose.

Respectfully Submitted,
Kimberly Orzechowski, Chair, Hawley Planning Board

Annie Hayes
52 Farmer’s Lane
West Wareham, 02576

To Rick Collins and Connor Rockett,
And the entire team of small solar siting and permitting,
my concern is for the safety of all interdependent living populations sustained by clean air, water and soil.

The introduction of nanoengineering , now combined with A-1 to formulate ever more high energy producing, marketable and profitable governed by ??(some of my previous research sites are listed as absent due to diminished government funding) is troubling even as it has captivated the military/industrial dominance of our culture.

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Artificial intelligence based hybrid solar energy systems with smart materials and adaptive photovoltaics for

sustainable power generation

Udit Mamodiya,
Indra Kishor,
Ramakrishna Garine,
Priyam Ganguly &
Nithesh Naik

Scientific Reports

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Abstract

The advancement of solar energy systems requires intelligent, scalable solutions that adapt to dynamic environmental conditions. This research proposes a novel AI-enhanced hybrid solar energy framework integrating spatio-temporal forecasting, adaptive control, and decentralized energy trading. The core objective is to improve the efficiency, responsiveness, and scalability of solar power generation using a unified multi-layer architecture. The system comprises a CNN-LSTM model for accurate solar irradiance forecasting, reinforcement learning for real-time dual-axis tracking, and Edge AI for low-latency control decisions.materials for

real-time heat regulation. To enhance optical and thermal efficiency, the design incorporates hybrid nanocoatings with self-cleaning and anti-reflective properties, along with dual-layer phase-change Additionally, adaptive perovskite-silicon photovoltaic cells were implemented to dynamically tune electrical characteristics such as bandgap and voltage based on irradiance levels. A blockchain-enabled smart grid facilitates secure and decentralized peer-to-peer energy transactions. Experimental validation was conducted over a full year at Sitapura, Jaipur (India), under real-world climatic conditions. The proposed system achieved a 41.4% increase in annual energy yield, an 18.7% improvement in spectral absorption efficiency, and an 11.9 °C reduction in average panel temperature compared to conventional MPPT and static PV setups. Furthermore, blockchain integration reduced energy dispatch latency from 180 to 48 ms, and AI-based hybrid storage management increased battery

lifespan by over 60%. The framework demonstrates significant performance enhancement, real-time adaptability, and deployment viability, offering a transformative step toward intelligent, resilient, and sustainable solar energy systems.

Wow. My coating concern is now a tiny piece of an indecipherable puzzle. But I've followed its roots and I advise you to get a handle on this science, because the use of coatings to enhance production at the most profit without any mention of toxicity texts is a pattern that looks to prevail.

The health risks, the environmental contamination by "forever" chemicals that can very well degrade on the surface of panels are subsumed by the competitive industries market driven. Concomitantly, plastic is technologically "seen" in our bodies, measured in our waters and sure to be "not good" even if all the causes and effects aren't mapped.
With the dominance of government monies handed to the billionaire market drivers, we the people are the little guys,

already fighting nonstop to protect our right to health safety and welfare. Our right to vote. Our right to due process. What I am challenging here is what is our due process to know exactly what risks the current solar panels coatings and internal chemistries that are vulnerable to intense, increasingly severe environmental degradation can and are doing to our environment, our sleeves. Where is the data for your decisions? Where is the evidence that truth is the ultimate determinant of what products, where, dumped where and effecting the environment for how long under what testing.

We have learned we demand rigor now or pay heavily to remedy or pay heavily for medical costs from toxic air water and soil.

Nanoparticles Toxicity in Aquatic Ecosystems: Experimental Evidence from Species

Authors

Shalini Sharma, Deepti Pal, Hitendra Kaur Sidhwani, Rajendra Kumar Sharma, Madhuri Goswami, Dr. Savita Dubey
Author

Keywords: Nanoparticles, Aquatic Toxicity, Engineered Nanomaterials, Ecotoxicology, Aquatic Species, Environmental Risk

Abstract

The widespread use of engineered nanoparticles (ENPs) in industrial, biomedical, and consumer products has led to their inevitable release into aquatic ecosystems, raising urgent concerns about their ecotoxicological effects. This paper investigates the toxicity of various nanoparticles (including silver, titanium dioxide, and zinc oxide) on aquatic species ranging from algae and crustaceans to fish and amphibians. Experimental findings from recent studies demonstrate that ENPs can induce oxidative stress, cellular damage, behavioral alterations, and reproductive impairments, even at low concentrations. The toxicity is influenced by factors such as particle size, shape, surface coating,

concentration, and exposure time. Moreover, species-specific sensitivity and environmental variables (e.g., water pH, salinity, and organic matter) further complicate toxicity outcomes. Through a synthesis of laboratory data and ecological relevance, this study highlights the pressing need for standardized toxicity testing protocols and regulatory frameworks. The findings advocate for a precautionary approach in nanoparticle production and usage, especially in regions close to sensitive aquatic habitats.

Written in 2012 the following seems old fashioned- the considerations of whether solar will aid sustainability or hasten the demise of our already embattled planet that has lost its resilient ability to regenerate at the scale in which we destroy. It is wisdom, getting buried by the relentless pace of questing power.

Please read the chapters on nanosolar and solar risks at a minimum to see what very thoughtful people consider sustainability.

Nanotechnology and Global Sustainability
_http
s://www.academia.edu/191950/Nanotechnology_and_Global_Sustainability

Nanotechnology and Global Sustainability

By Donnie Maclurcan and Joshua Pearce
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The rise of collaborative consumption, peer-to-peer systems, and not-for-profit social enterprise heralds the emergence of a new era of human collectivity. Increasingly, this consolidation stems from an understanding that big-banner issues—such as climate change—are not the root causes of our present global predicament. There is a growing and collective view that issues such as this are actually symptoms of a much more vicious, seemingly insurmountable condition: our addiction to economic, consumption, and population growth in a world of finite resources. Nanotechnology and Global Sustainability uses nanotechnology—the product of applied scientific knowledge to control and utilize matter at atomic and molecular scales—as a lens through which to explore the interrelationship between innovation, politics, economy, and sustainability. This groundbreaking book addresses how stakeholders can actively reshape agendas to create positive and sustainable futures through this latest controversial, cross-sectoral technology. It moves beyond issues of efficiency, productivity, and utility, exploring the insights of 22 contributors from around the world, whose work spans the disciplines of science and the humanities. Their combined knowledge, reinforced with various case studies, introduces an exciting prospect—how we can innovate without economic growth. This new volume in the Perspectives in Nanotechnology series is edited by Dr. Donald Maclurcan and Dr. Natalia Radywyl. Dr. Maclurcan is a social innovator and Honorary Research Fellow with the Institute for Nanoscale Technology at the University of Technology Sydney, Australia. Dr. Radywyl is a social researcher and Honorary Research Fellow in the School of Culture and Communication at the University of Melbourne, Australia. She is also an Adjunct Research Fellow in the Faculty of Life and Social Sciences at Swinburne University of Technology, Melbourne. This book is written for a wide audience and will be of particular interest to activists, scholars, policy makers, scientists, business professionals, and others who seek an understanding of how we might justly transition to sustainable societies.

This is the whole ball of wax.

2.3
Nanotechnology and Solar Energy

The “next Industrial Revolution” is full of promises and hype about how nanotechnology will change every aspect of human existence. The claims are at times alluring but also foreboding: Drug delivery and diagnostics will be transformed, new materials will become available at a much lower cost and higher strength, potable water will become readily available through new processes of desalinization, new systems of surveillance and chemical monitoring will become possible, and a new generation of armaments and

weaponry will emerge. The promises also extend to environmental ame-

lioration, an issue that makes an environmental sociology of nanotechnol-

ogy a complicated enterprise: Nanoscale chemicals may become available to

replace the current generation of toxic, chlorinated chemicals; nanomaterials

could lead to breakthroughs in the use of fuel cells and batteries; new materi-

als based on nanotechnology could reduce the impact of mining for metals;

and nanoscale electrical materials will be both smaller and more conductive,

leading to revolutions in electrical use and ef

ic

iency and a post-silicon era

for computing. Among the environmental bene

its, we focus on solar energy,

partly because the promise here is perhaps the most appealing: solving the

problem of climate change through nanotechnology (Schmidt 2007).

Solar energy has long been the alternative energy technology preferred by

social movements, partly because its modular design can be made compatible

with decentralized and democratic ownership (Hayes 1979; Laird 2001; Reece

1979). Furthermore, from an energy perspective, solar energy is potentially

much greater than other clean or renewable energy sources, and, to date, it has been less controversial than wind farms (Breukers and Wolsink 2007; Firestone and Kempton 2007). Solar, wind, and related renewable-energy technologies have long been recognized as the basis for an economy that enables the dematerialization of its energy consumption; hence, they are likely to be essential ingredients in a transition to a steady-state economy. However, the great problem with solar energy has been its high cost. Eventually, new materials, such as the ones that are already appearing in thin-film technology, w

ill

bring down the costs and reduce the environmental impacts of production.

Grid parity, the point at which the price of solar energy becomes equivalent

to that of energy supplied over the grid primarily from a fossil-fuel source,

will occur sometime between 2012 and 2020. When the convergence of prices

is reached, industry analysts predict that there will be an explosion of solar

energy production and a rapid transition toward solar energy. This is not to

say that other energy sources—such as wind, geothermal, and tidal energy—

will not be important, but solar energy is different because it is a bene

ic

iary of

the rapidly advancing innovations of photonics, materials science, and other

ields. Although perhaps not enjoy

ing quite the rapid improvements associ-

ated with Moore's law, solar energy is likely to become much less expensive

over time, not only in relationship to fossil fuels and nuclear energy but also

in relationship to other renewable energy sources.

There are many ways that scientists are trying to achieve a revolution in

solar energy technology with nanoparticles: photosynthesis through the use

of titanium dioxide nanoparticles; nanoparticle encapsulation in polymers;

the development of calcopyrites produced as thin

ilm photovolta

ics; the use

of molecular organic solar cells; organic polymer photovoltaic systems with

nanoscale layers; the addition of single-wall nanotubes to conduct polymers

that improve ef

ic

iency; smaller size nitride semiconductors, which result in

more efic

ient photovoltaic systems; and photovoltaic nanoparticles coated

with thin

ilms of polymer that can create cheap

lexib

le solar cells. Through

a combination of the many innovations that are currently in laboratories

or beginning to be tested in markets, nanotechnology becomes central to

the ield of solar energy by offer

ing the potential to accelerate the decline in

solar energy costs and even to help solar energy become the cheapest form

of energy.

Nanotechnology and clean energy consultant Bo Varga states the potential

frankly and succinctly: “Solar growth at 20 percent per year for

ifty years

can replace fossil fuels and nuclear and remove the causes of global warm-

ing” (2007, 1). One may argue with his assumptions and projection, but the

fundamental proposition is interesting as a possible way out of some very

dif

icult energy problems posed by cl

imate change. There is little incen-

tive for any country to leave oil, coal, and natural gas in the ground, and

the increase in global demand will only make it more dif

icult to res

ist the

temptation to drill, extract, sell, and use more fossil fuels. Carbon trading

agreements could make fossil fuels less competitive with respect to renew-

able energy technologies, but to date the schemes in Europe have proven

to be less effective than originally projected (Hansen 2009). A technological

development that would bring about the widespread diffusion of a much

cheaper alternative could provide an even more powerful incentive for coun-

tries and

irms not to cont

inue to use fossil fuels. Solar energy could provide

that technological innovation.

To its credit, the U.S. government has recognized, albeit in a limited way,

the potential of the nanosolar convergence. If one looks through the research

projects funded by the Solar America Initiative, a signi

icant number of

them involve nanocrystals, nanotubes, nanowires, quantum dots, and other

nanoscale materials (U.S. Department of Energy 2007). By 2011, a few com-

panies were already bringing nanosolar technologies to market. Innovations

include a printable nanocrystal technology by Solexant and a nanoparticle

ink printed on thin foil by Nanosolar. The new, printable technologies enable

solar photovoltaics to be produced without the glass panels that are charac-

teristic of the older-generation, silicon-based photovoltaics.

Nanosolar convergence promises to do more than simply bring down the

costs of solar and make it the preferred form of energy generation. Future

scenarios include a complete redesign of energy products and technologies.

Just about any surface that receives light, including clothing, could provide

an opportunity for energy generation. Nano-antenna arrays can produce

energy based on infrared resources. A lexib

le, plastic-like nanosolar cell

could be sprayed onto other materials much in the way that one can spray

paint onto a surface today. Stefan Lovgren,

National Geographic

correspon-

dent and winner of the American Association of Advancement of Science

journalism award, describes the following scenario: “A hydrogen-powered

car painted with the

ilm could potent

ially convert enough energy into elec-

tricity to continually recharge the car's battery. The researchers envision that one day 'solar farms' consisting of the plastic material could be rolled across deserts to generate enough clean energy to supply the entire planet's power

needs" (Lovgren 2005). Lovgren goes on to estimate that only 0.1 percent of the Earth's surface would be needed to replace all human energy needs with this "clean and renewable" alternative.

It is impossible at this time to know how much, if any, of the promises of a nanosolar future will be realized by 2050 or 2100. In this light, while nanoso-

lar may be new and full of possibilities, the hype surrounding it is not. Such hype is similar to that which pervades other aspects of the nanotechnology revolution and that which accompanied previous “technological revolutions” such as nuclear energy during the 1950s and 1960s, which promised to provide the world with an endless supply of cheap, clean electricity. Even today, nuclear energy advocates continue to suggest that their energy source, not solar energy, promises to solve the world’s energy needs and greenhouse gas emissions problems. Nor is nuclear the only energy selected by contem-

porary industry to make such promises. Not surprisingly, there is also con-

siderable hype around carbon sequestration technologies as the best choice

of energy futures.

Although we have used the term

hype

to describe the futures promised

by advocates of various “clean” energies, their visions of a future of ubiqui-

tous and cheap solar energy are also expressions of a struggle among actors

for dominance as important players in a highly competitive energy industry

and ield of fund

ing competition. One site where this conlict p

lays out with

special intensity is energy research funding, and in the United States there

have been signi

icant d

ifferences between Republicans and Democrats on

the issue. The Republican administration of President George H. W. Bush

was more supportive of research on nuclear energy and fossil fuels than

renewable energy, and it attempted to cut the federal government budget

for solar energy research and energy-efic

iency technologies (DuBois 2008).

In contrast, the Democratic administration of Barack Obama steered more resources toward solar and other renewable energy resources, and made substantial cuts in research funding for nuclear energy and fossil fuels. Even so, the budget of the Obama administration for energy research and development continued to provide higher support for nuclear energy ($495 million) and fossil fuels research ($438 million) in comparison with solar ($302 million), wind ($123 million), and geothermal energy ($55 million) (U.S. Department of Energy 2010).

Nanotechnology and the Environment

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Department of Energy 2010).

2.4

Nanosolar Risk and Uncertainty

In addition to the parallel between the hype surrounding nuclear energy during the 1950s and the hype around nanotechnology and nanosolar today, one might draw a second parallel between the two energy sources, one that cuts deeply into the rosy futures described above. It took decades for the

effects of uranium mining on local environments, the health effects of radia-

tion exposure, the possible nightmare of terrorist attacks on nuclear energy

plants, the risks of severe events such as the earthquake and tsunami that

affected the Fukushima reactors, and the problem of waste disposal of spent

nuclear fuel to become recognized as a bundle of negative side effects gen-

erated by nuclear technology. In a similar way, research is slowly emerging

on the environmental, health, and safety (EHS) implications of nanotech-

nology (for reviews, see Donaldson et al. 2006; Helland et al. 2007; Lam et

al. 2006; Singh and Nalwa 2007). Nongovernmental organizations such as Environmental Defense, the ETC Group, Friends of the Earth, and Greenpeace have sent warning signals about the potential for nanotechnology to repeat the mistakes of the past (Hess 2010; Lamprou 2010). Whether one makes the comparison with nuclear radiation or previous generations of materials that proved hazardous (such as asbestos and chlorinated chemicals), emerging knowledge on the EHS implications of nanotechnology suggests that society

may be in the process of repeating its past mistakes by unleashing a new generation of toxic materials into the environment.

Although many of the world's industrialized powers provide some government funding for research on EHS implications of nanotechnology, several of the leading civil-society organizations in the United States, as well as prominent researchers and policymakers, have argued that the research has been systematically underfunded, whereas government support for the commercialization of nanotechnology has been much more forthcoming (Hess

2010). As a result, more is understood about the potential bene

its of nano-

technology than about the risks, dangers, and unwelcome surprises.

Engineered nanoparticles are already entering the biosphere through waste

streams and airborne particles. A main source of environmental exposure to

engineered nanomaterials is in the waste streams from factories and research

laboratories. Studies point toward the possible effects of nanoparticles on

microorganisms as well as small animals such as earthworms (Brum

iel 2003;

Oberdörster 2004). Studies conducted at Rice University have shown that

nanoparticles could easily be absorbed by earthworms; this research suggests

that it is possible for nanomaterials to move up through the food chain and

reach humans (Brumiel 2003). Another source of env

ironmental exposure is

the release of airborne nanomaterials from powders, which present especially

high levels of concern because they can easily enter the human body through

inhalation and become deposited in the lungs (Maynard and Kuempel 2005; Oberdörster 2000, 2004; Oberdörster et al. 2004; Oberdörster, Oberdörster, and Oberdörster 2005). Studies have shown that inhaled particles, in general—even when they have a low intrinsic toxicity to cells—may cause diseases of the lungs if the dose is of a particular strength. Diseases may arise because the immunological defenses of the lungs become overloaded if the total surface area of the affected lungs is large enough (Faux et al. 2003).

In particular, research on the toxicity of nanomaterials has character-

ized some risks and uncertainties associated with three commonly used

nanoparticles: titanium dioxide, fullerenes (C

60

), and carbon nanotubes.

1

In

the case of nano-sized titanium dioxide, toxicity research shows that when

they interact with cells after inhalation the nanoparticles exhibit more toxic

properties than in their bulk form (Donaldson et al. 2006; Heinrich et al. 1989).

In the case of fullerenes, research based on computer modeling has indicated

that C

60

molecules may bind to and deform nucleotides when they come into

contact with each other (Zhao, Striolo, and Cummings 2005). Recent studies

have also implicated fullerenes in oxidative stress in the brains of largemouth

bass and have suggested other adverse physiologic impacts on aquatic organ-

isms (Hood 2004; Oberdörster 2004; Zhu, Oberdörster, and Haasch 2006). To

date the research does not give a clear answer about how nano-C

behaves

in aquatic environments, and until more is known about the toxicity, com-

pounds containing nano-C

must be handled carefully (Lyon et al. 2005).

When it comes to carbon nanotubes, there is evidence to suggest that they

may stimulate mesenchymal cell growth and cause granuloma formation

and ibrogenes

is (Donaldson et al. 2006). Carbon nanotubes can also be much

more toxic than carbon black and quartz, and they represent a serious occu-

pational health hazard, especially in chronic inhalation exposures (Dreher

2004; Lam et al. 2004).

2

Tests on single-wall carbon nanotubes (SWCNTs) in

rats and mice showed toxicity in the form of granuloma and in

lammation

(Lam et al. 2004; Warheit et al. 2004). Other studies, also conducted with mice,

measured the pulmonary responses to SWCNTs delivered by pharyngeal

aspiration and suggested that if workers are exposed to such particles at the

current permissible exposure limit, they may be at risk of developing lung

lesions. The rapid

ibrogen

ic response to aspiration of SWCNTs indicates the

need for more extensive inhalation research (Shvedova et al. 2005; see also

Poland et al. 2008).

The most important

ind

ing from research, with respect to the hazards of

nanoparticles, remains the fact that cells and organs may have toxic responses

even to normally nontoxic substances when they are exposed at a suf

ic

ient

dose at the nanoscale (Borm and Kreyling 2004; Renwick, Donaldson, and

Clouter 2001). Ultimately, the capacity for the kidneys to separate and dis-

charge chemicals depends on their solubility and surface coating (Borm and

Kreyling 2004). However, some particles selectively deposit in particular

organs or cells, and there is a possibility that nanoparticles can penetrate cells

or cross biological barriers such as the blood–brain barrier (Illum and Davis

1987). Particles smaller than one hundred nanometers (100 nm) in diameter

are not only able to enter the lung interstitium and become deposited in

the lungs but can also enter the bloodstream (Ferin and Oberdörster 1992;

Maynard 2006; Oberdörster et al. 2002), and they can enter the liver and brain

through the nerve axons (Oberdörster 2000; Oberdörster et al. 2002, 2004).

In summary, nanomaterials pose some documented risks and many

unknown dangers to human health, nonhuman organisms, and the envi-

ronment. Although exposure does not automatically translate into disease,

the preliminary and underfunded research on the EHS dimensions of

nanomaterials for humans and other animals suggests the need for a pre-

cautionary approach to the regulation of nanomaterial release into the envi-

ronment. But regulatory policy should also recognize that some types of

nanomaterials are likely to be more dangerous than others. It may be possible

that some designs of nanotechnology materials will turn out to be relatively more dangerous, in terms of human health risk, and relatively amenable to disposal that minimizes diffusion into the environment. For example, cosmetics and other personal care products that use free nanoparticles in creams that are applied directly to the skin are more likely to pose higher levels of risk due to increased contact with human bodies and a greater likelihood that the materials will degrade outside of a safe disposal process. However, even

in that case we still do not know the levels of risk involved (Berube 2008). In general, free or unembedded nanomaterials are more dangerous than those that are embedded in a matrix structure or grown in a substrate. Assuming that most nanosolar products could be embedded in a matrix structure at a molecular level and placed in sealed solar panels at a product level (an assumption that may eliminate the spray-on nanosolar materials described above), this particular design of nanosolar materials may present relatively low levels of hazard and risk compared with other nanotechnological prod-

ucts. In other words, from a toxicological perspective, printed nanosolar on

thin

ilms may be a safe opt

ion if the materials do not degrade during use

and can be recycled in a safe way. The alternate prospect of a transparent

nanospray that can turn windows into photovoltaic generators may present

exposure problems to both workers who use the spray and users who are

exposed to the degradation of the materials due to sunlight, rain, wind, and

other weather factors.

At this point, we know little about which particular kinds of nanotechnol-

ogy designs can be deemed safest. The public, policymakers, and NGOs are

faced with a situation of “undone science,” or inadequate levels of research

to provide a basis for a public-interest perspective on policy action on the

risks of nanotechnology (Frickel et al. 2010). As in the case of funding for

solar energy research, the budgets for EHS research on nanotechnologies

have done relatively poorly during Republican administrations and only

relatively better under Democratic administrations. For example, the fund-

ing level for EHS research increased from about $35 million in 2005 during

the Bush administration to $117 million in 2011, during the Obama admin-

istration (Erickson 2011). The growth in the funding for nanotechnology

research and product development requires a constantly increasing level of

EHS research in order to keep pace, and not all funding is directly relevant

to understanding human health and safety issues.

In the United States, hundreds of nanotechnology products had been released into markets by 2011, but the Environmental Protection Agency had only managed, after several years of delay, to put in place a voluntary regulatory program. The agency added to the existing and weak voluntary program an interpretation of the Toxic Substances Control Act that required

a premanufacturing notice of nanoscale materials only if they were structurally different from larger chemicals that were already on the market. The

classi

icat

ion decision is highly controversial, because nanoscale materials

that are structurally similar to preexisting chemicals may have signi

icantly

different biological properties due to their size, as noted above.

In summary, the phenomenon of nanosolar presents two underlying con-

licts or tensions. First, there is widespread governmenta

l and industrial

interest in nanotechnology, but solar energy has received relatively low

levels of support due to competition from fossil fuels and nuclear energy.

Consequently, nanosolar has not been brought to the forefront of the nan-

otechnology revolution. The attention it receives in the future, therefore,

depends largely on a purely rationalistic assessment: how the potential for

nanosolar to bring down the cost of solar energy is assessed, as well as how

the importance of the rapid commercialization of renewable energy tech-

nologies is prioritized. Second, nanosolar could reduce environmental side

effects resulting from human consumption by making manufacturing and

electricity generation much more ef

ic

ient and cost effective, although it

could also generate new environmental side effects through EHS hazards

and risks. Assuming that nanosolar materials are embedded in matrices or

grown in a substrate, those hazards and risks would likely be concentrated in

the workplace where the materials are produced and in disposal sites where

sealed panels may break, matrices may degrade, and materials embedded in

matrices may be released into the environment. Potentially, those problems could be addressed by extending existing models for handling toxic waste.

Given this situation, a complex response to nanosolar is in order. One would want to see much more research funding, both for the technology itself and for the EHS risks associated with different types of nanosolar design. By setting research funding goals that would allow the two strands of research to converge, it would be possible to know something about what

kinds of nanosolar designs are most likely to pose minimal EHS risks to best

protect workers, users, and the environment from EHS hazards posed by the

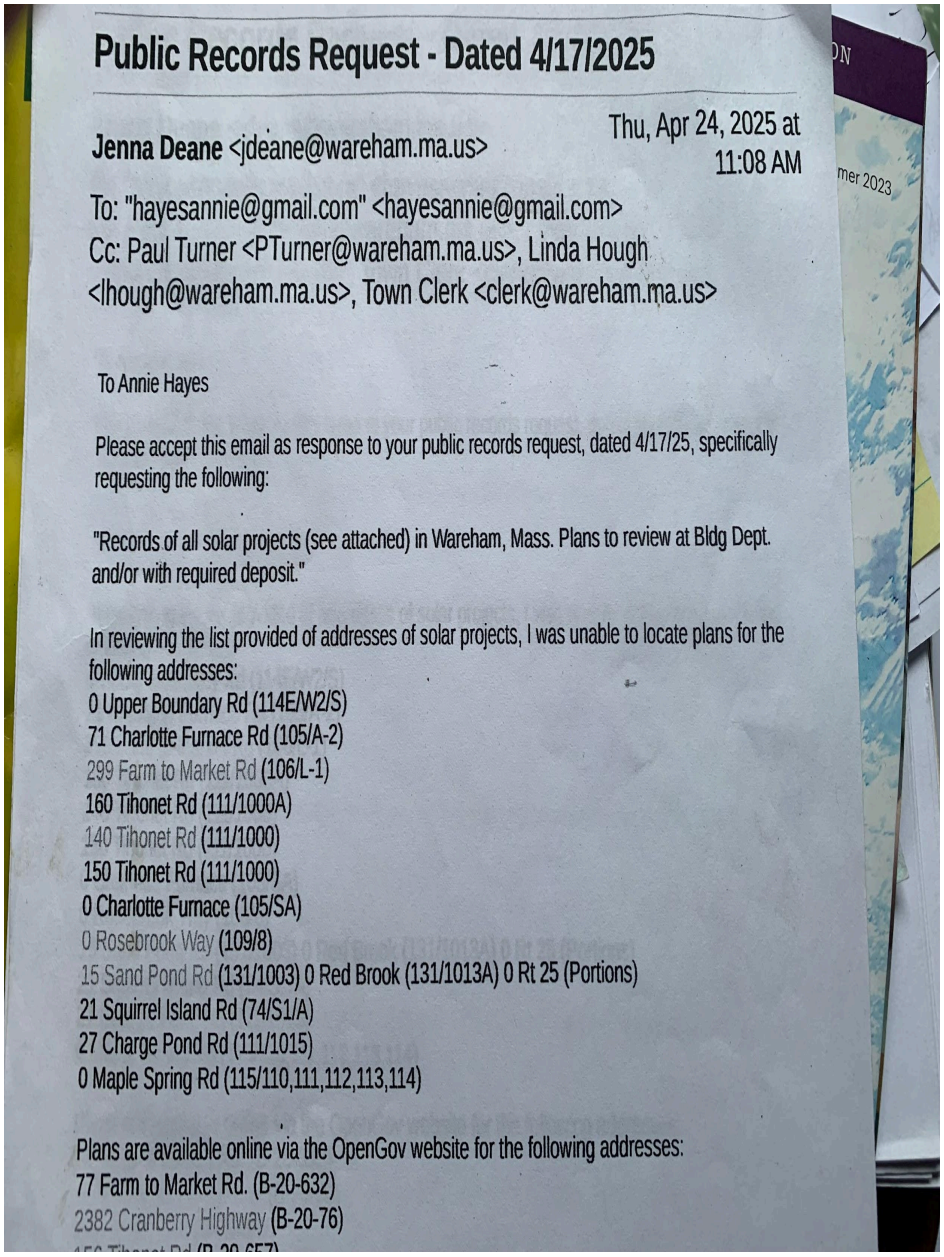
new technologies.

Legislation without enforcement leads to cynicism about government because not much changes.
Money/profit outweighing the health and safety of the people leads to cynicism and defiance of government. In my town of Wareham, the people know the land. The government doesn't/. Town volunteers are often transplants who need education. Our first Planning Chair for Fearing Hill told the hydrogeologist there were no private wells in the communities around the watershed of the hill slated for stripping to place solar. It was the first question the hired hydrogeologist asked. There are 60% of us in the immediate neighborhoods surrounding the watershed.

We can’t bring our research, scientific expertise, land knowers and community communication skills to planning boards only to hear, “the state will make us do it anyway” from the Board. You need us to know how policy gets implemented and even where to begin as developers and landowners hustle profit over transparency and lack of necessary safety procedures because know one will know the difference. Even, once knowing, once having an expert to lay it out, developers may refuse to comply with potentially life saving regulations such as fire. In Wareham, the main developer, ADMakepeace, is connected to the House by his wife, Hannah, whose construction partner for many years was Matt Beaton, Gov. Baker Energy Czar. Hannah took ex- Lt. Gov.’s position when she left Worcester State Rep. and Mr. Kane is the pres of ADM which owns 16,000 acres of generally undeveloped land before his massive pine barren deforestation/strip mining /solar operations. This involves politics, transparency, and Ethics which is part of Black’s Legal Dictionary's definition of Welfare.

Article VI. Massachusetts Constitution

‘No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public;’



Public Records Request - Dated 4/17/2025

Jenna Deane <jdeane@wareham.ma.us> Thu, Apr 24, 2025 at 11:08 AM

To: "hayesannie@gmail.com" <hayesannie@gmail.com>
Cc: Paul Turner <PTurner@wareham.ma.us>, Linda Hough <lhough@wareham.ma.us>, Town Clerk <clerk@wareham.ma.us>

To Annie Hayes

Please accept this email as response to your public records request, dated 4/17/25, specifically requesting the following:

"Records of all solar projects (see attached) in Wareham, Mass. Plans to review at Bldg Dept. and/or with required deposit."

In reviewing the list provided of addresses of solar projects, I was unable to locate plans for the following addresses:
0 Upper Boundary Rd (114E/W2/S)
71 Charlotte Furnace Rd (105/A-2)
299 Farm to Market Rd (106/L-1)
160 Tihonet Rd (111/1000A)
140 Tihonet Rd (111/1000)
150 Tihonet Rd (111/1000)
0 Charlotte Furnace (105/SA)
0 Rosebrook Way (109/8)
15 Sand Pond Rd (131/1003) 0 Red Brook (131/1013A) 0 Rt 25 (Portions)
21 Squirrel Island Rd (74/S1/A)
27 Charge Pond Rd (111/1015)
0 Maple Spring Rd (115/110,111,112,113,114)

Plans are available online via the OpenGov website for the following addresses:
77 Farm to Market Rd. (B-20-632)
2382 Cranberry Highway (B-20-76)

So why does a solar developer who has projects over ten years old over our solar source aquifer have no plans available to the public. These plans would address the country of origin of the panels, their coatings, ideally a bill of materials and currently would also ideally include a pre- test for soil contaminants and one every few years. I say this because in the current world of scientific advancement,

tracking laws to prevent slave labor etc, the panels are a source of information that contains their ability to degrade toxic materials, through 1,330,000 hours of UV, damp heat ..degradation.

Here'she current technology that as identified nanoparticles of silica dust from strip mining for such projects and likely from the exposed sands on these sites as well as nanoparticles (polymer substrate) chemicals at the smallest, near atomic level size with properties that are variable in a multitude of conditions and are now being designed with interaction between AI and nanoengineering, although reactivity not understood. Read the research.

https://tsapps.nist.gov/publication/get_pdf.cfm?pub_id=915497

A Quantitative Study of Nanoparticle Release from Nanocoatings Exposed to UV Radiation Lipiin Sung, Deborah Stanley, Justin M. Gorham, Savelas Rabb, Xiaohong Gu, Lee L. Yu, and Tinh Nguyen National Institute of Standards and Technology 100 Bureau Dr, Gaithersburg, MD 20899, USA Abstract Nanoparticles are increasingly used in polymer coatings (i.e., nanocoatings) to improve multiple properties including the mechanical, electrical, gas barrier, and ultraviolet (UV) resistance of traditional coatings. These high performance nanocoatings are often used in outdoor environments. However, because polymers are susceptible to degradation by weathering elements, nanoparticles in a nanocoating may be released into the environments during its life cycle, which potentially poses an environmental health and safety concern and may hinder application of these advanced coatings. This study presents protocols and experimental technique to quantify the release of nanosilica from epoxy nanocoating as a

function of UV exposure. Specimens of an epoxy coating containing 5 % untreated nanosilica in specially-designed holders were exposed to UV radiation (295 nm to 400 nm) in a well-controlled high-intensity UV chamber. Exposed specimens were removed at specified UV dose intervals for measurements of coating chemical degradation, mass loss, nanosilica accumulation on specimen surface, and nanosilica release as a function of UV dose. Measurement of nanosilica release was accomplished by a) periodically spraying UV-exposed specimens with water, b) collecting runoff water/released particles, and c) analyzing collected solutions by inductively coupled plasma-optical emission spectrometry (ICP-OES) using a National Institute of Standards and Technology(NIST)-developed protocol. Results demonstrated that the amount of nanosilica release was substantial and increased rapidly with UV dose. Mass loss, chemical degradation, and silica accumulation on specimen surface also increased with UV dose.

As UV intensifies and in SE Mass. damp heat is pervasive as is extreme precipitation,greatly fluctuating temperatures, forest destruction for filtration and wind shielding.. The factors combined that cause coating degradation increase and need to be measured.

The product marketing doesn't do this At planning siting and permitting meetings, developers ALWAYS say without equivocation that they can't know the make and model of solar panels until construction. What protection is there from mystery panels. With accelerated permitting, there is no time to get often industry obscured data if it exists. "Proprietary formula" etc rules. This verification must be part of permitting because our environment is becoming industries" wasteland. Vast amounts of increased energy goals here in Massachusetts have large AI and crypto need

components, while rumors of a bubble fly and the backlash of citizens against Data Centers requiring massive water and land ruination, heat generated, noise, few jobs after construction and profit for owners not the community.

Nano-Engineered Anti-Reflective Coatings for Solar Panels



GreyB

https://xray.greyb.com › solar-cells › anti-reflective-nan...

May 1, 2025 — A coating solution for **improving the transmittance and environmental resistance of solar cell panels**. The coating solution contains nano-TiO2, ...

Experimental investigation of a nano coating efficiency for ...



Nature

https://www.nature.com › scientific reports › articles

by A Ahmed · 2024 · Cited by 6 — In this study, the effectiveness of a self-cleaning nano-**coating** thin film is evaluated in reducing dust accumulation and improving PV Panel efficiency.

Recent advances in nanotechnology-based functional ...

ScienceDirect.com

https://www.sciencedirect.com › science › article › pii

by Q Zhu · 2022 · Cited by 141 — Functional **coating** materials range from organic **polymers** to hybrid composites and inorganic nanoparticles, depending on the properties and functionality of ...

High-performance multi-functional solar panel coatings

RSC Publishing

https://pubs.rsc.org › content › articlehtml

by AK Padhan · 2025 · Cited by 3 — This review provides an overview of the current state of **solar** panel **coatings** with various functionalities such as self-cleaning, anti-reflection, anti-fogging ...

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Degradation of Hydrophobic, Anti-Soiling Coatings for Solar Module Cover Glass

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(This article belongs to the Section **A2: Solar Energy and Photovoltaic Systems**)

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Abstract

Soiling of solar module cover glass is a serious problem for solar asset managers. It causes a reduction in power output due to attenuation of the incident light, and reduces the return on investment. Regular cleaning is required to mitigate the effect but this is a costly procedure. The application of transparent hydrophobic, anti-soiling coatings to the cover glass is a promising solution. These coatings have low surface energy and contaminants do not adhere well. Even if soiling does remain on the coated surface, it is much more easily removed during cleaning. The performance of the coatings is determined using the water contact angle and roll-off angle measurements. However, although hydrophobic coatings hold out great promise, outdoor testing revealed degradation that occurs surprisingly quickly. In this study, we report on results using laboratory-based damp heat and UV exposure environmental tests. We used SEM surface imaging and XPS surface chemical analysis to study the mechanisms that lead to coating degradation. Loss of surface fluorine from the coatings was observed and this appeared to be a major issue. Loss of nanoparticles was also observed. Blistering of surfaces also occurs, leading to loss of coating material. This was probably due to the movement of retained solvents and was caused

by insufficient curing.This mechanism is avoidable if care is taken for providing and carrying out carefully specified curing conditions. All these symptoms correlate well with observations taken from parallel outdoor testing. Identification of the mechanisms involved will inform the development of more durable anti-soiling, hydrophobic coatings for solar application.

Keywords: **photovoltaics (PV)**; **anti-soiling coating**; **hydrophobic coating**; **damp heat**; **UV exposure**; **surface analysis**; **degradation mechanisms"**

1. Introduction

These materials are used for solar panel coatings. Imbedded in polymer what is the data of degradation into the environment by different coatings made by different manufacturers with different quality control under different countries of origin's regulations or not and in conditions from desert abrading to extreme damp heat of coastal communities also prone to lightning? How do UV and pummeling from elements over decades degrade coatings whose nanoparticles then interact with materials of microparticle size and PFAS contaminants already.Water online - thttps://www.wateronline.com/doc/the-microplastics-and-pfas-connection-0001 The Microplastics and PFAS Connection was the first article I read that pointed to degradation of PVF- polyvinylfluoride- Dupont said was safe on our proposed Jinko panels. PVFis a polymer PFAS used as Dupont's famous Tedlar that is a hydrophobic coating touted as perfectly safe for the environment.

Scientists differ- “ Perhaps most surprising is the fact that one type of PFAS, polymeric PFAS, can break down into microplastics. This polymeric PFAS group consists of fluoropolymers, side-chain fluorinated polymers, and poly- or perfluoropolyethers (Lohmann et al. 2020). PTFE and PVF may occur as secondary microplastics in the environment or as intentionally produced primary microplastics (Bergmann et al. 2017; Ebnesajjad 2013). Due to their high density, environmental PTFE and PVF microplastics are more likely to settle into sediment which makes their removal more challenging. For example, if these particles are removed in wastewater treatment, then they are likely to be found in the solids or biosolids product.”

Last summer the world learned through massive press coverage that litre bottles of water thought to contain on average 240 plastic microparticles, actually contained 240,000 (a nano is one billionth of a meter, a micro, one millionth)) Then, it was revealed that the new mechanism of “seeing”nanoparticles,https://www.youtube.com/watch?v=wGcyjFfE_h0 , shows trillions …

NIST Study Shows Everyday Plastic Products Release ...trillions of nanoparticles.

National Institute of Standards and Technology (.gov)

https://www.nist.gov › news-events › news › 2022/04

Apr 20, 2022 – Common single-use consumer plastic products release **trillions of sub-100 nm nanoparticles per liter** into water during normal use.

Microplastics in the bloodstream can induce cerebral thrombosis by causing cell obstruction and lead to neurobehavioral abnormalities

https://www.science.org/doi/10.1126/sciadv.adr8243 the intro for starters. “**INTRODUCTION**

Microplastics (MPs) are plastic particles with a diameter of less than 5 mm (*1*, *2*). These particles originate from small plastic pellets produced for specific purposes, as well as from the degradation, weathering, and fragmentation of larger plastic products in the environment (*3*–*5*). MPs are ubiquitous worldwide, present in various environments ranging from oceans to land and from Antarctic ice to human settlements (*4*). Pollution from MPs is particularly notable in the oceans, where marine organisms such as fish, shellfish, and plankton ingest them, thereby introducing them into the human food chain (*4*–*6*). Substantial amounts of MPs have also been found in freshwater systems, including rivers, lakes, and reservoirs, allowing for contamination of human water sources. In addition, MP particles can be transported through the atmosphere and disseminated into the air, eventually entering the human respiratory system (*7*). Recent studies have indicated that MPs can directly enter the human bloodstream through the use of plastic medical supplies (*8*).

MPs have been found in human feces and various tissues, including the liver, kidney, placenta, and blood (*9*–*11*). Accumulation of MPs in organisms can result in tissue dysfunctions and chronic diseases such as respiratory diseases, immune system disorders, chronic inflammation, endocrine gland effects leading to hormone imbalance, and metabolic dysfunctions (*12*–*15*). In particular, the presence of MPs in the bloodstream poses a substantial health challenge. As the blood circulates, these MPs may be carried to any organ, especially the distal branch vessels. Studies have shown that blood MPs can lead to acute cardiovascular diseases (*16*–*17*). Furthermore, in a study, patients with carotid artery plaque in which MPs and nanoplastics (NPs) were detected had a higher risk of a composite of myocardial infarction, stroke, or death from any cause in 34 months (*18*). These potential threats can be life-threatening compared to the chronic diseases caused by MPs. In addition, MPs can cause brain dysfunction. Nanosized plastic particles can penetrate the blood-brain barrier (BBB) and enter brain tissue (*19*, *20*). The interaction between NPs and a-synuclein fibrils can exacerbate the spread of a-synuclein pathology in vulnerable brain regions, potentially triggering or worsening conditions

such as Parkinson's disease and other neurologically related dementia diseases (*21*). However, how micron-sized plastics affect brain function remains unclear. Even several studies have proved that treatment with MPs affects behavior and induces phenotypes such as anxiety in mice (*22*, *23*). It is supposed that micron-sized plastics break down into nanosized plastic particles in the body and then enter the brain to exert their effects. It has also been suggested that the impact of MPs on the brain may be mediated through their effects on peripheral tissues, including the modulation of immune inflammation and glycolipid metabolism (*24*–*27*). What is the mode of MPs affecting the brain and the mechanisms that they exert their effects remain uncertain."

Environ Sci Technol

https://pubmed.ncbi.nlm.nih.gov/31552738/ "3.1 trillion nanopaarticles

. 2019 Nov 5;53(21):12300-12310. doi: 10.1021/acs.est.9b02540. Epub 2019 Sep 25.

Plastic Teabags Release Billions of Microparticles and Nanoparticles into Tea

Laura M Hernandez [1], Elvis Genbo Xu [1], Hans C E Larsson [2], Rui Tahara [2], Vimal B Maisuria [1], Nathalie Tufenkji [1]

Affiliations Expand

PMID: 31552738

DOI: 10.1021/acs.est.9b02540

“Abstract

The increasing presence of micro- and nano-sized plastics in the environment and food chain is of growing concern. Although mindful consumers are promoting the reduction of single-use plastics, some manufacturers are creating new plastic packaging to replace traditional paper uses, such as plastic teabags. The objective of this study was to determine whether plastic teabags could release microplastics and/or nanoplastics during a typical steeping process. We show that steeping a single plastic teabag at brewing temperature (95 °C) releases approximately 11.6 billion microplastics and 3.1 billion nanoplastics into a single cup of the beverage. The composition of the released particles is matched to the original teabags (nylon and polyethylene terephthalate) using Fourier-transform infrared spectroscopy (FTIR) and X-ray photoelectron spectroscopy (XPS). The levels of nylon and polyethylene terephthalate particles released from the teabag

packaging are several orders of magnitude higher than plastic loads previously reported in other foods. An initial acute invertebrate toxicity assessment shows that exposure to only the particles released from the teabags caused dose-dependent behavioral and developmental effects."

READ THIS ARTICLE FOR THE OVERVIEW of our bodily contamination in the present.

https://www.nytimes.com/2025/08/04/opinion/contamination-exposome.html David Wallace-Wells WE ARE CONTAMINATED NYT August 2025

" **Whole environmental movements** of the past have been built on fears of incipient contamination. But what are the lessons when pollution is seemingly everywhere, and *in* everyone, already?
Today, it is no longer entirely rational to imagine an escape, though, reflexively, we do so anyway — entertaining fantasies of purification and paying for novel detox treatments. Perhaps we will soon be cultivating gut microbes to chew through PFAS collecting in our digestive tracts; perhaps we will unleash microscopic G.M.O. sanitation teams on 27 million metric tons of nanoplastics in the oceans. Already, there are those undertaking a

kind of boutique dialysis treatment claiming to rid the blood of microplastics. But for most of us, this doesn't seem like the kind of problem you can so easily solve — say, by discarding a worn plastic spatula or restricting your child to wood-chip playgrounds.

Progress through public policy isn't easy, either, though improvements over decades past suggest it is, nevertheless, possible. Internationally, final negotiations to produce a global plastics treaty begin this week — but in the absence of policy, production is expected to double or triple over the next decades, and global plastic manufacturing has grown more than 400-fold since World War II."

Coatings on solar panels have to be dissected and illuminated publicly. Where is the Bill of Materials by a independent examiner? If you go to PV magazine you will see that the 'greatest new panel' has leakage issues a year in. The heat damp testing cubes are not accurate compared to what happens in the field for a far longer period of time with many other concurrent effects of weather.

Am I wrong to wonder if folks at the state level are applying the latest science and most current evidence of toxic harm to the formation of regulations so that my well isn't polluted, there aren't more nanoparticles in my pregnant neighbors placenta, that the carotid artery of my dear friend is not laden with nanoparticles making another heart incident more likely?

The ever morphing capacity for irreprable damage to global sustainability must be known. Currently the dataclosed book in

the solar industry except to copetitively brag that their coatings, not allied coatings but accelerated tech or soe such are proucng more watts than the other guy.

Time and again to the developer, we hear " oh, we won't know until we start construction what panels we will be using

For someone protective of justice for the people of the Commonwealth of Massachusetts the AG may not realize that by striking the Dover Amendment which allows municipalities to protect citizens in their range for their health safety and Welfare that she is ceding protection quote unquote of citizens most precious asset -their bodies and that of their children's- to be determined by the financially incentivized developers and landowners who have the cheapest most productive panels installed in the cheapest least environmentally sane manner- open space, old farms, forest regions for clearcutting/uprooting destruction and then report an equation that compares the CO2 absorbed by the forest to the number of cars that are taken off the road by the solar panels. The whole thing is absurd
 I haven't heard one developer or landowner talk about the attributes of the panels the studies of and reports of fires with the BESS ,systems the new visibly documented nanoparticles that are in the air in the water and in the soil and in newborn babies and the placenta and mother's milk and crossing the blood-brain barrier and in the Carotid artery.

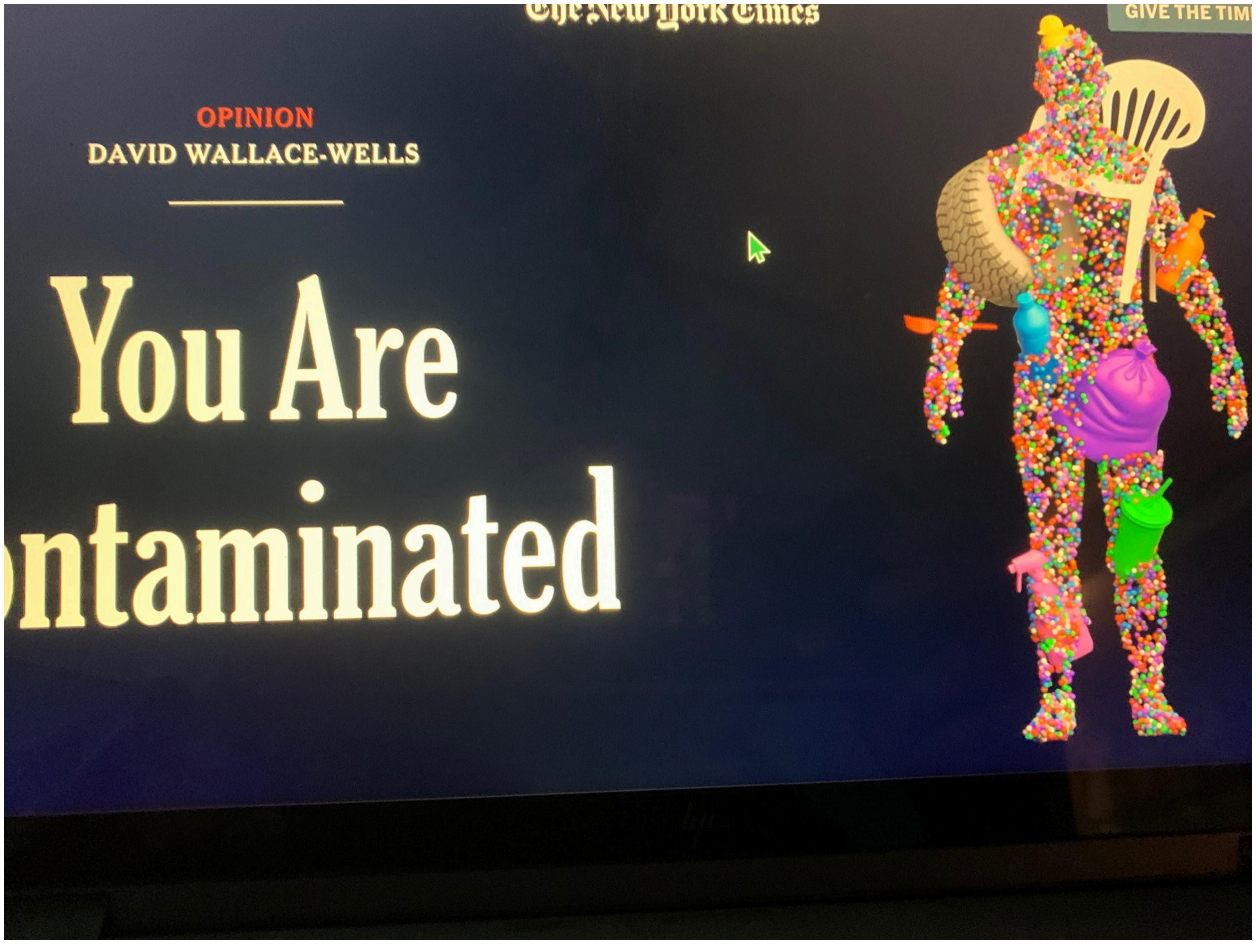
https://www.nejm.org/doi/full/10.1056/NEJMoa2309822 New England Journal of Medicine 2024 “”

“ Patients in whom MNPs were detected within the atheroma were at higher risk for a primary end-point event than those in whom these substances were not detected (hazard ratio, 4.53; 95% confidence interval, 2.00 to 10.27; P<0.001).

Conclusions

In this study, patients with carotid artery plaque in which MNPs were detected had a higher risk of a composite of myocardial infarction, stroke, or death from any cause at 34 months of follow-up than those in whom MNPs were not detected.”

For for example recent New York Times Wallace Wells



We are all. Contaminated.
I got involved a number of years back in Wareham when I realized that the front of the Hill that I'm on which is the Watershed for the surrounding hundreds of homes was going to be stripped -deforested- uprooted made into a solar platform from the essential 92 ft Watershed that not only protected the wells of 60% of the residents in the immediate area but fed the two rivers that thrived from those Waters and the oyster industry, the human recreation and fish rehabilitation enabled by our forest filtered and nutrient infused watershed not ever mentioned from the developers. RWE, the current developer, is also a top polluter of

Europe with the most harmful disease- causing ignite coal over the last hundred years Mining and burning RWE and is now cleaning up their name by massive deployment of solar and destruction of the environment in the United States all under the “clean energy “subsidized rubric.

Even as scientific evidence is present, developers have dismissed and name-called despite those who attend are lab scientists, toxicologists, University professors, hydrogeologist, fire prevention/Bess focussed prof. From Worcester Polytech. head of the Bee Lab at University of Massachusetts, beekeepers, young parents with grave concerns about their children's health and parents who have moved from the area, folks who have their Wells tested and do not have their Wells tested because of cost. People who paid betterment for town water lines and refuse because of the purity of the water coming off of the 92-ft Fearing Hill watershed. Not one person declined to sign the petition protesting the destruction of the Watershed formed during the glacial age for stripping and positioning of thousands and thousands of solar panels.

When the word pfas showed up about 3 years ago the proponent claimed no knowledge of it but Dupont and Ginko both had tacky multiple times xeroxed letters that said there are no PFAS, we only use Teddler by DuPont. At which point my research on Dupont found decades of lies that they had perpetrated on citizens of the United States as they dumped their toxic PFASt into the water system killing livestock, livelihood and the people of numerous Towns

GIVE THE TIMESTTh
Account

https://www.nytimes.com/2016/01/10/magazine/the-lawyer-

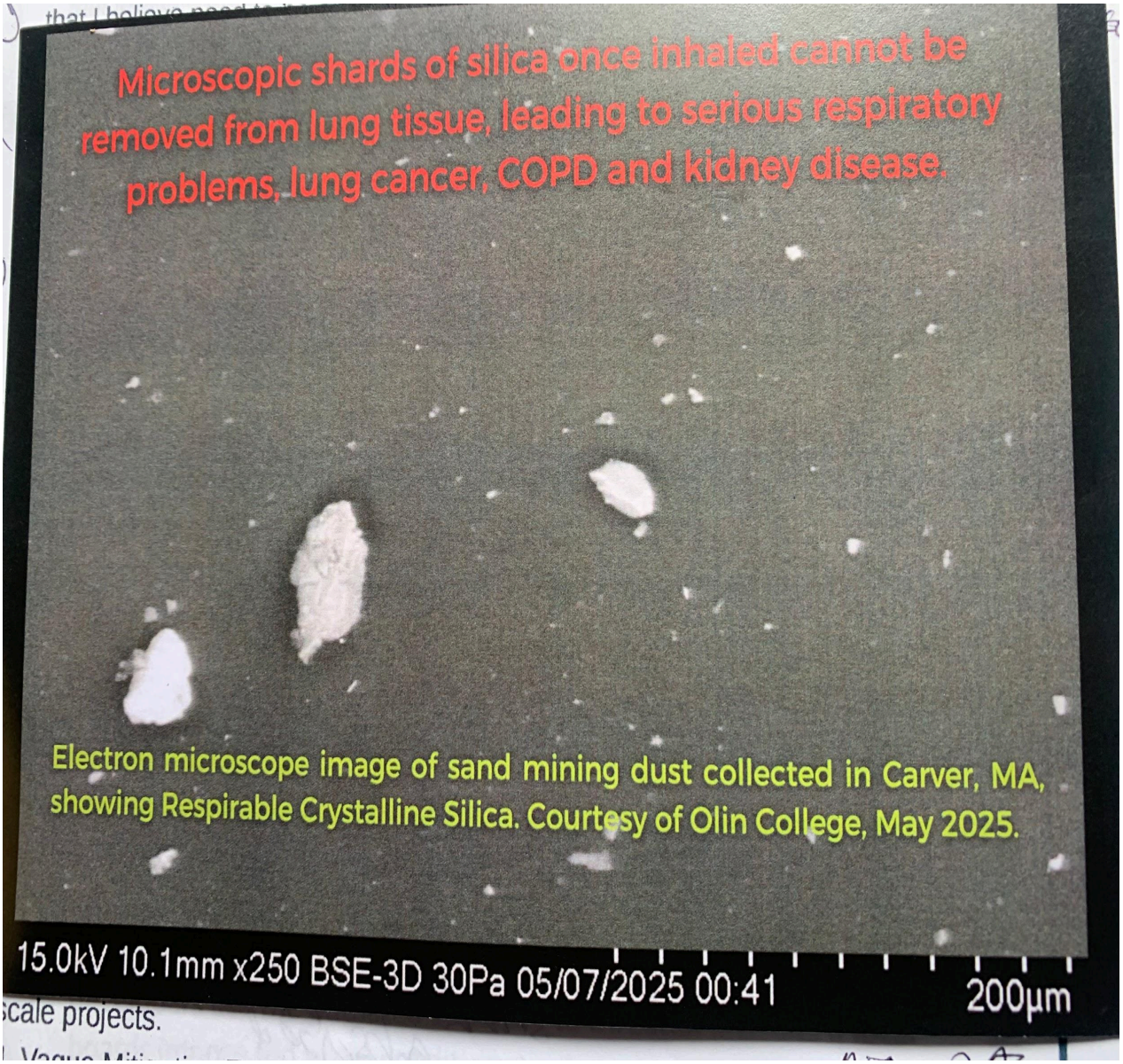
who-became-duponts-worst-nightmare.html v

The Lawyer who Became Dupont's Worst Nightmare

NYT Magazine (a real American hero story)

Rob Bilott on land owned by the Tennants near Parkersburg, W.Va.

And from that I read Annual reports of panels' hazardous materials and corporate liability that creates spinoff corporations so as not to be liable. I heard the word PFAS from a friends and didn't know what it was until I watched the Dupont film Dark Waters and understood the phrase: "if it's on the shelf the public assumes it's safe". From the developer AD Makepeace with massive projects in SE Mass. I experienced first hand corporate deflection and lies, denying that what was happening under our noses wasn't happening and then that it wouldn't hurt anyway. This is the nanoparticles of strip mined sand that citizens in our town are studying, documenting and informing the state about.



So, you tell me. How does all this citizen science that cuts to the latest science and the closest to home get replaced when municipal control is out. The effects of solar developers' practice and planning and lack of testing, disclosure, understanding of the science, their

willingness to go to court -my way or the litigation highway- which is very hard on EV communities such as ours.

This is also a wealth gap issue. Our out of town administrator wants to balance the books and the PILOT is a nice adder. He's not at the planning board meetings to learn the science or the SMART public comments. He' gets donations for the hospital from the developer. Folks who have protected the land know how the water is filtered and transported and protected through the droughts, how the wildlife corridors are sustained and the deer tick contained and how our wells give pure water and our neighborhoods cooled by the forest- so many blessings that are not calculated. Inevitably the developers says first meeting- "and this project is so much better than the forest. It takes 5,000 cars off the road and your forest only ……. Not monetizing health safety and welfare. Mental health, life essence, connection and conservation. Filtration of nanoparticles as fir trees do best.

So knowing the lightning strikes on the hill increasing and the fire specialist Milosh Puchovsky from Worcester polytech indicated the increased potential hazard for solar generation. Asked about he potential

combustion enhancement of nano-engineered materials? Milsh spoke of the absolute NECESSITY of knowing the make and model of all panels because EACH Solar project is different. So I trek down to thee fire dept. multiple times, through changes of chiefs and injuries and phone calls until I have a FOIA in my hand with evidence that ADMakepeace with runoff into our aquifer for ten years or so has NO PLANS on record and we have no understanding of the nanoparticles, PFAS, microparticles of materials that can slip right into every living thing it seems with no one accountable. Head of planning suggested i go and ask ADM for them myself.

You see what it takes.

I'm off to a Carver strip mining meeting. It's full time. And I assert that the Dover Amendment was to protect us with Municipal Control ability. Without our input you will have a policy that is generic in nature and every developer will take advantage. I hope new policy will tighten up panel chemistry for citizens' need to know as ramifications are deadly serious. If you don't step up, will we have a passively ill or will an enraged citizenry amass more photos and doctors' records of silicosis on the rise. For starters.

Allow our working together so we can get the best protection if solar is to go forward. Your kids', the developers' and mine are all implicated for the rest of their lives and way beyond. To protect the environment is the mandate of seven generations for whom ancient native culture wisdom protected us. Protect us from that which and those who squander the immense and fragile wealth.

I am Sincerely, Annie Hayes 52 Farmers Lane. West Wareham Mass. 02576 774-454-7541
"

The Lawyer Who Became DuPont's Worst Nightmare

Rob Bilott was a corporate defense attorney for eight years. Then he took on an en

Feature

The Lawyer Who Became DuPont’s Worst Nightmare

Rob Bilott was a corporate defense attorney for eight years. Then he took on an environmental suit that would upend his entire career — and expose a brazen, decades-long history of chemical pollnow of course we have National pandemic of disease lawsuits massive massively costly filtration systems and it goes on and on and on hardly ever ending there isn't the money to fix pfas and so far we're only looking at maybe 6:00 or 7:00 that are EPA regulated as the EPA is being stripped of the Clean Water Act and it's administrator who was being realistic when he went down to point 004 per trillion allowable amounts many towns in Massachusetts which has numerous many many toxic dump sites from being an industrial age state many people have water pollution that they don't even want to test because of the extreme cost of remediation that the town does not have so instead they make a deal with the devil they push to permit or torn to permit massive solar destruction and get the payment and low of taxes the pilot enclosed is I submitted a foyer because in our community ADM has developed many large solar projects that are now 10 or more years old and I wanted to find out what the coatings on those panel were were because I have researched Coatings extensively and now know that Coatings are being nanoengineered from DuPont's assertion that there is no pfas although toddler is a polymer pfas and the polyvinyl fluoride of which it's made is a toxic process it degrades and can combine with pfas in the environment to become more toxic include the water online so knowing that the Coatings have become more dangerous as we find that nanoparticles are everywhere close to the atomic level three atoms of gold three out of three nanoparticles equals one atom of gold they are as stated in our bodies inner water are air in our soil and by Breathing by having our arms exposed to air we can absorb them just like that so how long have these particles been being shed on the 10-year plus solar arrays what were the Coatings were they hydrophobic only or were they hydrophobic and to reflective I know that jinko has been working on nanotechnology for decades and that not only have I been told that Most panels which are still made in China were made by slave labor of the weakers and probably continue to be used

for Mining and Manufacturing of silica silicone ingots for somebody conductors that the coatings were being used or used by at least Ginko a huge manufacturer decades ago so what's on these panels that have potentially been degrading in the 1,330,000 hours per year no for 25 years that they are out into the elements that become more and more severe more and more toxic in and of themselves as the air carries all of this plastic micro bits chemistry itself and our bodies are already drinking it the 240,000 micro particles in a plastic liter of certain water bottles now turns out to be Nano 90% of nanoparticles tiny tiny tiny bits that go into our organs and can bioaccumulate this is a shit show so to think that full steam ahead for the developers in the landowners is good thing good for what it's good for making climate more complicated more loaded with chemicals that will harm all of us for Generations without knowing or giving a damn about them and in fact hiding them and this is what the foyer shows the forest shows that they're around 13 projects that have been cranking out electricity in Wareham for probably over a decade and we don't even have plans for those we have no ability to know what the panels are where they were made made of what Coatings there was one on this list that was from 2019 that I was able to actually hold the plans and rifles through them and see jinko make and model of the plans one the fact that one installer ADM would not have any records available for Freedom of Information Act and I had gone to the planning board the building department the Assessor's Office no one has plans so they say which in itself is on his face not part of a legal process so if you think that the state would have tracked down that information would know about nanoparticles nanoengineering for hydrophobic and add a reflective Coatings to jack up production would know about our Watershed would know about the determination from the bee specialist that the pollinator field pollinator Meadow the proponents always tout as replacing this incredible environment that is purifying our water contributing contributing to our rivers and environment and essential for our physical and mental well-being to think that these folks give a damn they don't they absolutely don't and at every public meeting they show that by trying to discredit the fire prevention expert milosovochowski from Worcester Polytech who said you absolutely have to have make and model of the panels to know what kind of fire you're dealing with should there be a fire I have researched the coatings And how would their flammability if it exists affect the intensity of the fire on the spread on a grassy substrate on a hot summer day went all the grass is crisp and brown and houses surround the hill never mind the prevailing winds every meeting these folks come to they have no questions and they have no answers they have condemnation of the public process they have attempts to use their legal background although it they are stripped of their credentials because of felon activity the owner of the land also has been brought up on charges by the Secretary of State for elder abuse in stock selling what's that called so keep Municipal control in there's so many examples of what it's preventing from happening so many examples of it already being taken advantage of so many examples of people meeting after meeting being obstructed that they lose heart and settle for polluted water and settle for being driven out of their home even though they don't want to move I can count to three six families in a very small stretch of our about it or Butters who have seven who have moved for fear of pollution in their water in their air and their soil and Fire if anyone wants to speak to me directly I'm available my phone number is 774-454-7541-52 Farmers Lane West Wareham 02576 and the more information that comes out that is scientific which I also don't hear coming from conversations at smart public sessions the starting point should be that the Developers have a bill of materials that runs through what is on the panel's how they're made

with a fine tooth comb and has a plan for every bit of their materials production fabrication same for the batteries so essential and I'll try to include a clip from a sign of all tags and another company that talk about the gaps in testing of batteries that the developers are not necessarily wanting to spend money on and we'll make it clear in their warranty if you read it closely that they are not liable this happens all the time or in the case of DuPont they split off their corporations after saying in their annual reports that there hazardous materials and you see that they've split off their corporations so they're they're no longer reliable

Please for a far more intelligent and science based picture of the inescapable gravity of the toxins already within us from petrochemicals read this week's NYT article by David Wallace-@Wells. In sum, most panels have no bill of materials- an independent assessment of all component materials including coatings. Most panels don't address any of the tsts they've gone through such as damp heat and the duration, giving no validity to claims they " have the best record for durational exposure integrity" These words mean nothing without data. Look into PV magazine that on month reports on the great advances of the latest Jinko panel and then 6 months down the road, it's failures due to moisture intrusion, back sheet failure, etc.
The manufacturers are the advertisers and often the only reviewers of their product. Independent testing rigorous inspections and transparent evaluation of the ost cutting and degradation of harmful materials into the environment and ourselves is critical. When no plans are on record, not even an inkling of willingness to be open to the recipients of all harm in o ur sole source aquifer. There is a problem that is dangerous and criminal. There is no post construction water testing to compare with no pre construction water testing. There is no data of what they leave behind. There is one year for citizens to get some financial help if something goes south. But the amount for water

contamination iss miniscule. Gov Healey is still going after Dupont for decades of hiding PFAS toxicity and it looks as if r. Trump made wip out those claims as he is wiping out the EPA. Without municipal oversigh, citizen's have their lives atg risk with only class action/ legal recourse for harm.It is the local community, municipality the citizens and the children who are harmed they must not lose their rights to come together discuss their knowledge and pursue the utmost education to learn what the developers never willingly reveal. Finally. Their constant systemic line when asked to speak of the panels is " Oh we won't know what we're using until construction begins." and ask the honest recyclers how they're deal with nanoparticle coatings they know are toxic, are lied about from developers trying to dump them in recycling and all knowing they then go eventually into thee water air and soil.

General Comments on Draft Regulations

225 CMR 29.00

I credit the regulations for trying to balance state jurisdiction with local control. However, for all its good intentions this approach creates some potential confusion and conflicts in the application of the regulations relative to local project review. It's like "split personality" regulations. The regulations seem like they are trying to accomplish a consistent and expedited review process for clean energy projects; a "comprehensive permit"-like approach may work better, including administrative appeal provisions. Also, the regulations would alter (at least indirectly) timeframes and processes under state laws like the Zoning Act and Wetlands Protection Act, which I don't think is permissible without directly amending those general laws.

29.02

The Cape Cod Commission (CCC) is defined as a "Local Government." The CCC DRI and town review processes are somewhat interrelated and overlapping. The regulations should detail how constructive approval and pre-filing review would work in situations where there is CCC and town project jurisdiction/ review.

The definition of "mitigation" could be misconstrued that it is decided by the public.

If a town has its own formal pre-filing project review process, is this preempted by the pre-filing procedures set out in the regulations?

29.06

It appears that the regulations potentially preempt or conflict with local matters like zoning and wetlands protection over which towns traditionally have authority. Also see 29.13(3).

29.07(1)

I hope the exemptions have been drafted considering how they relate to one another, to avoid unintended consequences or conflicts.

Shouldn't the language state that the listed projects are exempt from the regulations, not just section 29.07?

Would a Solar Facility that is not Behind-the-Meter and greater than 25kW AC be subject to the regulations?

Would a Small Clean Transmission and Distribution Infrastructure Facility with a Site Footprint Greater than 1 acre be subject to the regulations.

Why is there a need for a "Behind-the-Meter" qualifier for a Small Clean Energy Infrastructure Facility less than or equal to 250kW?

In my experience, capacity is usually expressed in DC not AC. Why is capacity proposed to be represented in AC?

It would be helpful to have additional provisions in this subsection about local review jurisdiction over projects that fall below the exemption thresholds, including issues related to the Dover Amendment and the "Tracer Lane" case. In addition, it would be helpful to have language that discusses how project compliance with the regulations ensures consistency with the Dover Amendment.

29.07(5&6)

Subsection (c): Is a special permit granting authority's discretion to require mitigation as a condition of special permit approval limited by this subsection?

Towns will need a lot more guidance about the "rational nexus" between impacts and mitigation, as well as how to quantify mitigation and the maximum extent to which mitigation can legally be requested. Having reviewed the draft site suitability guidelines, I think more is needed for local guidance, especially in terms of potential Community Benefits agreements/ plans and PILOT payments.

Doesn't there need to be some legal authority/ statute to allow Local Governments to assess mitigation, beyond the regulations, especially where the compensatory mitigation fees look a lot like impact fees.

29.08

I think it's unfair and unrealistic that the regulations allocate responsibility to a Local Government to determine compliance with pre-filing requirements rather than the Department (which should be done in consultation with the Local Government).

29.09(1)

Please confirm that the fee schedule may be adopted outside the bylaw. Further, is a bylaw necessary in all cases? Can local adoption of the regulations be via policy or regulations, instead of or in addition to a bylaw? (Note section 29.13 uses the term "may" with respect to bylaw adoption). As you know, bylaw adoption requires local legislative approval, i.e. town meeting approval in a town with such government structure.

29.09(2)

There should be a general reference that the subsection does not alter submission material requirements under local bylaws, policies and regulations.

Subsection (g): This subsection should also refer to discretionary zoning "approvals," not just relief.

Subsection (j): Does this subsection imply that "additional" local permits like historic district committee, which are not listed on the template application, are not subject to consolidated permitting?

Subsection (k): It seems like this subsection (economic development, workforce development, DEI) is outside local jurisdiction and should be handled by the Department.

29.09(3)

I'm assuming the application form will require that an "initial" digital copy of the submission be provided to the Local Government as well.

29.10(1)

It should be the respective board and committee's discretion to determine application completeness, which cannot be done in 30 days because the application will not yet be in front of the respective board or committee at the time of filing (which is done administratively with staff). Is a Local Government foreclosed from requiring further information or asserting incompleteness if done outside the 30-day period?

29.10(2, 3 & 5)

Is the administrative appeal process set out in the regulations exclusive? No judicial appeal? Is there a Certiorari appeal after the administrative appeal? What authority exists not to allow zoning or wetlands decisions to become final after their respective appeal periods, or providing a different appeal forum, under state law?

If a constituent approval is denied, an applicant would need to wait on potentially appealing until all other local reviews are completed. It seems like there should be some ability for an interlocutory appeal.

If a constituent approval is denied, but the town fails to act on other required approvals within the 12-month period, then the denial can essentially be overturned. This is a strange result. Does the town appeal the constructive approval to the EFSB?

There should be allowed an extension to the 12-month review period by mutual agreement of the Local Government and applicant.

Upon administrative, de novo appeal, does the EFSB apply the underlying permit law or some other standard (zoning etc.)? If the EFSB looks to the underlying law (such as zoning variance law), does the EFSB have the expertise to adjudicate these issues?? Do normal standing principles/ case law come into play with the EFSB?

City of Boston
Environment

City of Boston
Mayor Michelle Wu

Rick Collins
Department of Energy Resources
100 Cambridge Street, Suite 900
Boston, MA 02114

October 17, 2025

By Electronic Submission to DOER.Siting.Permitting@mass.gov

Re: *DOER Regulations Governing Consolidated Local Permitting*

To Director Collins,

Thank you for the opportunity to provide written comments on the draft regulations, *Small Clean Energy Infrastructure Facility Siting and Permitting* (225 CMR 29.00) filed by the Department of Energy Resources ("Department") on September 12, 2025. The draft regulations are one part of the many changes to statewide siting and permitting of energy infrastructure resulting from the 2024 Climate Act.[1] The City of Boston ("City") appreciates the Department's commitment to facilitating the Commonwealth's clean energy transition and supporting the role of municipalities in the siting of critical infrastructure. The thoughtful siting of small clean energy infrastructure facilities aligns with the City's climate and clean energy goals. The City respectfully submits the following comments on the draft regulations.

The 2024 Climate Act established a new consolidated permit process for local government siting of small clean energy infrastructure facilities and granted Department the authority to "establish standards, requirements, and procedures," including uniform public health, safety, and environmental standards, a common application, pre-filing requirements, and "standards for applying site suitability guidance developed by the executive office of energy and environmental affairs."[2] The City appreciates that the Legislature recognized the importance of delegating small clean energy infrastructure siting and permitting to local governments, as having the best understanding of local needs and acting as a crucial link between community and development. In turn, the Department has the important responsibility of developing such standards consistent with the 2024 Climate Act and in a way that promotes and supports local governments' ability to execute the consolidated permit process. The City has three primary concerns with the draft regulations: 1) the usurpation of local government decision making in the site suitability assessment process; 2) the Regulatory Circuit Rider resolving disputes between applicants and local governments; and 3) the reliance on guidelines where regulations are necessary.

---

[1] *An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers* ("2024 Climate Act"), St. 2024, c. 239.
[2] *Id*. at § 23, codified at G.L. c. 25A, § 21.

The City is concerned that the site suitability assessments do not allow local governments to make any determination related to site suitability. The statute provides, the Executive Office of Energy and Environmental Affairs ("EEA") "shall establish and periodically update a methodology for determining the suitability of sites" for clean energy infrastructure facilities and the Department "shall establish standards, requirements and procedures governing the siting and permitting of small clean energy infrastructure facilities by local governments that shall include…applying site suitability guidance developed by [EEA] … to evaluate the social and environmental impacts" of proposed facilities.[3] Put simply, EEA shall develop the guidance and the Department shall establish the standards for how local governments should apply the EEA guidance. Instead, the methodology described in EEA's guidance and in the draft regulations subsection 29.07 do not appear to allow local governments to make any determination related to site suitability.[4]

The draft regulations and guidance require that the applicant estimate and submit a site suitability score to a third party, selected by the Department and EEA, to review and determine the final site suitability score to be submitted to the local government as part of the complete consolidated permit application. If the local government disagrees with the site suitability report, it may submit a request to the Department to review and make a final determination that is "final and not subject to appeal." This language is in direct conflict with the statutory language providing, "[t]he only decision of a local government that is subject to further review is the single, final decision issued by the local government that includes all individual decisions necessary for a project to proceed with construction…which shall be reviewable by a de novo adjudication of the permit application by the director of the energy facilities siting division of the department of public utilities."[5] The 2024 Climate Act reimagined how electric infrastructure is to be sited in the Commonwealth and the Legislature recognized the value in having local governments, that are most familiar with the needs of its community, be responsible for the siting and permitting of small infrastructure. We do not believe it was the intent of the 2024 Climate Law for the Department to substitute its judgment on any part of a consolidated permit application for that of a local government. When we consider the rich information from planning and community engagement that we will bring to the site evaluation process, we do not see a process described that predictably accounts for our community's voice.

The City recognizes that many local governments may not have the capacity to conduct site suitability assessments for individual projects; however, the default assessment should not circumvent local processes. The City recommends amending the application of the site suitability criteria to allow the local government to make a final determination and allow local authorities to opt into using a third party reviewer selected by EEA and the Department if it does not have the capacity to complete the assessment. This approach would be consistent with

[3] 2024 Climate Act §§ 5, 23, codified at G.L. c. 21A, § 30 and c. 25A, § 21, respectively.
[4] The City recognizes that the Executive Office of Energy and Environmental Affairs is responsible for the Draft Guidance on Site Suitability Assessments and plans to submit additional comments through the respective public comment process.
[5] 2024 Climate Act § 23, codified at G.L. c. 25A, § 21.

subsection 29.10(2)(a) where a local government may request the Director of the Energy Facilities Siting Board to review a consolidated local permit application where the local government "lacks the resources, capacity or staffing to review."

In addition to the foregoing, the City is concerned about the role of a "Regulatory Circuit Rider," employed by the Department to advise applicants on the local government's consolidated permitting process and in resolving disputes between applicants and the local government. While many of the base considerations for the local government process will be a direct result of these regulations, there may be additional standards or procedures established by the local government (for example, standards the City determines to be reasonably necessary to protect the public health, safety, or welfare pursuant to subsection 29.06(2)) that the Department would not be best-positioned to advise an applicant on or resolve a dispute regarding. Again recognizing that some local governments might prefer this approach due to lack of resources, the City recommends that the regulations provide the Regulatory Circuit Rider only to the applicants within local governments where said local government has determined it is appropriate to use their services.

Finally, the City is concerned that the draft regulations' reliance on guidelines to define procedural and substantive requirements that significantly affect the rights of the public will impair the City's ability to lawfully execute the consolidated permitting process. Since the City's process will be governed by these regulations, any dispute over the process will become a dispute over the validity of these regulations. Therefore, it is critical that the Department develop unassailable regulations. Our understanding, from as recently as *Attorney General v. Town of Milton*, 495 Mass. 183 (2025), is that guidelines should be developed to clarify details on implementation or provide administrative direction, but cannot create binding legal obligations or expand regulatory requirements.

The effectiveness and legality of these regulations is critical to the success of each local government's ability to efficiently and effectively permit small clean energy infrastructure. As currently drafted, several referenced guidelines in the regulation appear to establish enforceable standards and conditions that we believe would be better within the regulation itself. These guidelines include: *Guideline on Public Health, Safety, and Environmental Standards; Guideline on Minimization and Mitigation Measures;* and the *Guideline on Common Conditions*. The *Guideline on Public Health, Safety, and Environmental Standards* will include "setback requirements, zoning criteria, compliance monitoring, discharge controls, erosion and runoff prevention, monitoring impacts on abutting properties, contamination and remediation." The City urges the Department to avoid the question of whether it is permissible to regulate by guideline and instead include the substantive information and standards that is currently proposed to be in guideline in the regulations themselves. The current approach increases legal risk for local governments and could lead to delays in delivering effective local government permitting.

The City respectfully requests the Department take the above concerns into consideration and re-release the draft regulations inclusive of all standards and requirements that local governments and applicants will be required to comply with. While the Department is revising

the draft regulations, the City encourages the Department to consider ways in which deferring to local governments to develop their own definitions for terms that vary by type of municipality advances our shared goals.[6]

Thank you for your consideration of the City's comments on the Department's draft regulations, *Small Clean Energy Infrastructure Facility Siting and Permitting*. Should you have any questions about these comments, please do not hesitate to contact me at (617) 635-0031 or Oliver.SellersGarcia@boston.gov.

Sincerely,

Oliver Sellers-Garcia
Green New Deal Director, Office of Mayor Michelle Wu
Commissioner of the Environment Department, City of Boston

[6] For example, the "Key Stakeholders" definition includes residents and organizations within one mile of a facility. In Boston and other dense, urban environments, a one-mile radius might not make the most sense. Taking City Hall as a discrete example, a one-mile radius includes ten different neighborhoods of Boston. This is another example of how local governments are best positioned to make decisions based on local dynamics and needs.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:54 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Shawn Jarrett <sjarrett51@gmail.com>
Sent: Friday, October 17, 2025 10:55 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you allowing residents of Western Massachusetts- which is currently a corporate focus for new combined solar/battery installations- the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Wendell MA, I urge that the regulations ensure fairness, transparency, and respect for local authority.
I am requesting- urging, rather because this is such an important local issue that the regulations are re written to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. Finally, I also urge you to address the fact that many municipalities in Western Massachusetts have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Shawn Jarrett
165 Wickett Pond Rd
Wendell MA, 01379
sjarrett51@gmail.com

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OCTOBER 17, 2025

Massachusetts Department of Energy Resources
Attn: Rick Collins
100 Cambridge Street, 9th Floor
Boston, MA 02114

Submitted via Email

Re: Public Comments on Draft 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting

Dear Department of Energy Resources:

On behalf of BSC Group, we appreciate the opportunity to provide comments on the proposed 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting regulations and additional guidelines provided. As an environmental and engineering consulting firm that assists public and private clients in renewable energy development, infrastructure permitting, and environmental compliance across Massachusetts, we recognize the importance of this framework in facilitating the state's clean energy transition while maintaining local and environmental integrity.

We commend DOER for its proactive efforts to streamline the permitting of small clean energy infrastructure projects and support the Commonwealth's decarbonization goals. However, we believe several refinements would strengthen implementation, promote consistency across municipalities, and provide greater transparency and predictability for applicants, local governments, and the public.

General Comments and Recommendations

1. **Standardized Templates and Clear Guidance for Pre-Filing Activities**
   DOER should provide clear, standardized templates for pre-filing meeting agendas, documentation, and stakeholder engagement expectations. Town-by-town variation currently makes consistency difficult. Establishing uniform materials, such as a pre-filing checklist, stakeholder meeting summary form, and documentation template, would greatly improve efficiency and transparency.

2. **Establish a Centralized Technical Assistance Portal or Hotline**
   To ensure consistent implementation and reduce administrative delays, DOER should create a centralized technical assistance portal or point of contact, such as a Q/A hotline or submission "drop box." This would help applicants, developers, and municipalities obtain timely clarifications on evolving requirements and policy interpretations. Such a resource would also help align state and local understanding, reducing conflicting guidance.

3. **Clarify Municipal and State Roles in Application Review**
   Clear guidance on who will review applications at the municipal and state levels is essential. As noted by multiple stakeholders during public meetings, many small municipalities lack staff or expertise to review complex renewable energy projects. DOER could include, within the online portal, a database of municipal permitting structures indicating whether the municipality conducts its own completeness review or relies on EFSB de Novo review.

Example:

- *Town A*: Completeness review conducted by the Town Planner; local permitting managed through the online portal.
- *Town B*: No designated reviewer; applications referred to EFSB for de Novo review.

4. **Develop an Outreach and Stakeholder Engagement Tool**
   We recommend DOER develop a statewide stakeholder engagement tool, similar to the MEPA Environmental Justice (EJ) Reference List Request system. This would ensure inclusion of relevant Municipal Officers, Statewide Organizations, Indigenous Groups, Federal Tribes, Local Organizations, and Environmental Justice communities. A tool that develops a municipal and stakeholder list would improve equity, consistency, and accountability during early engagement.

5. **Create a "Circuit Rider" or Regional Liaison Program**
   We commend DOER for its intent to establish a circuit rider program to provide technical, administrative, and regulatory assistance on Small Clean Energy Infrastructure Siting and Permitting topics. As you know, this approach has proven successful in other state permitting programs and would ensure consistency, build local capacity, and reduce delays. MassDEP currently implements a regional wetlands circuit rider program to help Conservation Commissions, municipal officials and consultants meet the requirements of the Wetlands Protection Act (WPA). BSC understands that MassDEP currently does not have all of their regional circuit rider positions filled. It is unclear if the WPA circuit riders will be utilized for the consolidated permit process, if so, they should be fully staffed to be able to provide the necessary guidance to municipalities and applicants. For the DOER circuit rider program, we recommend DOER consider establishing additional regional circuit riders or clean energy liaisons to assist both municipalities and applicants and provide regular training sessions for municipal staff on application review, public engagement, and use of the online portal to further strengthen implementation.

6. **Integration with Existing Permitting Systems**
   As the consolidated permit and online portal are developed, DOER should clarify how the new system interfaces with existing regulatory submittals, such as the MassDEP eDEP WPA portal. In addition, how will applicants file consolidated permits and wetland permits to MassDEP while the online portal is being developed? For instance, will applicants be required to submit both the consolidated permit package and a separate WPA filing? Alignment between systems will be critical to avoid redundancy and confusion.

7. **Transparent Site Suitability and Scoring Framework**
   Transparency in site scoring and data sources is essential. We recommend that DOER publish a standardized scoring rubric including definitions, data inputs, and thresholds for site suitability. Clear and accessible criteria will reduce disputes and increase confidence in the fairness of the process.

8. **Define Procedures for Dispute Resolution and Noncompliance**
   If disagreements arise during the pre-filing phase (e.g., regarding site suitability or completeness), there should be a clear appeal or arbitration mechanism prior to formal filing. Similarly, guidance is needed for cases in which a municipality fails or refuses to process an application, due to lack of resources, opposition, or failure to adopt the model bylaw within the transition period. DOER should clarify whether such cases will default to state-level review and how applicants can initiate that process.

9. **Regular Regulatory Updates and Stakeholder Feedback**
   Given the evolving nature of clean energy technology and policy, DOER should commit to periodic regulatory review and updates (e.g., every 2–3 years). Establishing a formal stakeholder advisory committee would also help identify implementation challenges and best practices over time.

10. **Authority for Final Decisions on Conflicting Local Permit Conditions**
    When multiple local boards are involved in reviewing a consolidated permits and submit conflicting recommendations or conditions, it would be helpful for DOER to clarify who within the municipality has final decision-making authority to resolve such conflicts and establish the definitive permit conditions.

Key Questions for Clarification

1. How frequently does DOER anticipate updating these regulations or issuing interpretive guidance?
2. Will DOER define a standardized scoring rubric for site suitability, including clear definitions, data sources, and thresholds?
3. Who within each municipality will serve as the designated review authority for clean energy applications? What happens when the municipality has no clear point of contact or has lack of internal capacity which can stall applications. Will this person be knowledgeable and trained on clean energy and all local permitting?
4. What is the protocol if a municipality fails to process an application or does not adopt the model bylaw within the 9-month window?
5. How will the consolidated permit system coordinate with existing MassDEP online submittals, such as for wetlands permitting?

Conclusion

BSC Group supports DOER's intent to modernize and streamline small clean energy facility permitting. We respectfully request that the Department consider the above recommendations to ensure a transparent, consistent, and equitable process that benefits applicants, municipalities, and communities alike.

We would welcome the opportunity to participate in future stakeholder discussions or implementation workshops as DOER refines these regulations.

Thank you for the opportunity to comment.

Sincerely,
BSC Group, Inc.



Melissa Kaplan, PWS
Licensing & Permitting Team Lead

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:47 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow-up On Rule-making Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Gloria Kegeles <chromephotos@yahoo.com>
Sent: Friday, October 17, 2025 5:22 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow-up On Rule-making Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Wendell, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”
2. Definition of “Key Stakeholder” – The one-mile limit excludes people who would be affected; broaden it.
3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.
4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.
5. Mitigation Fees – All fees going directly to municipalities or town-designated nonprofits may be unfair way for a developer to get local approvals.
6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.
7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. Finally, I urge you to address the fact that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Gloria Kegeles
Wendell MA 01379

MAPC
METROPOLITAN AREA PLANNING COUNCIL

SMART GROWTH AND REGIONAL COLLABORATION

VIA ELECTRONIC MAIL ONLY

Rick Collins
Director, Division of Clean Energy Siting and Permitting
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

October 17, 2025

Re: Siting and Permitting Follow On Rulemaking Comments from MAPC

Dear Mr. Collins and the DOER Division of Clean Energy Siting and Permitting,

Thank you for the opportunity to comment on the Department of Energy Resources' (DOER) regulations on Small Clean Energy Infrastructure Facility Siting and Permitting (225 CMR 29.00). The Metropolitan Area Planning Council (MAPC) is the Regional Planning Agency serving the people who live and work in the 101 cities and towns of Greater Boston. We work toward a more equitable, sustainable, collaborative, and climate-resilient future for the region. MAPC's Clean Energy Department works closely with our municipalities to accelerate equitable deployment of solar PV and other clean energy infrastructure to help achieve the Commonwealth's clean energy and climate goals. MAPC's planning staff regularly work with our municipalities on zoning, siting, permitting, and land use analyses.

MAPC has been closely involved in the development of the clean energy infrastructure (CEI) siting and permitting regulations. Our Executive Director, Lizzi Weyant, served on Governor Healey's Commission on Energy Infrastructure Siting and Permitting from 2023-2024 representing municipal voices, and MAPC staff regularly engaged municipalities across our region to solicit input to inform our engagement with the Commission. We were also proud to advocate for the passage of S.2967, An Act promoting a clean energy grid, advancing equity and protecting ratepayers during the previous legislative session.

We wanted to acknowledge the challenge of the tight statutory deadline and unique regulatory requirements that have been placed on DOER in the development of these regulations and guidelines. We commend the efforts of the staff of the Division of Clean Energy Siting and Permitting, as well as staff at the Energy Facilities Siting Board, Executive Office of Energy and Environmental Affairs, the Department of Public Utilities, and other state agencies who have been involved in the accelerated rollout of these draft regulations and guidelines. We also deeply appreciate having had the opportunity to engage with DOER staff on multiple occasions from July 2025 until present to learn more and provide input as the draft regulations have taken shape.

MAPC's comments in the attached appendix stem from extensive engagement with communities throughout our region. In total, MAPC staff have engaged over 120 representatives from over 70 municipalities through multiple meetings and webinars in September and October to raise awareness of the draft regulations and solicit input to inform these comments. We have structured these comments in alignment with the sections of 225 CMR 29.00 and aim to address the questions for public feedback DOER has shared. While we understand there will be a later public comment period on the guidelines, we are also providing some initial comments on the guidelines referenced by the draft regulations.

MAPC supports the goals of streamlining siting and permitting processes as well as the general approach DOER has taken to develop regulations and guidelines for small clean energy infrastructure facilities (SCEIF). At the same time, we have expressed concern about the substantial need for technical assistance to municipalities to enable them to adopt the new processes envisioned by the law. We continue to have concerns about the ability for municipalities to effectively implement these regulations in the proposed timeframes and are concerned these regulations may be burdensome for residential and accessory-use SCEIF and municipalities that are already reviewing and permitting these projects in a streamlined manner. We recognize the challenge faced by DOER in establishing regulations that can work for both the most densely-populated and most rural communities in the Commonwealth and have highlighted areas where this tension and related challenges are apparent and modifications may be needed.

DOER's regulations represent an important step in enabling the Commonwealth to meet its long-term clean energy and climate goals. Realizing the goals of streamlining clean energy infrastructure development while balancing thoughtful siting, potential impacts, and local needs will require significant support to the Commonwealth's municipalities. Massachusetts's thirteen regional planning agencies regularly support the Commonwealth's 351 municipalities on land use planning, zoning studies, and clean energy and environmental policies and planning. Our staff are well-positioned to support our communities in adopting DOER's regulations. We look forward to having further conversations with DOER on how our staff can best work alongside DOER's regional siting coordinators and the Regulatory Circuit Rider to effectively support our municipalities in meeting the compliance requirements.

Sincerely,

Lizzi Weyant
Executive Director
617-933-0703
eweyant@mapc.org

Julie Curti
Director of Clean Energy
617-933-0716
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Appendix: MAPC's Detailed Comments on DOER's Draft Siting Regulations and Guidelines

Overall Comments

Provide robust technical assistance to communities and engage regional planning agencies for support. Since our final comments and votes on the Commission's recommendations, MAPC has acknowledged that adopting DOER's regulations for SCEIF will be a major undertaking for the Commonwealth's municipalities, and substantial technical assistance from state and regional entities needs to be available for municipalities. Compliance will be particularly challenging for smaller communities, many of whom operate with limited or part-time staff and volunteer committee members. We commend DOER's regional siting coordinators on their efforts thus far this year to engage a wide range of municipalities and other key stakeholders and expect they will play a vital role in supporting municipal adoption. We are encouraged by the inclusion of the Regulatory Circuit Rider in supporting the ongoing review of SCEIF applications and note that we would further support empowerment of the Circuit Rider to provide support to municipalities to adopt the SCEIF regulations.

Our experience in working closely with our communities to support compliance with the MBTA Communities Act suggests that even with DOER staff, resources, and model bylaws available, municipalities will need additional technical assistance to support adoption of the regulations. Adopting DOER's regulations, particularly within the proposed timeline, may include not only adapting the forthcoming model permitting bylaw to implement the Consolidated Local Permit Application process, but also a detailed review of existing zoning bylaws for alignment with DOER's regulations and guidelines and potentially development of new zoning bylaws.

Consider further exemptions for small/mid-sized residential and commercial projects. DOER's draft regulations already provide for some exemptions for smaller SCEIF projects, including limiting regulations around solar PV to ground-mounted systems only and eliminating the requirements to conduct site suitability assessments for smaller projects (i.e. under one acre footprint, solar PV 25 kW or less, and behind-the-meter SCEIF 250 kW or less). However, the regulations do not make further exceptions to other aspects of the Consolidated Local Permit Application process for these smaller SCEIF projects.

Many municipalities already have clear and streamlined permitting processes in place for these smaller solar PV and battery storage projects, which are typically accessory use and sited in and around existing buildings. Many of these expedited permitting processes, particularly for solar PV, have been established over time through support from DOER's Green Communities division. While rooftop solar PV is not affected by DOER's regulations, we are concerned that there are no exemptions from the Consolidated Local Permit Application process and the Pre-Filing Requirements for smaller ground-mounted systems serving on-site load, solar canopies, and residential and commercial accessory use battery storage systems.

It is critical for DOER to ensure that these regulations do not add additional requirements for both applicants and the municipality to these types of projects. **MAPC encourages DOER to build in further exemptions for smaller, accessory-use, and/or behind-the-meter SCEIF projects in and around buildings.** This could include modifying definitions upfront to exclude projects from the Consolidated Local Permit Application process based on capacity (e.g. 250 kW or smaller) and/or application (i.e. SCEIF located in buildings designated as accessory-use, behind-the-meter systems only), eliminating pre-filing requirements for projects of certain sizes (discussed further below), or providing discretion to municipalities to retain existing permitting processes for projects meeting certain capacity and/or application criteria.

Consider applicability to more urbanized, denser communities

MAPC's communities are diverse and notably include both the densest areas within the inner core of the Commonwealth and smaller towns that are more similar in character and geography to rural communities in western and central Massachusetts. MAPC observes that the SCEIF draft regulations are primarily oriented towards larger SCEIF projects (e.g. larger ground-mounted solar PV, standalone battery storage, and distribution substations) with more significant land use impacts. Much of DOER's public engagement has been justifiably focused on the communities who are most likely to disproportionately host larger SCEIF projects with greater land use and environmental impacts.

MAPC has received comments from several communities within our Inner Core subregion around Boston questioning whether adopting these regulations will be an unnecessary burden with no clear value towards advancing the Commonwealth's climate and energy goals. In particular, they note that they have not and do not expect to see applications for larger ground-mounted systems or larger standalone battery storage projects due to the lack of available land for development. Several of these communities also noted that outside of rooftop solar PV, they only receive permitting requests for smaller accessory-use battery storage systems.

The SMART program and Production Tracking System databases show that within MAPC's Inner Core communities[1], no projects over 1 MW have been incentivized through the SMART program, and all ground-mounted systems have been canopies; only 14 projects in the Production Tracking System are over 1 MW in capacity, nearly all of which were built before 2020.

MAPC recognizes that while Inner Core communities lack sufficient land for larger-scale projects, these communities may be likely to host distribution and transmission infrastructure under the Electric Sector Modernization Plans and/or may still see larger battery storage project applications in the future. We encourage DOER to consider how best to work with these communities to limit unnecessary burdens on municipal staff for compliance, and we are glad to work with you to

[1] MAPC's Inner Core subregion includes Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Lynn, Malden, Medford, Melrose, Milton, Needham, Newton, Quincy, Revere, Saugus, Somerville, Waltham, Watertown, and Winthrop.

facilitate and convene conversations with our Inner Core communities who have expressed these challenges.

Develop guidance on what municipalities will need to do to comply with the final regulations

As noted above, MAPC has engaged with staff from over 70 municipalities to share information about DOER's draft regulations and solicit input. In most cases, the municipal representatives seemed to have limited awareness of the law, regulations, and potential implications for municipal actions. Many municipal staff are unclear about what steps they will need to take in order to be compliant with the siting and permitting regulations for SCEIF.

While the regulations are clear that municipalities must adopt the Consolidated Local Permit process (and may consider adopting a bylaw establishing the process using the forthcoming model permit bylaw), many municipalities were unclear about what actions would need to be taken with regards to zoning bylaws and the existing permit processes in place at their respective departments, offices, boards, and authorities. Some municipalities were unclear as to whether they will need to review and amend existing zoning bylaws to comply with the regulations and guidelines; others flagged that they had just adopted DOER's model solar PV bylaw within the past five years to achieve Green Communities designation.

As the regulations and guidelines move closer to finalization, MAPC recommends that DOER develop clear guidance for municipalities on how to proceed with implementing the Consolidated Local Permit Application and process, as well as how to incorporate the Guideline on Public Health, Safety, and Environmental Standards. Again, MAPC stands ready to help with guidance and communication efforts.

Concurrency and Transition Periods (225 CMR 29.05)

What do you think of this timeline? Would you face any challenges? If not 9 months, what do you think the concurrency period should be?

The proposed 9-month timeline was the single aspect of DOER's draft regulations that MAPC received the most direct feedback on from municipalities: all municipal commenters noted that the 9-month period was unrealistic to achieve for all but the largest and most well-staffed cities and towns for legal, capacity, and town meeting reasons. MAPC believes that the 9-month timeline, while well-intentioned to facilitate access to the expiring federal tax incentives, will be functionally impossible to implement within the legal and town meeting framework.

Town bylaws must be reviewed by the Attorney General's Office's Municipal Law Unit (MLU) for compliance with the Commonwealth's laws and constitution. The Town Clerk must submit new and amended bylaws to the MLU within 30 days of passage, and the MLU has 90 days to conduct its review. With the exception of zoning bylaws, other bylaws cannot take effect until they have been approved by the MLU under G.L. c.40 § 32. As DOER envisions the Consolidated Local Permit Application process to be enacted via permitting bylaw (e.g. through using a modification of

DOER's forthcoming permitting bylaw), this by necessity adds at least 90 days to the time needed for towns to become compliant.

The timing of town meetings across the Commonwealth varies, but annual spring town meetings typically fall between March-May and special fall town meetings (if called) are typically in October or November. Many towns require Warrant Articles to be submitted several months in advance of the town meeting. With the March 1, 2026 deadline for the promulgation of final regulations, it will be impossible for any town to draft bylaws and incorporate them into a spring town meeting. Even if those towns call a special fall town meeting and complete the necessary work to bring bylaws to a vote, the MLU may not be able to render decisions prior to December 1, 2026, which would leave most towns out of compliance with 225 CMR 29.05(2).

A flood of bylaws related to implementing the siting and permitting regulations in fall of 2026 could also overwhelm the MLU and constrain its ability to complete reviews within the 90-day period. One municipality in MAPC's region noted that the MLU had requested an extension beyond the 90-day period to review a bylaw they submitted for accessory dwelling units, which was also developed in support of recently passed legislation.

MAPC recommends that DOER change the compliance deadline in 225 CMR 29.05(2) to at least March 1, 2027, which would be 90 days from a December 1, 2026 submission to the MLU for review (e.g. after November town meetings). MAPC further recommends that DOER add a third provision to 225 CMR 29.05 that allows municipalities who are unable to adopt the bylaws and regulations (e.g. due to lack of capacity to implement in advance of fall town meeting or a failure to pass the bylaws at fall town meeting) or call a special fall town meeting to request an extension from DOER to September 1, 2027 or later.

We note that there are no specific consequences presented for a lack of compliance with regulations by the specified date, and MAPC received questions and comments regarding this from some municipal representatives throughout its engagement. While MAPC discourages legal sanctions under these regulations, we recognize that DOER may consider incorporating some consequences for non-compliance, provided a reasonable extension to the compliance deadline is incorporated (as discussed above). This could, for example, include clarification that applications to municipalities that are not in compliance with the regulations within a certain period after the compliance date will be automatically referred to the EFSB for adjudication.

Public Health, Safety, and Environmental Standards (225 CMR 29.06) and accompanying Guideline on Public Health, Safety, and Environmental Standards

What health, safety, and environmental standards are important to include? Are there standards for project elements such as setbacks, lighting, and screening that you would want to see included?

MAPC commends DOER for compiling a comprehensive guideline, which will establish a common baseline for public health, safety, and environmental standards for all SCEIF across the Commonwealth. MAPC notes that beyond many standards commonplace across different zoning

bylaws that DOER has incorporated the recent guidance from DEP on battery storage systems and has incorporated other sensible restrictions like limiting buildable areas to slopes of 15 degrees or less and permitting municipalities to restrict battery storage facilities within Zone II Wellhead Protection Areas.

Across all types of eligible SCEIF, battery storage projects are receiving the most scrutiny, and DOER's focus on adding additional requirements for battery storage projects through the Guideline to address municipal concerns is warranted. MAPC also recommends that the regulations and Guideline incorporate municipal health departments or boards for battery storage, as it is a best practice to involve such authorities in the review of any technology which includes hazardous materials and to ensure the proper protections included in the guideline are in place to prevent contamination of local water supplies, wetlands, and other environmental resources. Moreover, health departments can play a valuable role in emergency management planning, and some municipalities already require health department/board review and coordination with fire departments as part of siting battery storage projects.

DOER has already incorporated some requirements around setbacks (e.g. in alignment with NFPA 855 for storage and for solar PV projects), lighting, and screening into the Guideline and believes these provisions are sufficient, while allowing municipalities some flexibility to increase requirements to protect public health, safety, or environment. Specifically regarding setbacks, it is worth noting that the MLU has found that municipalities have previously attempted to enact setback requirements that have had the effect of de facto bans on CEIF in violation of G.L. c.40A § 3. As such, we believe the language DOER has incorporated regarding setbacks from NFPA 855 is sufficient, as we anticipate municipalities may establish their own further requirements in their zoning bylaws—and that any such further requirements in excess of the baseline established in DOER's regulations and guidelines will need to be justified under c.40A § 3 if they significantly restrict solar PV and battery storage.

MAPC anticipates filing additional detailed comments specifically on the Guideline on Public Health, Safety, and Environmental Standards when DOER opens the public comment period in the future.

Site Suitability/Minimization and Mitigation (225 CMR 29.07 and accompanying Guidance on Site Suitability Assessments for Clean Energy Infrastructure*;* Guideline on Minimization and Mitigation Measures*)*

Should a community have the right to deny an application if the site suitability score is too high?

DOER staff noted in responses to questions during public information sessions that they intend to avoid issuing blanket rules on denying or approving projects to provide flexibility to applicants and municipalities. MAPC agrees with this premise: we do not believe that communities should have the right to deny an application outright without first attempting to work in good faith with the applicant to identify appropriate and relevant minimization and mitigation measures. If

minimization and mitigation measures cannot be agreed upon for projects with particularly high site suitability scores, then municipalities should then have the right to deny an application.

Ultimately, any application denials are likely to be appealed for de novo adjudication by the EFSB. As part of that adjudication, communications and information regarding negotiations around minimization and mitigation measures should be incorporated as evidence and considered by the EFSB in rendering its decision.

As the Site Suitability Assessment process is novel and untested, we believe it is premature to tie a certain score to automatic denial. We recommend DOER analyze project applications and permits over the two years following implementation to examine whether Site Suitability and minimization/mitigation requirements are having the intended effect of encouraging applicants to propose projects with lower scores and make adjustments then if needed.

What minimization or mitigation measures should qualify in instances where the applicant has a high site suitability score? How should a municipality calculate how much mitigation is enough to offset poor scores?

We recognize the challenges faced by DOER in trying to be overly prescriptive in how minimization and mitigation measures are determined. Appropriate minimization and mitigation measures should have a rational nexus to the project's impacts and be within the community or close proximity of the project, but beyond that, we support DOER's approach of providing examples of minimization/mitigation strategies through the guidelines while allowing for additional flexibility.

While there is a preexisting formula in place for calculating the value of Compensatory Environmental Mitigation payments, we feel that it would be difficult at this time to establish a formulaic approach to determine local minimization and mitigation measures that should be tied to differing levels of criteria-specific Site Suitability scores. We anticipate that this will be an area for further analysis by DOER and technical assistance from the Regulatory Circuit Rider and other external experts brought on by the municipality to support review.

DOER noted in public information sessions that the example minimization and mitigation activities provided in the Guideline were informed by Municipal Vulnerability Preparedness Program projects. We also recommend DOER consider including resilience measures in the ResilientCoasts Plan (Draft) for additional qualifying minimization and mitigation measures.

Additional Comments

Clarify "rational nexus." The term "rational nexus" is referenced multiple times within the regulations and Guideline on Minimization and Mitigation Measures without a clear definition. We recommend that DOER define "rational nexus" within the regulations and/or Guideline or provide further examples of appropriate and inappropriate measures within a rational nexus framework in the Guideline.

Clarify interaction of Minimization and Mitigation measures and Compensatory Environmental Mitigation. It is unclear in the regulations and Guideline whether Compensatory

Environmental Mitigation is intended to be in excess of or in lieu of other Criteria-specific Minimization and Mitigation measures. While we interpret the regulations to state that projects with high site suitability scores may *also* be required to pay Compensatory Environmental Mitigation fees—and support this interpretation—we recommend additional clarification.

Expand language around recreational opportunities. In the Guideline on Minimization and Mitigation, DOER notes "creates expanded recreational opportunities" as a Qualifying Mitigation Measure for Social and Environmental Burdens. While these provisions of the 2024 Climate Act apply to large CEIF, Sections 65 and 74 of the law note specifically "shared use, recreational paths or access to nature" as benefits, indicating clear legislative intent for these measures to be considered as appropriate mitigation for environmental burdens. MAPC recommends expanding the language in the Guideline to "Creates expanded recreational opportunities, including restoring or establishing new shared use paths, recreational trails, and access to nature."

Pre-Filing Requirements (225 CMR 29.08 and accompanying Guideline on Pre-Filing Stakeholder Engagement*;* Standards and Guidelines on Community Benefits Plans and Community Benefits Agreements*)*

What methods of community outreach would be beneficial during this stage of the process?

MAPC's experience with supporting municipalities and community-based organizations demonstrates that the appropriate methods for community outreach activities will vary depending on the specific needs of the community. Public meetings alone are rarely sufficient to engage the broader community, particularly in environmental justice communities. In many communities, finding opportunities to meet key stakeholders in places where they're already gathering will create more robust input than expecting them to come to a single public meeting.

We recommend that DOER include a list of potential and recommended community outreach activities beyond just the required public meeting in the Guideline on Pre-Filing Stakeholder Engagement (e.g. under "Stakeholder Engagement Plan"). For example, more densely populated communities may have community-based organizations that are ideal for helping to broaden awareness of and engagement with the public process. Communities with high immigrant populations or high non-English-speaking populations might need additional considerations.

Additionally, DOER encourages, but does not require, applicants to hold an alignment meeting with municipal officials in advance of the public meeting, which is focused on verifying project information, clarifying permitting needs and local bylaws/processes, and confirming key stakeholders. We believe this meeting with municipal officials should be mandatory, and suggest that it go beyond confirming key stakeholders to also include a discussion of the best methods of community outreach to effectively reach these stakeholders, which could include demographic data to help inform the recommended process.

What types of abutters and key stakeholders should be noticed and involved at this stage of the process?

MAPC notes that the definition of "key stakeholders" within the regulations could be interpreted as including "local residents…within a community located within one mile of a proposed [SCEIF]," while the guidelines specify that "key stakeholders" only includes abutting residents and *organizations* within one mile of the project. The definition should be clarified to avoid confusion.

MAPC recommends modifying the definition of key stakeholder beyond just abutting residents. Because of the varied types of projects that SCEIF facilities can include, abutting residents may be sufficient in areas with large parcels of land but will be insufficient in densely populated areas, and especially in environmental justice communities, who have already borne a disproportionate burden of infrastructure decisions, often to their detriment. DOER should consider a broader resident definition in environmental justice or burdened areas.

During the municipal alignment meeting, beyond confirming key stakeholders, the applicant should solicit input from the municipality on what key stakeholders—including local community-based organizations or service organizations—should be included in public outreach.

How should the process be different for smaller projects versus larger projects?

As discussed above, MAPC strongly encourages DOER to exempt smaller SCEIF projects from many requirements outlined in the Consolidated Local Permit process. An accessory-use residential or commercial battery project or small ground-mounted accessory use solar PV systems under a certain size should not be required to complete any pre-filing requirements. Requiring building owners to seek public input on building modifications that do not alter the primary use of the building is an unnecessary burden.

DOER could consider establishing "tiers" of project sizes with varying degrees of pre-filing requirements. For example, accessory use projects 250 kW and under ("Tier 1") could be exempted from all pre-filing requirements. Primary use projects up to 1 MW for solar PV/1 MWh for battery storage and accessory use battery storage up to 10 MWh for battery storage ("Tier 2") could require only a notice of intent. Projects exceeding those capacities ("Tier 3") could require the full pre-filing requirements described in 225 CMR 29.08. MAPC recommends DOER align any such tiers with the example sizing tiers outlined in the model solar and battery storage zoning bylaws.

Additional Comments

Require the applicant to meet with municipal staff as described in the Guideline. MAPC notes that the Guideline on Pre-Filing Stakeholder Engagement encourages but does not require the applicant to meet with the municipality in advance of the public meeting. If the applicant opts to not hold this meeting, there are no requirements for municipal engagement between the notice of intent and the public meeting, which will limit opportunities for the municipality to provide input and support community engagement prior to the submission of the Consolidated Local Permit Application. In addition to the recommendations above for incorporating stakeholder engagement into the municipal alignment meeting, MAPC strongly recommends that this municipal alignment meeting be required and incorporated into the regulations.

Eliminate the requirement for pre-filing requirement verification. As proposed, the regulations require the municipality to verify that pre-filing requirements have been satisfactorily completed as a prerequisite for the applicant to file a consolidated application. The requirements placed on municipal staff before an application is even filed are significant, including the recommended meeting with the applicant, requirement for public meeting, and evaluation of the site suitability assessment score (for a potential review request by DOER). A further requirement for verification that pre-filing requirements have been completed in addition to the determination of completeness of the filed Consolidated Local Permit Application seems excessive and redundant.

We recommend that DOER eliminate the requirement for municipal verification that pre-filing requirements have been completed and incorporate this review into the determination of completeness review that the municipality conducts upon receiving the application. As the municipality can require the applicant to cure deficiencies to the application at that time, the municipality could also review the attestation of pre-filing requirements provided by the applicant and require remedial action.

Consolidated Local Permit Application and Consolidated Local Permit Application Review (225 CMR 29.09; 225 CMR 29.10)

What tools would be helpful to ensure municipalities meet the 12-month timeframe? What criteria should officials use to judge if application is complete?

DOER provides an extensive list of required information that needs to be included in a Consolidated Local Permit Application. MAPC anticipates that applicants will follow this list as well as the structure of the digital or online Consolidated Local Permitting Application form that DOER develops for applicants and municipalities to use.

Municipalities MAPC engaged with did not identify specific tools to support review but expected to face capacity challenges more broadly. Municipalities have also noted prior experience with applicants providing partial or misleading information to comply with permitting requirements. MAPC expects that the greatest needs municipalities will have will be conducting determinations of completeness within 30 days and reviews within the 12-month timeframe, which should be supported through technical assistance provided by the Regulatory Circuit Rider and other third parties.

As noted above, most municipalities we engaged in late September and early October were unfamiliar with the siting and permitting law or regulations. In conjunction with the limited period for public comment, we anticipate that many municipalities will not have had time to fully review and understand what will be necessary in order to implement the regulations. We encourage DOER to continue engagement with municipalities after revising the draft regulations and submitting them to the legislature for review. MAPC looks forward to continued collaboration with DOER on municipal outreach, communication, education, and engagement to inform the development of further tools and guidance to support implementation.

Additional Comments

Clarify exclusion of final construction permit from Consolidated Local Permit. DOER has noted in public information sessions that a Consolidated Local Permit includes all local permits, approvals, and authorizations with the exception of a final building or construction permit. This is due to the need to develop and provide final construction plans and specifications, which may be an unnecessary expense to the applicant in the event that the EFSB denies the application on appeal. We agree with this exception, and DOER should clarify that this is the case in the regulations.

Include explicit reference to administrative permit fees. In 225 CMR 29.10(1), DOER explicitly permits municipalities to incorporate a fee structure that covers external technical consultants to support application review. As noted above, many small towns will face challenges with internal capacity within town staff (e.g. part-time staff or volunteer committee members) to implement the Consolidated Local Permit Application process and conduct necessary inspections. We encourage DOER to modify the language to "…may include a fee structure to cover proportional administrative costs for municipal staff capacity and required technical consultants…"

Clarify 225 CMR 29.10(1)(b). In 225 CMR 29.10(1)(b), DOER notes that "*if the Local Government does not determine whether a Consolidated Local Permit Application is completed within thirty (30) days of receipt, the Consolidated Local Permit Application shall be deemed to be complete and subject to the common conditions and requirements for constructive approval prescribed in 225 CMR 29.12.*"

MAPC is concerned that this language implies that if municipalities fail to make a determination of completeness within 30 days, applications will receive constructive approval to proceed. If this is DOER's intent, we strongly object to failure to determine completeness in a timely manner as grounds for a project receiving constructive approval. If this is not DOER's intent, we recommend clarifying this language: for example, if a municipality does not make a determination of completeness within 30 days, the application should be automatically deemed complete, the 12-month timeline for review should be initiated, and the municipality may not cite lack of completeness of the application as a reason for denying the permit.

Clarify and consider developing guidance regarding ongoing communication, engagement, and modifications to the application during the 12-month review period. The underlying statute (G.L. c.25A § 21(d)) specifically requires a municipality to issue a "single, final decision" on the consolidated application but does not articulate what ongoing engagement the individual municipal authorities may have with the applicant. 225 CMR 29.10 discusses the determination of completeness, review process, decision on individual application components, and how information requests may be handled in an expeditious manner but does not clarify what other engagement short of issuing a final decision may occur between the applicant and individual municipal boards, offices, departments, and authorities.

The lack of specificity in the statute and the regulations raises several questions:

- During the 12-month review period, can an applicant make modifications to the application in response to interim feedback from an individual municipal permitting authority?
- Can a municipal permitting authority communicate an intent to deny a permit without it representing the "single, final decision" of the municipality as a means of negotiating changes to the proposed project with the applicant?
- Can modifications to the proposed project be incorporated by the applicant as part of developing minimization and mitigation measures and/or negotiating a community benefits agreement with the municipality?
- Would making any such modifications to the application trigger a restart or change to the 12-month period?

MAPC understands that DOER has not yet released the Guideline on the Consolidated Local Permit Application referenced in 225 CMR 29.09. As DOER develops these guidelines and considers revisions to 225 CMR 29.09 and 29.10, MAPC encourages DOER to consider these questions. We recommend that DOER provide guidance and make regulatory adjustments that enable a flexible review process that allows municipalities and applicants to engage in ongoing, constructive dialogue during the 12-month period to facilitate the development of SCEIF that meet the needs of the local community and Commonwealth at large, with the goal of limiting the number of projects that need to be appealed to the EFSB for review.

Regulatory Circuit Rider (225 CMR 29.11)

Would you want the regulatory circuit rider to provide assistance with other aspects of this process, such as pre-filing? Where do you think a Circuit Rider would be most helpful in this process?

As discussed above, MAPC feels strongly based on our experience with MBTA Communities implementation that municipalities will need substantial technical assistance to develop and review bylaws/ordinances and implement the Consolidated Local Permit Application process. As written, the regulations allow the Circuit Rider to assist municipalities upon receipt of an application, but does not explicitly allow for support to implement the regulations. DOER should broaden the Circuit Rider's role and purview to include implementation of regulations. Alternatively, MAPC would support the establishment of a separate technical assistance program to support municipalities with adoption.

MAPC hopes to work with communities that have engaged with the DEP Circuit Rider to better understand experiences and how the proposed Circuit Rider program could build on the existing DEP program and provide effective technical assistance.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:17 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Roy Lane
Sent: Friday, October 17, 2025 2:18 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 17, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's

proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. Roy Lane
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Sterling, MA 01564
(978) 422-9924
roylanex@gmail.com

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:26 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
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-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Jeremy Lane
Sent: Friday, October 17, 2025 5:19 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Sincerely,

Mr. Jeremy Lane
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Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:47 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
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-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of Laurie Lane
Sent: Friday, October 17, 2025 12:17 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 16, 2025

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Sincerely,

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The Nature Conservancy in Massachusetts
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Boston, MA 02108

Department of Energy Resources
100 Cambridge Street #1020
Boston, MA 02114

October 17, 2025

RE: Comments of The Nature Conservancy in Massachusetts 225 CMR 29.00 - Small Clean Energy Infrastructure Facility Siting and Permitting (Submitted via email)

Thank you for the opportunity to provide comments to the Department of Energy Resources ("DOER") regarding the proposed regulations, 225 CMR 29.00 - Small Clean Energy Infrastructure Facility Siting and Permitting ("Siting Proposal").

The Nature Conservancy ("TNC") is pleased to submit these comments in support of the Healey-Driscoll administration's efforts to balance the growing need for renewable energy facilities, while tackling climate change, and protecting nature.

TNC is a global conservation organization working toward a world where people and nature thrive, with a mission to conserve the lands and waters on which all life depends.

Overall, as set forth below, in our comments and in the following sections discussing specific regulations, we believe that the proposed regulations provide a strong framework and include reasonable compromises supported by both the conservation community, municipalities and developers. At the same time, as noted, specific elements need further review and revision.

Summary of Comments

- We strongly support and appreciate the use and application of the science-based data, criteria, and thresholds in site suitability guidelines on Forest Carbon and Biodiversity and we are offering a refined definition of Climate Change Resilience.
- The Solar Massachusetts Renewable Target Program's ("SMART") eligibility criteria and preferential scoring and mitigation hierarchy should continue to be the primary mechanism for controlling and managing land use and development impact from relatively smaller projects.
- The regulations need to define terms and clarify that the mitigation hierarchy sequencing is required as part of any consideration of potential environmental impacts

and specifically state that the application of the mitigation hierarchy sequentially prioritizes and sets thresholds for avoidance, then minimization, followed by mitigation of any negative consequences.

- We continue to urge that the core criteria (biodiversity, forest carbon, and climate resilience) be considered and addressed distinctly from consideration of development potential and social and economic benefits and burdens which are three separate categories, quantitatively and qualitatively distinct.
- The regulations should apply to any right of way used or accessed by the public whether or not authorized by a public authority and which may or may not already house utility infrastructure.
- The regulations should apply to the infrastructure, such as sub-stations, which drive development of nearby clusters of renewable energy generation.

Background

TNC and the Executive Office of Energy and Environmental Affairs ("EEA") and DOER have a long history of collaboration and alignment on rapidly deploying clean energy while providing better outcomes for people and nature. We proudly served on the Commission on Energy Infrastructure Siting and Permitting ("CEISP"). TNC advocated for the legislature to enact the CEISP's recommendations into An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers ("Climate Act"). Since the enactment of the law, we have appreciated and participated in many stakeholder sessions and provided verbal and written comments on DOER's straw proposals.

As part of the Climate Act, the Commonwealth is providing a streamlined siting and permitting process, with unique incentives for renewable energy. The Act requires compliance with existing environmental law and includes strong guardrails and guidelines to ensure the Commonwealth is working in an integrated way to avoid conflicts between development and conservation goals.

We support the integrated approach developed by the administration and stakeholders to weave together science-based site suitability and local experiences from robust community engagement to help determine better outcomes for people and nature in a more efficient siting and permitting process. Specifically, the Climate Act requires, as part of the "methodology for determining the suitability of sites" and as part of the mitigation hierarchy to be applied, consideration of core criteria, i.e., biodiversity, forest carbon, and climate resilience. The core criteria, as referenced specifically in the Climate Act, are derived from laws, policies, plans that include goals for reaching 30 percent of Massachusetts' lands conserved by 2030, maintaining and expanding carbon dioxide pollution removal by natural and working lands, protecting biodiversity, and strengthening climate change resilience. The approach, as mandated in the Climate Act, requires a

sequential mitigation hierarchy to first avoid impacts on people and nature, what cannot be avoided must be minimized, and what cannot be minimized, be mitigated.

General Comments

TNC offers the following general comments regarding the Siting Proposal. As appropriate, in the following section, some of these comments are incorporated into our recommendations regarding specific draft regulatory provisions.

Criteria: We strongly support and appreciate the application of science-based criteria, data, and thresholds in determining Site Suitability Scores for Forest Carbon, Biodiversity, and other values. TNC supports the use of the credible, peer reviewed and publicly available BioMap, National Forest Carbon Monitoring System, and UMass Conservation Assessment and Prioritization System ("CAPS") data to support a robust site suitability approach. This data is used by public agencies, NGOs, and academia to support effective and efficient decision support, prioritization, and policies.

Small Scale Development: Most future land-based solar developments are expected to be under 25MW. DOER's small-scale regulations will be the primary vehicle through which many land-based solar facilities will be sited and permitted.

Regulations versus guidelines: Regulations are the foundation of siting and permitting and need to include strong requirements that are linked to, and translated into, guidance relating to site suitability and mitigation. We need clear guidelines to implement the regulations and provide transparency for communities, regulators, and the regulated community.

Interfacing with SMART: Solar developers have consistently indicated that they cannot build ground-mounted solar arrays without Solar Massachusetts Renewable Target Program ("SMART") incentives. The interface between the processes required as part of the small-scale regulations and SMART needs clarity and alignment. The SMART program should continue to be the primary mechanism for controlling and managing land use and development impacts from smaller projects. Accordingly, developers should obtain permits from local governments as set forth in the 225 CMR 29.00 as well as authorization to participate in SMART for relatively smaller projects, i.e., projects up to 5 MWs. For eligible projects, the SMART mitigation hierarchy, eligibility criteria, and mitigation formula scoring requirements should not be replaced by the Siting Proposal. SMART is a voluntary program with specific requirements imposed to incentivize solar development and support conservation goals.

Given the interplay between SMART and the Siting Proposal, and the need for clarity, we suggest the following process for the universe of SMART projects for which siting and permitting rules also apply:

- Pre-Screening**:** DOER should consider eligibility under the SMART program as a crucial step. Under the SMART program, the Preliminary Statement of Qualifications ("PSOQ") indicates that a project has met the necessary criteria to receive incentive payments. The PSOQ is issued based on the eligibility requirements and incorporates incentives utilizing factors that recognize the importance of core criteria. The pre-screening of the siting and permitting process should include SMART requirements and an evaluation of whether a project, as proposed, would qualify for SMART.

- Consistency: The criteria, data, and thresholds for SMART and in siting and permitting, as defined in the Guideline for Site Suitability Assessments for Clean Energy Infrastructure should be consistent with respect to biodiversity, forest carbon, and climate change resilience.

- Primacy**:** Siting and Permitting site suitability should not supersede the SMART Program's eligibility requirements and mitigation formula scoring. SMART is an opt in program in which developers choose to participate. SMART incentives are consistent with the state's environmental laws and with the state's goals for biodiversity, forest carbon, and climate change resilience. SMART's ineligibility and mitigation approach are rigorous approaches that are designed to reduce impacts on nature and people and should therefore be adhered to consistently.

- Objectivity and quantifiability: The SMART mitigation formula is objective and quantified, which will result in consistent application of the mitigation formula across the state and across projects, municipalities, and settings. This consistent approach should be replicated in the Siting Proposal, AND as stated above, SMART eligibility and mitigation calculations should happen first, and apply to all projects, to ensure this consistency.

Mitigation Hierarchy: The regulations need to clarify that sequencing is required as part of any consideration of potential environmental impacts, and specifically state, as set forth in the Climate Act, that the application of the mitigation hierarchy sequentially prioritizes avoidance, then minimization, followed by mitigation of any negative consequences. In addition, the mitigation hierarchy should incorporate the elements of the law protecting nature and people and at a minimum include existing laws and regulations such as the Wetland Protection Act and the Endangered Species Act as well as core site suitability criteria, including specifically, biodiversity, forest carbon and climate change resilience.

In addition, the regulations should provide that the mitigation hierarchy be based on the following principles (and these should be included as definitions in the Siting Proposal):

- Nature Positive: is a net positive for ecosystem values, where impacted and/or converted lands and waters are mitigated through the protection and restoration of lands and waters of equal or greater ecological value.
- Not Net Loss: land of equal ecosystem value to replace land that is impacted or converted.

We have added two items to the appendix of our comments:

- A summary of mitigation principles and best practices from TNC's "Achieving Conservation And Development 10 PRINCIPLES FOR APPLYING THE MITIGATION HIERARCHY" .

- A TNC memo to EEA and the Energy Facilities Siting Board (EFSB) providing a summary of mitigation options (July 2025).

Further, the mitigation hierarchy should include clear thresholds that developers must meet in each stage to advance through the hierarchy. In other words, all efforts should be made to avoid or minimize impacts to the maximum extent possible before any mitigation is allowed. The following principles should be applied:

- **Avoidance** should be a priority and the regulations should provide for a clear pathway to use the site suitability scoring to incentivize projects to avoid impacts.
- **Minimization and Mitigation actions** should focus on maintaining key ecological functions and meeting ecological targets.
    - Minimization refers to onsite actions to reduce impacts, while mitigation is designed to replace, repair, rehabilitate, or restore areas that are affected by an adverse impact and may include compensation.
    - Mitigation requirements should have performance standards, regulatory oversight and enforcement and a long-term management plan with necessary measures and funding.
    - Mitigation and Minimization are often conflated and need to separately defined and applied.

Mitigation Fees: The regulations should provide clarity and transparency for municipalities on the assessment and management of mitigation fees. Municipalities should have a separate and distinct account into which mitigation fees should be deposited.

State environmental agencies should collaborate with conservation organizations to develop a pre-qualified statewide list of conservation projects which municipalities could fund using mitigation fees. TNC and the Natural Heritage and Endangered Species

Program's Box Turtle Mitigation Program provides an example of a collaboration in the in lieu of fee mitigation program.

In the event a municipality decides to opt out of managing the mitigation fees, any fee should be transferred to a statewide trust fund for the purposes on meeting ecological goals. There are multiple options of existing trust funds that align with the intent of the Act which could accept deposits of mitigation fees that support the criteria under site suitability including:

- The Biodiversity Trust Fund (section 35D1/2 of Chapter 10 of the General Laws) would enable mitigation funds to support the state's biodiversity goals and programs such as land acquisition, habitat management, ecosystem restoration.

- The Global Warming Solutions Trust (Section 35GGG of Chapter 10 of the General Laws); would enable funds to support carbon sequestration and storage, natural and working lands and adaptation/resilience.

Site Suitability Score: It should be noted that some of the five scoring criteria are inversely correlated, i.e. they will not co-occur in the same location. This will reduce the maximum and median scores and the possibility of scores reaching or approaching 25. For example, sites that score high for Agricultural Resources will often get lower scores for Forest Carbon, and vice versa. This should be kept in mind when developing mitigation strategies based on the total (0-25) scoring and places a greater importance on criteria-specific scores.

Resilience: Resilience, as proposed, based on riverine and coastal exposure is a great starting place. Importantly, the current application of resilience appears to focus solely on resilience of energy infrastructure in the face of climate impacts. TNC recommends expanding that concept to include the potential impacts of energy infrastructure development on climate change resilience (e.g., infrastructure and its footprints avoiding exacerbation of impacts such as stormwater runoff, heat island effects, etc.) In addition, TNC recommends using the latest and most precise riverine and coastal flood modeling science, data, and analyses, including those under EEA's ResilientMass Plan and the Office of Coastal Zone Management Coastal Resilience initiative. Moreover, the proposal should consider excessive heat as a criterion, which is also addressed in the Climate Resilience Design Standards Tool. Clearing natural areas in urban areas and existing heat islands can exacerbate extreme heat conditions and flooding from ground/surface water runoff.

Individual/Single Scores: TNC supports the use of a separate benefit score for evaluating, scoring, and weighting the core criteria (biodiversity, carbon sequestration and storage, and resilience). TNC appreciates that the Siting Proposal indicates that the score for each

criterion, the Criteria Specific Suitability Score, can be considered separately as well as collectively. For example, if a project receives a high score for climate resilience but low scores for other criteria, the permitting authority could use that score to require resilience measures in the project design. Finally, we urge that the core criteria be considered and addressed distinctly from consideration of development potential and social and economic benefits and burdens. Core criteria, development potential, and economic benefits and burdens are three separate categories, quantitatively and qualitatively distinct.

Land Use look back: Site suitability project evaluation should include a multi-year (e.g. 5-year) look-back period for forest carbon, BioMap habitat, the Index of Ecological Integrity, and other criteria to ensure there has not been manipulation of the land to affect the site suitability scoring. This avoids the possibility of a perverse incentive to remove trees or degrade habitat to score more favorably under site suitability.

Scoring Process: We support the concept that an applicant may request a Site Suitability Score review from the Department. Reviews of the site footprint impacts should be limited to cases where land use within a footprint have changed (e.g., land clearing, development, etc.) subsequent to the development of site suitability score maps and data. The reviews should not focus on the veracity of the data itself (e.g., BioMap, forest carbon, Index of Ecological integrity, etc.). Habitat and carbon mapping includes sophisticated decision-rules that may not be replicable with a site visit, and remotely sensed and modeled data measure aspects of the landscape that cannot be "ground truthed" in the field.

Site Suitability Reviewers: We endorse the use of site suitability reviewers. We encourage the regulations include some requirements regarding the necessary expertise and credentials in site suitability and other important topics. We also encourage the municipality to have a role in determining the scope of work conducted by the reviewer within the scope of the regulations.

Utility Transmission Infrastructure: Utilities should be required to avoid, minimize, and pay compensatory mitigation for grid projects which enable projects - such as ground-mount solar -- which convert adjacent natural and working lands. We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. In the proposed framework, however, electric utilities' choices of sites for new or expanded electricity transmission and distribution projects are currently exempt from site suitability guidance and requirements to avoid, minimize, or mitigate impacts from developers of solar, wind, or energy storage projects. To be economically viable, new energy generation projects such as ground-mounted solar must be located within five miles of an interconnection site, and most are even closer. As such these regulations, as well as those

applying to large CEI projects, should hold utilities - and not just energy developers - accountable for avoiding, minimizing, and mitigating the impacts not only from their transmission and distribution project sites, but also for impacts to nearby natural and working lands because this is where generation and storage projects must locate to secure affordable interconnections.

Specific Comments and Suggested Revisions on Regulations

As noted above, TNC strongly supports the Siting and Permitting Regulations as proposed and appreciates DOER's work in developing the proposal. We offer the comments below on specific sections.

Suggested revisions to the draft regulations are noted in *italics* indicate additions and bracketed sections [ ] indicate deletions. In each case, explanations are referenced below in Comments. In some sections, we offer just Comments.

225 CMR 20.02: Definitions

As discussed below, a definition of avoid should be included (as well as other additions/revisions as noted) and definitions related to minimization and mitigation should be revised. We suggest the following definitions:

Avoid: Measures taken to avoid creating impacts from the outset, such as careful spatial or temporal placement of elements of infrastructure, in order to completely avoid impacts on certain components of biodiversity, forest carbon, and other values.

- Comment: With respect to the mitigation hierarchy, avoidance is the first and most important step for supporting conservation goals and to protect sensitive resources as required by the Act. Measures, including careful, science based and clearly defined, spatial or temporal placement of infrastructure, should be considered at the outset to avoid creating direct, indirect, and cumulative impacts to habitat and species. Efforts to avoid and minimize impacts should be made to the maximum extent practicable and take into account the most recent and robust technology, and available science, before mitigation is considered. Mitigation practices and sequentially mitigation/offsets are then applied to address residual impacts. Avoidance is critical to ensure that sensitive resources are not harmed. Accordingly, the Siting Proposal should require that mitigation only be considered after avoidance and minimization efforts.

Minimize: Measures taken to reduce the duration, intensity, and/or extent of impacts (including direct, indirect, and cumulative impacts, as appropriate) that cannot be completely avoided, as far as is practically feasible.

- Comment: Once a site has been selected for development, the design and operation of a facility has significant influence on the overall impact. Considerations such as design of fencing, height and spacing, site preparation, and vegetation management can all contribute to improved outcomes for wildlife by minimizing impacts and enhancing co-benefits of the facility.

Mitigation. Measures taken which have been subject to review and input from the general public and include, but are not limited to, the repair, rehabilitation, or restoration of an area affected by an adverse impact of siting. Mitigation should include reducing or eliminating the impact over time by preservation and maintenance operations during the life of the facility, and/or compensation for the impact by replacing or providing substitute resources or environments. Two types of mitigation should be considered:

- Rehabilitation/Restoration: Measures taken to rehabilitate degraded ecosystems or restore cleared ecosystems following exposure to impacts that cannot be completely avoided and/or minimized.
- Offset: Measures taken to compensate for any residual significant, adverse impacts that cannot be avoided, minimized, and/or rehabilitated or restored, in order to achieve no net loss or a nature positive outcome for biodiversity, forest carbon, and other values. Offsets can take the form of positive management interventions such as restoration of degraded habitat and ecologically valuable lands and waters, arrested degradation or averted risk, and protecting areas to prevent loss of biodiversity, forest carbon, and other values.

- Comment: The definition of mitigation should be more specific as proposed.

Definitions for Nature Positive and No Net Loss should be included in the definitions.

Nature Positive. is a net positive for ecosystem values, where impacted and/or converted lands and waters are mitigated through the protection and restoration of lands and waters of equal or greater ecological value.

Not Net Loss. No Net Loss of land of equal ecosystem value to replace land that is impacted or converted.

Public Right of Way. Any way that is accessible to the public (whether or not authorized by a public authority) and/or that is established on public property and which may or may not already house utility infrastructure.

- Comment: This addition is discussed below in comments relating to 225 CMR 29.07 (1).

Site Footprint. The area of land and water encompassed by Small Clean Energy Infrastructure Facility's equipment, plus any land significantly impacted by construction of the Small Clean Energy Infrastructure Facility, including, but not limited to, land a*ltered of its natural vegetative composition and structure by* clearing, grading, and roadways.

- Comment: The additional language is designed to mirror the more comprehensive language utilized in SMART.

Site Suitability Score Reviewer. A *third-party* entity *with expertise in evaluating and assessing short- and long-term impacts of development on sensitive environmental areas* selected by the Executive Office of Energy and Environmental Affairs, in consultation with the Department that will be responsible for calculating Criteria-specific Suitability Scores and Total Site Suitability Scores.

- Comment: As noted, the entity should be a qualified third party with expertise in evaluating and assessing short- and long-term impacts of development on sensitive environmental areas. This could be like certification and training of Licensed Site Professionals and/or service providers for the Municipal Vulnerability Preparedness Program.

225 CMR 29.06 Public Health, Safety and Environmental Standards.

The Applicant's Small Clean Energy Infrastructure Facility shall comply with all criteria and standards including but not limited to setback requirements, zoning criteria, compliance monitoring, discharge controls, erosion and runoff prevention, monitoring impacts on abutting properties, contamination and remediation, encroachments on critical resources, Emergency Response Plan requirements, *wetlands resources, Priority Habitat* and measures to address potential harms relating to abandonment of a Small Clean Energy Infrastructure Facility.

- Comment: The listed criteria should also include wetland resources and Priority Habitat, used to implement the MA Endangered Species Act as these are regulated under current Massachusetts statutes.

225 CMR 29.07 (1): Application of Site Suitability Guidance.

(1) Exemptions. The following types of Small Clean Energy Infrastructure Facilities shall be exempt from the requirements of 225 CMR 29.07:
(b) A Small Clean Transmission and Distribution Infrastructure Facility that is not sited in a newly established public right of way, as defined in the Site Suitability Guidance;

- Comment: The Climate Act provides that "the executive office of energy and environmental affairs shall establish and periodically update a methodology for determining the suitability of sites [ ] for clean transmission and distribution infrastructure facilities in newly established public rights of way." The Guidance defines a public right of way as any "way laid out by public authority that permits public access or that is established on public property, and which may or may not already house utility infrastructure." The Climate Act does not define newly established public right of way. As defined in the Guidance, this provision may allow for an unnecessarily broad exemption to impacts from the siting and permitting required for Small Clean Transmission and Distribution Infrastructure Facilities. Public rights of way, as defined and applied to areas that are currently "permitted" by public authorities or "established" would limit application of the siting and permitting scheme to only those areas that are newly designated by public authorities. Unless clarified, wide areas of sensitive areas, not public and/or not new, would not be subject to the rules. The intent of the Climate Act was to limit impacts from Small Clean Energy Infrastructure Facilities, and to ensure that new transmission line routes and particularly new lines, e.g., not existing rights-of-way (newly established) would be subject to the siting regulations. The provision as drafted and without clarification may be too broad. The definition in the Guidance should be revised and included in the regulations.

225 CMR 29.07 (3): Application of Site Suitability Guidance.

(3) Site Suitability Report. Except in the case of a proposed Small Clean Energy Infrastructure Facility that meets the criteria for an exemption under 225 CMR 29.07(1), all Applicants seeking a Consolidated Local Permit shall be required to provide a Site Suitability Report to the Local Government as part of their Consolidated Local Permit Application, which shall include the following information pertaining to the Small Clean Energy Infrastructure Facility:

1. The Total Site Suitability Score;
2. All Criteria-specific Suitability Scores;

3. An explanation of why the site for the proposed Small Clean Energy Infrastructure Facility was chosen *and what measures were undertaken to avoid impacts*;
4. Proposed Minimization and Mitigation Measures for any impacts identified in Criteria- specific Suitability Scores, pursuant to 225 CMR 29.07(5) through (7);

- Comment: The Site Suitability Report should also include and assess measures to avoid impacts (or the related site location) identified as part of any assessment of Criteria- specific Suitability Scores, pursuant to 225 CMR 29.07(5) through (7).

225 CMR 29.07 (5): Application of Site Suitability Guidance.

(5) Minimization and Mitigation Measures

(a) Application of Site Suitability Report. A Local Government may use the Site Suitability Report required by 225 CMR 29.07(3) *to ensure that efforts were undertake to avoid impacts and that [*to prescribe different types of] Minimization and Mitigation Measures *were applied to limit [*which shall have a rational nexus to] the impacts of the proposed Small Clean Energy Infrastructure Facility's siting on the environment, people, and the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity, and protection of natural and working lands, to the *maximum* extent practicable.

(b) Scope and Type of Minimization and Mitigation Measures. The scope and type of Minimization and Mitigation Measures that a Local Government may require shall be based on a Small Clean Energy Infrastructure Facility's Total Site Suitability Score and Criteria- specific Suitability Scores and shall meet the specifications in the Department's *Guideline on Minimization and Mitigation Measures*. If the Total Site Suitability Score or Criteria- Specific Suitability Scores are high enough, as prescribed in the Department's *Guideline on Minimization and Mitigation Measures*, such measures may include Compensatory Environmental Mitigation Measures, as prescribed in 225 CMR 29.07(6).

(c) Exemptions for Highly Suitable Facilities. A Local Government may not require Minimization measures for Small Clean Energy Infrastructure Facilities that achieve highly suitable Total Suitability Scores or Criteria-specific Suitability Scores, as prescribed in the Site Suitability Guidance, without the express consent of the Applicant.

- Comment: As noted, the concept of avoidance should be included in the Site Suitability Report and the Local Governments should specifically consider that impacts be avoided as part of its use of the Report. TNC will review the Department's Guideline on Minimization and Mitigation Measures and provide further comments as part of that comment process. In addition, we suggest deleting the reference to rational nexus (that term is unclear) and suggested alternative language. Further, we revised to the extent practical to the "maximum extent practical" to make it consistent with the statute and with other sections of the draft regulation. Finally, we note the carve out (e.g., no mitigation or minimization required) for facilities with "highly suitable Total Suitability Scores or Criteria-specific Suitability Scores" (e.g., low scores) and suggest a clear list of what facilities are to be included in this category be included and that some mechanism (beyond applicant consent) be provided in the event of disagreement.

225 CMR 29.07 (6): Application of Site Suitability Guidance.

(5) Compensatory Environmental Mitigation. A Local Government may offer Compensatory Environmental Mitigation to an Applicant in situations where a proposed Small Clean Energy Infrastructure Facility has received a highly unsuitable Total Site Suitability Score or Criteria- specific Suitability Score, consistent with the Site Suitability Guidance and the Department's *Guideline on Minimization and Mitigation Measures*, or may be mutually agreed to between the Local Government and the Applicant. Such measures shall *be employed to limit the [*have a rational nexus to] impacts of the proposed Small Clean Energy Infrastructure Facility's siting on the local environment and people and be consistent with the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity. and protection of natural and working lands to the maximum extent practicable. Qualifying Compensatory Environmental Mitigation shall meet the specifications in the Department's *Guideline on Minimization and Mitigation Measures*.

- Comment: This section applies to "highly unsuitable" sites, e.g., facilities that have received a highly unsuitable Total Site Suitability Score or Criteria- specific Suitability Score. The regulations should provide specific controls on this type of process to prevent the development of these otherwise "unsuitable areas" because the compensation provided is attractive to the Local Government. We are concerned that pay to play (e.g., compensation as a quid pro quo for the development of otherwise "highly unsuitable" areas), without detailed guidance, would encourage the uncontrolled development of unsuitable areas and undermine the intent of the strong protections and application of the mitigation hierarchy as set

forth in the statute. In the absence of specific guidelines, this process will allow the development of (and impacts to) sensitive areas with payment of fees. Accordingly, the regulations need to set forth the conditions (and process) by which compensation will be allowed. We suggest aligning with the SMART compensatory mitigation scoring and methodology. In addition, we deleted the reference to "rational nexus" to make the relationship of mitigation and minimization measures to impacts clearer.

225 CMR 29.07 (7): Application of Site Suitability Guidance.

(6) Compensatory Environmental Mitigation Fees. Local Governments may impose Compensatory Mitigation Environmental Fees to satisfy the Applicant's Minimization and Mitigation requirements. The fees shall be paid by the Applicant in lieu of the Applicant's own performance of Minimization and Mitigation Measures under 225 CMR 29.07(5). Payment of Compensatory Environmental Mitigation Fees under this section shall not excuse an Applicant's additional mitigation requirements required under state or federal law.

(a) In setting Compensatory Environmental Mitigation Fees, Local Governments shall refer to the Applicant's Site Suitability Report and calculate the fee in accordance with Department specifications in *Guideline on Minimization and Mitigation Measures*.
(b) Compensatory Environmental Mitigation Fees established by the Local Government shall be paid by the Applicant in a manner to be established by the Local Government. Payment may be made to either the Local Government or a Non-Profit Entity for the purposes of satisfying the Applicant's Minimization and Mitigation Measure requirements under 225 CMR 29.07(5).

- Comment: As noted in our comments to Section (6) above the process under which the Local Governments are allowed to impose Compensatory Mitigation Environmental Fees must be clearly defined such that resources are protected from impacts from the construction, operation, and maintenance of Small Clean Energy Facilities. In addition, organizations referenced in the statute, e.g. the Local Government and Non-Profit entities must have the demonstrated expertise and ability to use the funds in a manner that satisfies the Applicant's Minimization and Mitigation Measure requirements under 225 CMR 29.07(5).

Thank you for your time and consideration. Please feel free to contact us should you have any questions.

Sincerely,

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Appendix

EXHIBIT A; MITIGATION MEMO

To: Mike Judge, Andy Greene, et al
From: The Nature Conservancy
Date: August 15, 2025
Re: Mitigation Hierarchy

This memo is prepared in response to a request for clarification and additional information on the mitigation hierarchy. It provides suggestions on how the Executive Office of Energy and Environmental Affairs and Energy Facilities Siting Board could consider the mitigation hierarchy in the development of clean energy infrastructure siting and permitting regulations and site suitability guidelines. We are happy to meet and answer any questions. Thank you for your time and consideration.

Mitigation Hierarchy is an approach to address potential environmental impacts, sequentially prioritizing avoidance, then minimization, followed by mitigation of any negative consequences. It is applied throughout the planning, design, siting, development, operations, and decommissioning processes. The mitigation hierarchy should incorporate the elements of the law protecting nature and people and at a minimum all existing regulations should be fully adhered to, including the wetland protection act and the endangered species act. And the mitigation hierarchy should be based on the following principles

- **Nature Positive:** is a net positive for ecosystem values, where impacted and/or converted lands and waters are mitigated through the protection and restoration of lands and waters of equal or greater ecological value.
- **Not Net Loss**: if ecologically valuable land is developed, then other lands of equal natural resource value must be set aside to be protected.

The mitigation hierarchy should include clear thresholds that developers must meet in each stage to advance through the hierarchy. In other words, all efforts should be made to avoid or minimize impacts to maximum extent possible before any mitigation is allowed.

Avoid: With respect to the mitigation hierarchy, avoidance is the first and most important step for supporting conservation goals and to protect sensitive resources as required by the Act. Measures taken to avoid creating impacts at the outset (including direct, indirect, and cumulative impacts), such as careful, science-based, clearly defined spatial or

temporal placement of infrastructure to completely avoid impacts to habitat and species. Efforts to avoid and minimize impacts should be made to the maximum extent practicable – considering the most recent and robust technology, available science– before mitigation is considered. Minimization practices, and sequentially mitigation/offsets are then applied to address residual impacts.
Avoidance is critical to ensure that sensitive resources are not harmed. Accordingly, the policy should require that mitigation only be considered after avoidance and minimization efforts.

Minimize: Once a site has been selected for development, the design and operation of the solar facility has significant influence on the overall impact. Considerations such as design of fencing, panel height and spacing, site preparation, and vegetation management can all contribute to improved outcomes for wildlife by minimizing impacts and enhancing co-benefits of the solar facility. Below are some examples, but this is not an exhaustive list.

- **Reduce Barriers to Wildlife Movement** Landscape permeability is an often-cited concern with PV solar development, largely due to perimeter fencing excluding wildlife from the footprint and unknown impacts to animal movement. Wildlife connectivity and movement may be of greatest concern when PV solar facilities are sited within or near intact habitats. An effective method for allowing movement of both large and small animals at large solar installations is to retain unfenced wildlife passageways between fenced solar installations. Solar development near rivers, streams and their associated riparian areas and wetlands should also be avoided, and these areas can serve as wildlife passageways.
- **Protect water quality, avoid erosion, and minimize watershed Impacts** Panel design considerations (including height, spacing, and choice of racking and mounting systems) can impact groundwater infiltration and runoff as well as feasibility of co-located agricultural uses. Incremental increases in space between panel arrays or inclusion of adaptable tracker systems can increase water infiltration opportunities during rain events, especially when the site has sufficient vegetated cover. This can improve groundwater recharge and decrease the risk of stormwater runoff and erosion and sedimentation impacts on water quality. Special care should be taken during site design if streams or wetlands are on or near a site. Whenever feasible, maintain undisturbed vegetative buffers around these features to reduce impacts to nearby wildlife as well as aquatic habitat both within and downstream of the site.
- **Restore native vegetation** Plans for vegetation management can influence components of the site design, so it is recommended that these decisions be made in conjunction with the site design process. Avoiding unnecessary vegetation

clearing and soil grading or other soil disturbances during the pre-construction process can minimize impacts to wildlife and their habitats, reduce erosion potential, improve groundwater recharge, and limit impacts to already sequestered carbon and other soil nutrients. Unnecessary clearing of vegetation, especially on sloped or erosional soils, will often require stronger sedimentation and erosion protocols throughout project construction and will also increase replanting costs. Incorporation of low-growing native plantings or ecoregion-specific seed mixes throughout all or a portion of a site can decrease maintenance costs (after plants are established) while also providing important habitat and other benefits. There is extensive documentation to inform stewardship of plants that support pollinators (see references below).

- **Provide On-Site Habitat** Note: It will be important to consult with MassWildlife to manage habitat for specific *Species of Greatest Conservation Need* that are relevant to each site. In general, this strategy includes many of the same practices as "Restore native vegetation" above. Protect and restore on-site wildlife habitat features (e.g., wetlands, vegetated buffers): If there are special habitat features in or near the proposed solar facility that cannot be avoided via the siting process, the developer can consider incorporating them into site design. Retain or plant native shrubs/trees in buffers or outside of perimeter fence: Native shrubs and trees can be planted away from the panels to provide food and cover for wildlife and pollinators. Hedgerows can help with visual screening of the site and serve as complex structure for wildlife. In addition, this vegetation serves as a carbon sink which helps further mitigate climate change.

Additional minimization design approaches and greater detail can be found in these and other references:

- Recommended Practices for the Responsible Siting and Design of Solar Development in Georgia
- Principles of Low-Impact Solar Siting and Design
- Native Plant Installation and Maintenance for Solar Sites

Mitigate: EEA/EFSB should avoid strategies that encourage or incentivize a race to the bottom in which paying a mitigation fee is the default option. A science-based approach, and the use of the core criteria, would support objective decision making about when avoidance and minimization is necessary, when mitigation/offsets are appropriate and what type of mitigation would be warranted.

Offset: Measures taken to address any residual significant, adverse impacts that cannot be avoided, minimized and / or rehabilitated or restored, to achieve no net loss or a net gain of

biodiversity. Offsets can take the form of positive management interventions such as restoration of degraded habitat, arrested degradation, or averted risk, protecting areas where there is imminent or projected loss of biodiversity.

Compensation: Measures make good or pay damages for loss of biodiversity caused by a project that falls short of achieving no net loss. For instance: conservation actions may not have been planned to achieve no net loss; losses and gains of biodiversity may not have been quantified; no mechanism may be in place for long term implementation; it may be impossible to offset the impacts; or compensation payments may be used for training, capacity building, research or other outcomes that will not result in measurable conservation outcomes on the ground

Valuation for compensation should be based on a nature positive and no net loss of nature's services. Nature's services provide the following benefits :

- **Boost climate resilience** by restoring natural systems that reduce heat, prevent flooding, and cut community costs.
- **Safeguard clean water** by protecting land and tackling pollution at the source.
- **Defend wildlife and nourish communities** by conserving vital habitats where plants and animals thrive.

Mitigation Principles: TNC published a guidance document "Achieving Conservation and Development: 10 Principles for Applying the Mitigation Hierarchy" 7 from which we have selected and paraphrased some of the principles, below:

- The mitigation hierarchy should be applied with clear recognition that many impacts to biodiversity, ecosystem services, and other resources and values cannot be offset. These impacts need to be avoided, as this may be the only means to prevent irreplaceable loss. The mitigation concept cannot be used to infer that sensitive ecosystems can be traded or replaced. There are limits to what can be mitigated/offset.
- Mitigation actions should focus on maintaining key ecological functions and meeting ecological targets and mitigation requirements should have performance standards, regulatory oversight and enforcement and a long-term management plan with necessary measures and funding.
- Mitigation should provide a new contribution to conservation, in addition to what would have occurred without any mitigation/offset. Offset actions that restore, enhance, manage, and/or protect values and functions should be a genuinely new contribution to conservation with a strong probability of success. The amount and

types of offsets required should be measured against project impacts to assess progress toward the mitigation policy goal. Mitigation/offsets must provide a new contribution to enhance the ecosystems beyond what would have occurred without mitigation/offset.

- Mitigation should provide ecologically equivalent values as those lost to project impacts. Offsets should preferably be "in kind" in terms of habitat type, functions, values, and other attributes. "Out-of-kind" offsets may be appropriate in cases where they better meet landscape-level conservation priorities and/or address past disproportional losses to other habitat types.
- Mitigation benefits should accrue in the project-affected landscape. Offsets should be implemented to maximize conservation benefits within a defined spatial extent or unit (e.g., watershed, ecoregion), supporting the accrual of offset benefits in the same landscape as project impacts.
- Offsets should be designed and implemented to safeguard against temporal losses of conservation values that can occur due to the different timing of project impacts and offset benefits. At a minimum, offsets should provide a high level of confidence of protection for at least as long as the direct, indirect, and cumulative project impacts.

Types of Mitigation

- **In Lieu Fee program (ILF)** - one method of "compensatory mitigation" for damages to the environment; it is used to compensate for impacts or unavoidable losses to wetlands/streams due to development, road-construction, or other projects. Mitigation occurs when a permittee provides funds to an in-lieu-fee sponsor, e.g., a public agency or non-profit organization. In most cases, the sponsor collects funds from multiple permittees to pool the financial resources necessary to plan for, build, and maintain the mitigation site. Like mitigation banking, in-lieu fee mitigation is often "off-site." Unlike mitigation banking, it typically occurs after the permitted impacts.
- MA Department of Fish and Game In Lieu Fee Mitigation Program - 4 Basic types of compensatory mitigation allowed by the Corps under the 2008 rule:
    - The preservation (i.e., permanent protection) of aquatic resources and/or habitats and buffers protecting aquatic resources, referred to in this Instrument as habitat protection;
    - The restoration (or re-establishment) of what had historically been an aquatic resource to its former state so there is a gain in aquatic resource acreage;
    - The establishment (creation) of an aquatic resource at a site where there is no evidence that it was previously an aquatic resource; and

- The enhancement (or rehabilitation) of an aquatic resource by restoring degraded functions of an existing wetland, which does not result in a gain in aquatic resource acreage. The Box Turtle Mitigation Program of the Massachusetts Natural Heritage and Endangered Species Program is a good example of an ILF program.
- **Mitigation Banks** – (e.g., established under Clean Water Act under oversight of US Army Corps of Engineers) is a system where the liability of ecological damage is transferred from the permittee to the mitigation banker through a system of credits and debits under regulatory guidelines; a mitigation banker develops, restores, preserves and manages the acreage at a bank site and earns mitigation credits, which are then sold to a permittee or developer for a fee.
    - bank site - the physical acreage that is restored, established, enhanced, or preserved.
    - bank instrument - the formal agreement between the bank owners and regulators establishing liability, performance standards, management and monitoring requirements, and the terms of bank credit approval.
    - Interagency Review Team (IRT) provides regulatory review, approval, and oversight of the bank.
    - Service Area - geographic area within which permitted impacts can be compensated for at a given bank.
- Joint banks & ILFs - can provide mitigation under several different authorities including state requirements.
- Conservation Banks – e.g., for impacts to federally listed species/habitats, a parcel of land containing natural resource values that are conserved/managed in perpetuity for a listed species and used to offset impacts occurring elsewhere to the same resource values on non-bank lands.
- Restoration Banks - for impacts to Endangered Species-listed species habitat

Federal Model

Finally, under the National Environmental Policy Act (NEPA), the Council on Environmental Quality has defined mitigation in its NEPA regulations at 40 CFR 1508.0 to include:

a) avoiding the impact altogether by not taking a certain action or parts of an action,

b) minimizing impacts by limiting the degree or magnitude of the action and its implementation,

c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment,

d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and

e) compensating for the impact by replacing or providing substitute resources or environments."

This more nuanced approach provides multiple options to address impacts.

EXHIBIT B MITIGATION PRINCIPLES

Summary on Mitigation Principles

"Achieving Conservation And Development 10 PRINCIPLES FOR APPLYING THE MITIGATION HIERARCHY" Bruce McKenney & Jessica Wilkinson | Development by Design Program, The Nature Conservancy April 2015

Principle 1. Landscape Context

The mitigation hierarchy should be applied in a landscape context. Landscape-level assessments of conservation priorities and development scenarios should inform application of the mitigation hierarchy. They should be conducted as far in advance of project decisions and investments as possible and should identify important conservation values and potential direct, indirect, and cumulative impacts to these values.

The mitigation hierarchy is applied with a focus on supporting broader conservation objectives.

Application of the mitigation hierarchy is supported by a structured, transparent, and science-based foundation that drives impact avoidance and minimization and guides offset requirements.

Accountability is strengthened so that, at minimum, offsets fully address a project's unavoidable residual impacts.

Principle 2. Goals

Mitigation policy goals should support conservation objectives and drive accountability in applying the mitigation hierarchy. Mitigation policy goals should provide a clear driver for avoiding and minimizing impacts, and guide offset requirements. Offsets should fully address residual project impacts to achieve, at a minimum, a "no net loss" outcome for conservation.

Options for impact avoidance and minimization are fully considered, including avoiding projects altogether, before offsets are considered.

Offsets are applied for residual impacts only, not used as a justification to approve projects where impacts should have been avoided or minimized.

Principle 3. Mitigation Hierarchy Steps

The mitigation hierarchy should be followed sequentially - avoid, minimize, and then offset impacts. Avoidance is the first and most important step for supporting landscape-level conservation goals. Efforts to avoid and minimize impacts should be made to the

maximum extent practicable – considering existing technology, available science, costs relative to ecological benefits, and the likelihood of success for offset actions – before offsets are considered. Offsets are then applied to address residual impacts.

When it is not possible to offset the impacts (e.g., due to the rarity of the resources, lack of offset opportunities, poor likelihood of offset success, etc.), project impacts are not approved, precluding the need for offsets.

Principle 4. Limits to Offsets

There are limits to what can be offset. The mitigation hierarchy should be applied with clear recognition that many impacts to biodiversity, ecosystem services, and other resources and values cannot be offset. These impacts need to be avoided, as this may be the only means to prevent irreplaceable loss.

Principle 5. Sustainable Outcomes

Mitigation should support long-term, durable outcomes. Minimization and offset actions should be required to meet ecological performance standards and adhere to provisions for adaptive management, monitoring, and enforcement measures to ensure long-term and sustainable outcomes for conservation. Durability of offsets should be secured through designation mechanisms, management, and funding.

Mitigation actions focus on maintaining key ecological functions and meeting ecological targets rather than only administrative standards.

Requirements for meeting performance standards, monitoring, and adaptive management, with regulatory oversight and enforcement, support the sustainability of minimization and offset actions.

Offset agreements include a long-term management plan that outlines necessary management measures and funding for the measures.

Offsets are sited and designed to be self-sustaining and durable.

Principle 6. Stakeholder Engagement Practices

Mitigation should follow best practices for stakeholder engagement. Principles for meaningful stakeholder engagement in the decision-making process, including transparency, rights-based approaches, and use of science and traditional knowledge, are essential in applying the mitigation hierarchy.

Offsets contribute a measurable new benefit to conservation values and functions; they do not take the place of existing or mandated conservation actions that would have been implemented without the offset.

Offsets take into account risks, uncertainties, and other factors in design and implementation to deliver additional conservation benefits consistent with the mitigation policy goal.

Principle 7. Additionality

Offsets should provide a new contribution to conservation, additional to what would have occurred without the offset. Offset actions that restore, enhance, manage, and/or protect values and functions should be a genuinely new contribution to conservation with a strong probability of success. The amount and types of offsets required should be measured against project impacts to assess progress toward the mitigation policy goal.

Principle 8. Equivalence

Offsets should provide ecologically equivalent values like those lost to project impacts. Offsets should preferably be "in kind" in terms of habitat type, functions, values, and other attributes. "Out-of-kind" offsets may be appropriate in some cases where they better meet landscape-level conservation priorities and/or address past disproportional losses to other habitat types.

Offsets either provide conservation benefits like those lost due to the project or are a "trade up" to provide benefits that better meet conservation priorities.

Offsets are located in the project-affected ecoregion, increasing opportunities for ecological equivalence and reducing the potential for conservation "winners and losers" (i.e., benefits not accruing to those affected).

Important ecosystem functions (e.g., flood control benefits) remain supported within the project-affected region.

Principle 9. Location

Offset benefits should accrue in the project-affected landscape. Offsets should be implemented to maximize conservation benefits within a defined spatial extent or unit (e.g., watershed, ecoregion), supporting the accrual of offset benefits in the same landscape as project impacts.

Offsets are implemented in advance or concurrent with project impacts where possible and appropriate.

Temporal losses (e.g., years before offset conservation values reach maturity) are compensated for in the design and/or size of the offset.

Offsets are maintained and effective for the duration of a project's direct, indirect, and cumulative impacts on the species and ecological communities.

Principle 10. Temporal Considerations

Offsets should protect against temporal losses. Offsets should be designed and implemented to safeguard against temporal losses of conservation values that can occur due to the different timing of project impacts and offset benefits. At a minimum, offsets should provide a high level of confidence of protection for at least as long as the direct, indirect, and cumulative project impacts.

Summary of Principles

The Clean Energy Groups include New Leaf Energy and BlueWave, members of the Massachusetts Commission on Energy Infrastructure Siting and Permitting:

October 17, 2025

Via e-mail to DOER.Siting.Permitting@mass.gov

The Massachusetts Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Re: Comments on Draft Regulations – 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting Regulations.

Dear Department of Energy Resources:

The Solar Energy Industries Association (SEIA), Coalition for Community Solar Access (CCSA), the Alliance for Climate Transition (ACT), New Leaf Energy, and BlueWave, herein the "Clean Energy Groups" appreciate the opportunity to provide comments on the draft Small Clean Energy Infrastructure Facility Siting and Permitting Regulations, 225 C.M.R. 29.00, (Draft Regulations) that the Department of Energy Resources (DOER) released in September.[1]

In November of 2024, Governor Healey signed An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers (the "Climate Act") into law. The Climate Act holds promise to improve the processes for siting and permitting clean energy facilities in the Commonwealth. The Clean Energy Groups are deeply invested in the successful implementation of the Climate Act's permitting and siting reforms. Those reforms will be successful if they hew to the fundamental goals that spurred siting and permitting reform:

[1] DOER has subsequently released draft guidelines and a model bylaw. While these documents raise issues intertwined with the Draft Regulations, the Clean Energy Groups have not had sufficient time to review those documents, and the comments provided here are responsive to the Draft Regulations only. The Clean Energy Groups look forward to future opportunities to comment on these related proposals.

(1) accelerating the responsible deployment of clean energy infrastructure through siting and permitting reform in a manner consistent with applicable legal requirements and the Clean Energy and Climate Plan;

(2) facilitating community input into the siting and permitting of clean energy infrastructure; and

(3) ensuring that the benefits of the clean energy transition are shared equitably among all residents of the Commonwealth.

Executive Order No. 620: *Establishing the Commission on Energy Infrastructure Siting and Permitting*, § 1(2), Governor Maura Healey (Sept. 26, 2023). With regard to the "small" clean energy facilities that are the subject of this proposed regulation, the Climate Act was intended to address widely recognized barriers to bringing cost effective solar and storage projects online in the Commonwealth. The Climate Act responded to the experience of developers and communities by establishing a consolidated permit process with a 12-month timeline.

The Clean Energy Groups are appreciative of the efforts that DOER and many other agencies and stakeholders have put into the implementation process. The task for DOER and its sister agencies has been significant, and we appreciate the efforts by DOER staff to balance the many constituencies and interests in the condensed timelines necessary for the development of the Draft Regulations. The Draft Guidelines provide substantial detail to stakeholders that allow us to provide detailed comments with an eye towards ensuring the reformed siting and permitting process is as efficient for all parties as possible and effectively implements the legislative intent.

The Draft Regulations are an important step toward implementing long-awaited siting and permitting reform, however, the Clean Energy Groups are concerned that, as currently drafted, the Draft Regulations would not fully satisfy the intent behind the Climate Act to streamline and facilitate the deployment of clean energy, while promoting effective community input and protecting natural resources. <u>The Clean Energy Groups urge DOER to continue stakeholder engagement and to ensure that the final regulations do not inadvertently cause the development of clean energy resources in Massachusetts to be more difficult, time consuming, and costly. The current Draft Regulations present a real risk of having this unfortunate and counterproductive outcome at a critical time for clean energy resource deployment.</u>

The Clean Energy Groups look forward to ongoing opportunities to engage in the development of the Draft Regulations and the implementation of the Climate Act. These

comments first explain high-level concerns, provide some important background context, and then provide some specific feedback on proposed regulatory provisions.

1. Applicability and the option to pursue individual permits or approvals separately

At a high level, the Clean Energy Groups are concerned that the thrust of the Draft Regulations has moved away from focusing on providing an improved procedural structure and supportive guidance for municipalities to more efficiently implement existing law, towards the creation of a "mini-EFSB"[2] process where there will be a presumption that every "Small Clean Energy Infrastructure Facility" (SCEIF) that needs any approval from a municipality requires the type of intensive and comprehensive review that—until now—has been reserved for the relatively few projects that are subject to EFSB review.

This is not the right approach for several reasons. First, if the new process is mandatory, it will slow down, not accelerate, the deployment of SCEIFs in Massachusetts. While there have been problems with the local siting and permitting of SCEIFs, DOER should keep in mind that many SCEIFs need only one or two local approvals. Often those local approvals are ministerial or involve limited scope of review; sometimes they may be available effectively as-of-right; and key permits like building permits and electrical permits are typically finalized late in the development process when final designs are comprehensive and complete (not at the early design phase when other permitting processes begin).[3] As a result, under existing law, SCEIFs may be able to obtain the approvals they need within a matter of months or weeks and typically choose to sequence approvals so as to pursue building permits only after completing other permitting or development processes (e.g. completing the interconnection process, procuring equipment, or selecting contractors). Even review processes that are significant and include discretional aspects, such as obtaining an Order of Conditions from a Conservation Commission, typically have a limited scope (i.e. wetlands impacts) subject to established standards, expectations, and precedents. Creating the need for an Order of Conditions to result in substantive review that far exceeds the otherwise applicable scope

[2] "EFSB" refers to the Massachusetts Energy Facilities Siting Board. While the 2024 Climate Act reforms EFSB processes as well, the EFSB has long reviewed electric generation facilities over 100 MW, significant new transmission facilities and certain other types of large energy infrastructure.

[3] To put a finer point on the issue, the need to obtain local approvals such as a road opening permit, curb cut approval, shade tree removal approval, fence permit, street occupancy permit, etc., would not ordinarily necessitate a year-long process and a comprehensive review of all aspects of a proposed land use. The Climate Act surely did not intend that if a project needs one or more of these types of approval, it must subject itself to a comprehensive suite of procedural and substantive requirements untethered from those approvals that would not otherwise apply.

of review is not a way to streamline, accelerate, or improve local permitting; it is a recipe for making it more complex, more burdensome, and more uncertain.

Second, local governments would be burdened with conducting comprehensive reviews of projects that previously may have needed only very limited approvals. If every SCEIF (and in some communities there may be many) that needs any type of approval, including something as innocuous as an approval to install a fence, triggers a large and complex regulatory process, communities may be overwhelmed. The Climate Act was meant to streamline and support permitting and approval processes, not to impose new administrative burdens.

Section 23 of the Climate Act established G.L. c. 25A, § 21, which sets forth a consolidated local permitting process. **Section 21(c) (emphasis added) is clear that a "proponent of a [SCEIF] *may* submit a consolidated [SCEIF] permit application seeking a single permit consolidating all necessary local permits and approvals." The clear meaning of this section is that the substantive laws requiring such approvals remain in place and the pursuit of a consolidated permit is an option—but not the exclusive option—for pursuing any required permits and approvals.**

The Draft Regulations, however, do not clearly address or acknowledge that the consolidated process is optional. They should do so, likely through revisions to 225 C.M.R. 29.04 and 225 C.M.R. 29.05 that make clear that existing processes will stay in effect (as they must for non SCEIF regardless) but will be supplemented by a consolidated option no later than a specific date.

By preserving the option for SCEIF to pursue permits and approvals individually, DOER can reduce the risk of creating undue burdens for developers and municipalities. Complex projects needing multiple discretionary approvals are likely to choose a consolidated approach. In contrast, SCEIF that need only ministerial or very specific approvals will likely choose the standard processes if they are less burdensome. This is critical if DOER maintains its approach to other aspects of the Draft Regulations that contribute to a weighty process regardless of the scope of impacts or the otherwise applicable scope of review under otherwise applicable law. It would be manifestly contrary to the intent of the Climate Act if a SCEIF that had minimal permitting burdens under prior law (e.g. needed only non-discretionary or ministerial approvals) were to now face far more burdensome, lengthy, and costly processes.

In addition, **DOER should exempt solar facilities under 25 kW and all behind-the-meter SCEIF under 250 kW from the pre-filing requirements currently set out in 225 C.M.R. 29.08 and the permit application requirements in 225 C.M.R. 29.09 and address**

any applicable requirements for such projects through guidance. The Draft Regulations already exempt such facilities from 225 C.M.R. 29.07 (Site Suitability). However, there is no floor to the "size" of SCEIFs that are subject to the Draft Regulations, meaning that even very small (including residential-scale) facilities could conceivably be caught up by other components of the regulations if not exempted. While such facilities generally need few if any approvals, they may need some local permit or approval (e.g. a building permit or electrical permit) that could arguably trigger the need to go through the process set out in these regulations. The prefiling and application process in these regulations could well be too burdensome and lengthy for very small projects to proceed at all if they are not exempted. Moreover, these projects, often located behind-the-meter or serving a residential-scale load, typically have minimal environmental impacts.

2. The process must accommodate permits, such as building permits, that would ordinarily be pursued later in the development process than other approvals.

Certain permits or approvals (e.g., building permits) are ordinarily pursued after other permits and approvals, and the Clean Energy Groups are concerned that the Draft Regulations do not fully contemplate how these approvals would fit into this process. This is a critical issue. Non-ministerial permits are typically pursued earlier in the development process than ministerial permits. This is often because some permits and approvals need far more specific and advanced design and engineering plans than others. For instance, civil designs are often sufficient for stormwater purposes and other land use and zoning approvals. A building permit, in contrast, requires more detailed engineering and design plans (even "Issued For Construction"-level plans). It would not make sense to develop IFC plans before, for instance, obtaining an Order of Conditions or Site Plan Approval, because those processes may result in changes to plans and designs. IFC-level plans are far more expensive and intensive undertakings and frequently are advanced by different consultants or engineers or only after procuring specific contractors.

If the Draft Regulations require the level of design and supporting plans that would ordinarily only be required much later in the development process, it would make the entire process much more burdensome. The need to obtain final-level designs at the **start** of the permitting process is not at all consistent with prior practices, even for EFSB-jurisdictional facilities, and developers could not support this level of investment at a stage when it is very likely that revisions and changes will be required. Preparing initial submissions would become far more expensive, and only an option for projects that are far more advanced in

development and locked into particular approaches. This could have the result of reducing the overall number of projects that are advanced in Massachusetts, as it is difficult for companies to approve spending tens or hundreds of thousands of dollars advancing a project design before understanding whether the project will even be able to be permitted. This requirement would also be at direct odds with the intent expressed by several members of the Commission on Clean Energy Infrastructure Siting and Permitting (CEISP) to provide for an opportunity for earlier stakeholder input while a project *can still be refined or redesigned*. We understand that DOER may have concerns with the statutory requirement for "consolidating all necessary local permits and approvals," however the legislative intent was not to make the process more expensive and challenging. **We recommend that DOER define "all necessary local permits and approvals" as all non-ministerial, discretionary approvals. Ministerial approvals such as building permits that are not discretionary should be allowed to take place later in the process as they do today.**

A straightforward way to make this work would be to allow review and approval on the level of documents that are currently provided in initial approval applications, and make one of the conditions of approval (if necessary and applicable) be a future filing that includes the level of final plans required for the relevant permits (such a building permit) in a compliance filing. Provided the compliance filing is consistent with the approved design, a building permit (and other similar approvals) should be issued in a ministerial manner.

3. The implementation timeline is too generous in light of the Federal context and the importance of affordability

The regulations propose allowing municipalities to continue processing applications under the existing process through December 1, 2026. While we understand that implementing a new permitting process is a difficult and time-consuming task when applied across 351 cities and towns, it is important to understand that in the current context of shifting Federal policy, a number of months can have a material difference on whether projects are able to access the Federal Investment Tax Credit (ITC), and therefore potentially have a substantial impact on the affordability of new clean energy generation in Massachusetts. In order to access the ITC, projects that begin construction by July 2026 have four years to be placed in service. In addition, new rules limiting the amount of equipment that can come from "Foreign Entities of Concern" take effect for projects starting construction in 2026 and will make it more difficult and expensive for projects to maintain the ITC. Therefore, many developers are making investments in equipment in 2025 to meet the standard for starting construction. These projects will have a deadline to

be placed in service by the end of 2029. Working backwards, projects with a 12/31/29 deadline will need to finish construction by approximately July 2029 to leave time for commissioning and utility tests. Therefore, projects need to start on-site construction no later than early 2028. If projects cannot start permitting under the new rules until December 2026, they will not finish permitting until December 2027 even if everything proceeds on a timely basis. If a de novo adjudication is needed, those projects will not be able to meet their placed in- service deadline, and they will lose access to the ITC. If those projects instead start permitting under the current rules, there is no known timeline for completion, and if an appeal is needed, that typically takes years to resolve through the courts.

In light of this unprecedented pressure from the expiration of the ITC, while the approach to give municipalities extra time to implement the new regulations is well-intentioned, it does not reflect the urgency necessary to capitalize on short-lived federal support. While we understand that town meeting schedules may be extremely limiting in some circumstances, **the default requirement should be that municipalities accept applications under the new rules starting July 1, 2026.** This is the date that the EFSB will begin accepting applications under the new rules as well. We encourage DOER to begin working with municipalities this winter to prepare for spring town meetings, and in the rare cases where it is truly impossible to enact new rules by July 1, DOER could grant limited exceptions. In addition, **DOER should clarify that prefiling activities under the new rules can begin as soon as the regulations are finalized.**

Otherwise, a delay of five months in the implementation of the new rules is likely to be the difference between a significant number of projects meeting their ITC deadlines or not. For many projects, loss of the ITC threatens a project's economic viability, and therefore if the timeline is too tight to complete construction, projects will be unable to secure construction financing and will likely not be built at all. Earlier this week, Governor Healey directed the Department of Public Utilities to do what is "necessary to enable the interconnection of new solar resources before the federal investment tax credits expire…Massachusetts ratepayers cannot afford to lose out on the cheapest and fastest energy that can get built."[4] DOER should require municipalities to act with similar urgency in implementing these regulations.

4. Key Stakeholder definition is too broad

[4] https://www.mass.gov/doc/dpu-letter/download

As written, the "Key Stakeholders" definition is overly inclusive, vague, and difficult to implement. It is also used for specific purposes: "Key Stakeholders" as a term is used three times in the Draft Regulations outside of its own definition. Although it is used rarely, it is important to ensure that the definition is clear and not disputable, especially as being a Key Stakeholder confers the ability to contest a Site Suitability score. In its current form, the definition is not workable. The Draft Regulations define "Key Stakeholders" as "[m]embers of the public including . . ." and then list a number of broad and vague categories such as "local residents," "public interest groups," and "organizations" if they are within "one mile of a proposed [SCEIF]." The definition goes on to state that "Key Stakeholders "may include" and to add a number of additional and overlapping broad additional categories, such as "businesses," "community-based organizations," and "elected or appointed municipal officials."

The result is a definition that could mean many different things to many different people and will be difficult, if not impossible, for developers to comply with. By starting the definition with "members of the public . . . including . . ." the definition seems to include every "member of the public," which, even if intended to be limited by the one-mile distance, is overly broad. Moreover, it is not clear why specific groups are listed (like "local residents") since they are clearly also "members of the public." In addition, providing that Key Stakeholders "may" include a number of broad categories is also problematic. A petitioner needs to know who it is required to interact with under the Draft Regulations; this can't be ambiguous, because that unfairly puts the risk of an incorrect interpretation on the petitioner.

This is a serious concern because the Draft Regulations put requirements on a petitioner to, for example, share estimated Site Suitability scores with Key Stakeholders (225 C.M.R. 29.07(2)), allows Key Stakeholders to request review of project scores (225 C.M.R. 29.07(4)), and requires a meeting be open to Key Stakeholders.[5] A petitioner needs to know with certainty how to comply with these requirements. Moreover, because any Key Stakeholder is permitted to contest a Site Suitability score, which then starts a 30-day review period, the scope (for this purpose) should be limited to individuals with an actual interest in the project, so as not to invite unnecessary delay imposed by individuals without a significant tangible interest.

If DOER chooses to retain a concept of "Key Stakeholders," we recommend distinguishing between *Stakeholders* who may reasonably expect to receive direct notification of a proposed project (in addition to the public meeting and notification

[5] This last use seems especially unnecessary. A "public meeting" is, by definition, open to the public. There is no need to specifically require that a public meeting be open to specific stakeholders.

requirements set forth in the regulations) **and *Key Stakeholders*. Key Stakeholders should refer only to specified categories of elected or appointed municipal officials** (i.e. not all municipal employees or officials but only a subset determined by DOER) **and residents whose properties directly abut the proposed facility**. This better aligns with those who would have particularly critical perspectives.

Moreover, the definition of Key Stakeholders provides a menu of potential individuals or organizations who may fit the definition. It is unrealistic to expect the Applicant to know which individuals or organizations (beyond abutters and those within the specified radius) should be deemed as Key Stakeholders. In order to ensure the identification of Key Stakeholders is actionable and does not cause dispute, we recommend that DOER, in addition to separating the definition into two categories of Stakeholders vs. Key Stakeholders, specify that the municipality has the responsibility for designating elected or appointed officials who would like to be involved, as well as up to five (5) businesses or organizations that would be deemed Stakeholders for all SCEIF applications in that municipality. This will take the guesswork out of identifying key stakeholders and allow municipalities to ensure the key voices are part of the process.

Finally, one mile is an unreasonably large radius if it is applied to all projects. One mile is vastly more than what would typically be required under current law. *See, e.g.*, G.L. c. 40A, s. 11 (setting 300 feet as a notice requirement for hearings relating to zoning matters). It is out of synch even with notice that has been required in the past for large, EFSB-jurisdictional projects, including fossil fuel facilities that may have air quality impacts that affect a much larger area. The impacts of clean energy facilities at the proposed distance of one mile are non-existent or minimal, yet the associated burden, not just to a project proponent, but to the public and to the implementing authorities, is significant. **One-quarter mile is more than sufficient to provide opportunities for nearby residents to be involved in the process as Stakeholders.**

5. Clarifications needed on Public Health, Safety, and Environmental Standards

In the Draft Regulations, 225 C.M.R. 29.06, "Public Health, Safety, and Environmental Standards" is essentially a placeholder. It functions to say that applicants will be required to meet standards that will be set in guidance.[6] DOER should consider the extent to which it is appropriate to rely on guidance for this important purpose. Regardless

[6] These comments do not address or respond to DOER's subsequently released draft guideline on this topic. The Clean Energy Groups look forward to engaging with DOER on that document separately.

of DOER's approach, the standards ultimately adopted should be subject to robust stakeholder input. The Clean Energy Groups encourage DOER to consider beginning with a more modest scope and expanding as appropriate based on experience.

More specifically, in 225 C.M.R. 29.06(1), the Draft Regulations require compliance with a guideline in the first sentence and then compliance with "all criteria and standards" in the second sentence. This is confusing and unclear because it is ambiguous whether the second sentence is referring to "criteria and standards" in the guideline—in which case it seems to be duplicative and unnecessary—or whether it is referring to some other "criteria and standards"--in which case there is no indication where those criteria and standards can be found. The Clean Energy Groups recommend deleting the second sentence for clarity.

In 225 C.M.R. 29.0(2), the Draft Regulations appear intended to allow local governments to adopt additional standards that do not conflict with standards in the regulations or in the associated guideline. **The Clean Energy Groups are concerned that this provision is not clear enough to avoid disputes as to what standards may be within a permissible scope and what constitutes a conflict.** DOER should delete "reasonably" in this provision, as it introduces a deviation from an established standard. *See, e.g.*, G.L. c. 40A, s. 3. DOER should also clarify that local government standards that address impacts specifically addressed in the regulations or associated guidelines and which impose a more restrictive requirement would constitute an impermissible conflict. Further, the Department should define a process for reviewing any proposed additional standards if there is a dispute about whether they are reasonable or conflict with state law or regulations.

Finally, 225 CMR 29.06(1) states "The Applicant shall conform to all public health, safety, and environmental standards in accordance with Department specifications in its Guideline on Public Health, Safety, and Environmental Standards *throughout the construction, operation, maintenance, and decommissioning* of a Small Clean Energy Infrastructure Facility" (emphasis added). The useful life of an SCEIF may be as long as 30-40 years, during which time the Department's Guideline may be amended many times. **It should be clarified that a given SCEIF is subject to the Guideline in effect at the time the project was permitted.**

6. Incorporation of Site Suitability Guidance

The Clean Energy Groups have significant concerns about the Site Suitability scoring construct included in the Draft Regulation. There is a separate process for commenting on the Site Suitability Guidance, and these comments are not intended to

address that Guidance directly. However, it is important to understand that the provisions in the Draft Guidelines at 225 C.M.R. 29.07 create potentially burdensome new hurdles for the development of SCEIFs that are unlikely to provide commensurate benefits.

The 2024 Climate Act introduced the concept of "site suitability" determinations. It is our understanding that the legislature intended that site suitability determinations be used in a manner much like environmental impact review under MEPA: to require that applicants and permitting authorities take a "hard look" at certain impacts relating to a proposed project and inform decisions as to whether a project may be granted a permit under requirements applicable to that permit and, if so, whether the permit should be granted with special conditions designed to address impacts that have a reasonable nexus to that permit. MEPA is written broadly to require all feasible measures to avoid or minimize any environmental impact but, where triggered by the need for state permits, has been interpreted as being tied to the subject matter of those permits. For example, despite the broad language of MEPA, a project only requiring a wetlands permit is not required to mitigate traffic impacts. Similarly, under Section 23 of the 2024 Climate Act, MGL c. 25A, s. 21(b) requires that DOER develop standards for applying EOEEA's site suitability guidance "during the permitting process." In other words, site suitability determinations should inform the permitting decisions of local governments, including conditions that fall within the subject matter of the permits at issue.

Under existing laws, local governments and other approval authorities already carefully review petitions and apply rigorous standards from a wide array of applicable laws and regulations. **"Site Suitability" measures have the potential to be helpful by providing additional context to the reviews that already take place under the myriad existing legal authorities.** In that way, they can guide the application of existing substantive law to identify, minimize, and mitigate impacts within the scope of existing law. *See* G.L. c. 25A, s. 21(b) (iv). **However, they will not be helpful if they become a free-standing set of new requirements that operate in addition to all the existing permitting and approval standards and requirements for SCEIFs.**

DOER should further streamline the process for incorporating site suitability-related information into the review process. As currently set out in the Draft Regulations, the scoring process itself has potential to be burdensome and to lead to unnecessary delay. For instance, it requires the involvement of a "Site Suit ability Score Reviewer" and additional prefiling process. That process could be slowed by questions of completeness, which may become a new hurdle if that standard is unclear or inconsistently applied. As noted above, the right to contest a Site Suitability Score (225 C.M.R. s. 29.07(4)) should be restricted to municipal officials and direct abutters of a proposed project so as not to invite

unnecessary disputes by parties not directly affected that could delay the process. The proposed process for incorporating Site Suitability determinations into the prefiling process will result in the generation of additional reports and documentation that will be burdensome for proponents and reviewers. This is all unnecessary. **DOER should simply require a project proponent to file a site suitability score with its application and allow the site suitability score's adequacy to be reviewed during that process**; that is, most or all of 225 C.M.R. 29.07(2) could be removed.

7. Mitigation Measures

The Draft Regulations at 225 C.M.R. 29.07(5) through 29.07(7) set out provisions relating to minimization and mitigation measures. **We appreciate DOER's inclusion of "a rational nexus" standard and encourage DOER to further define the scope of potential mitigation measures such that the measures imposed by a Local Government are of a similar scale to the impact a project may have and address the identified impact** (as opposed to mitigation measures that may address other non-identified impacts). We further suggest removing the qualifier "to the extent practicable" as it undermines the "rational nexus" standard that ensures the minimization and mitigation measures are addressing identified impacts.

As suggested above in the discussion of site suitability, any mitigation-related conditions should fall within the subject matter of the relevant permits. For example, in the case of an SCEIF that is petitioning only because it needs a wetlands order of conditions from a Conservation Commission, any mitigation-related conditions should relate to mitigation of wetlands impacts.

We ask that DOER clarify that duplicative mitigation requirements are not permitted. Many of the SCEIFs that will be seeking permits under these rules will be solar facilities that will be seeking to participate in the SMART program. The SMART program, under 225 CMR 28.09, now requires that all ground-mounted projects larger than 250 kW that are not on Previously Developed land and do not qualify for a Locational Adder pay a Mitigation Fee of up to $50,000 per megawatt per acre. At the same time, 225 CMR 29.07(5) through (7) gives municipalities wide latitude to impose their own mitigation measures. DOER should clarify in these regulations that mitigation for the same impacts should not be simultaneously imposed through both mechanisms.

DOER should also clarify how it intends 225 C.M.R. 29.07(6) to function. As the Clean Energy Groups understand it, this provision is intended to apply where a proposed facility would otherwise be denied. How this provision ultimately functions will depend on

how the relevant guidance is finalized, but it should be clear that it would be inappropriate for a local government to apply this provision to projects that would otherwise meet applicable standards for approval. Such projects could, of course, always enter into voluntary agreements to provide additional mitigation as part of a community benefit agreement or otherwise. But this provision should not provide a mechanism for local governments to apply undue pressure on projects that meet applicable standards to "voluntarily" take on additional commitments that could not otherwise be applied consistent with relevant legal standards.

8. Prefiling and Application Review timelines should be streamlined

Under 225 C.M.R. s. 29.08, applicants must file a Notice of Intent to file no more than 60 days prior to submitting an application, and the municipality has 30 days to review and deem the Notice of Intent complete. If incomplete, the applicant has 30 days to cure any deficiencies followed by another 30-day window for the municipality to review and 30-days to cure. This process is additive to the 12-month application review timeline, effectively creating what could easily be a 16-month permitting process, not even including additional time that may be needed to prepare submissions and conduct stakeholder outreach. This is a long time for a small project to obtain local permits, and it does not compare favorably with the current permitting timelines for many projects, which could conclude within a few months. Moreover, it seems counter to the 12-month period of review provided by the Climate Act by requiring much of an application to be submitted long before a complete application is allowed to be submitted. *See* G.L. c. 25A, s. 21(d). DOER should reduce as much as possible the additional time that its regulations require for the permitting process in order to be consistent with the intent and express requirements of the Climate Act.

The Clean Energy Groups recommend DOER make the following changes to 225 C.M.R. 29.08 to reduce the potential for unwarranted delay and improve clarity for all parties:

- **Remove the requirement to submit an Abbreviated Notice of Resource Area Delineation with every application** and instead align this with current practice of being optional based on specific project needs. This would ordinarily be an optional process and some projects may have no need to pursue it. This submission would typically be associated with a project that has uncertainty as to whether it overlaps with areas subject to the Wetlands Protection Act.

Requiring all applicants to include this is unnecessarily burdensome to applicants and local governments. This section also suggests that a Conservation Commission may have "requested" a "Request for Determination of Applicability." This process too is ordinarily optional and may be an unnecessary submission for some projects. It should only be required if the applicant elects to pursue it. Moreover, this provision introduces confusion because it is not clear by what process a Conservation Commission would weigh in on the content of a Notice of Intent before it is filed.

- Provide more flexibility in Section 29.08(2)(d) by simply requiring submission of a "draft Emergency Response Plan" in recognition of the fact that not all local governments may have all three of the departments listed in this section. In addition, the language in this section "to be approved by the Local Government's fire, police, and emergency management departments" appears to create a new type of formal approval that does not exist today. For towns that have fire, police, and/or emergency management departments, their review of an Emergency Response Plan should be incorporated into the consolidated permitting process, rather than being required as a prerequisite of an application.
- The "self-attested Pre-filing Engagement Certification Checklist affirming the Applicant will complete the following stakeholder engagement after submission of a Notice of Intent" (225 C.M.R. 29.08(2)(e) is unnecessary. The regulations can simply require that applicants follow specified stakeholder requirements. If an attestation is needed at all, it should be required only once, after the thing being attested to has occurred.
- 225 C.M.R. 29.08(2)(e) is also unclear in its reference to "the following stakeholder engagement . . ." This may be intended to reference something in a guideline, but as currently drafted has no clear reference.
- 225 C.M.R. 29.08(2)(f)(1) does not need to specify that "public meeting" will be open to "Key Stakeholders" because a "public meeting" is open to the public. Specifying "Key Stakeholders" in this manner introduces confusion to an otherwise straightforward requirement.
- 225 C.M.R. 29.08(2)(f) should specify that the notice requirements in (f)(2) apply to notice of the public meeting described in (f)(1), assuming that is DOER's intent. Otherwise, it is not clear to what the notice requirements apply.
- DOER should remove "but not be limited to" from 225 C.M.R. 29.08(2)(f)(2). By stating that "Notice shall include but not be limited to the following" the provision currently suggests that the listed items would be insufficient unless something additional but unspecified is added, which would be problematic. In contrast, if DOER were to delete "but not limited to" the provision would clearly

state four items that must be included without precluding the possibility that other items must be included.

- The Draft Regulations do not require the use of certified abutters lists obtained from Local government Authorities. *See* 225 C.M.R. 290.08(2)(f)(2). The Clean Energy Groups agree that use of certified lists is burdensome for applicants and Local governments and unnecessary. DOER should specify that use of publicly available records and maps, such as those posted on the relevant municipalities' website are sufficient.
- The Clean Energy Groups recommend that DOER amend the Draft Regulations at 225 C.M.R. 29.08(2)(f)(3) to require that the applicant provide an electronic form of the notice and at least three paper copies to the Local Government along with a request that the Local Government post them to its website and at three public buildings. DOER may intend that the applicant post the notice on a Local Government Website and at public buildings. However, that is problematic because an applicant cannot generally require that a Local Government agree to post information to its website or control the timing and manner in which the Local Government does so.
- Further as to 225 C.M.R. 29.08(2)(f), it is confusing to include this provision—"Public Notice Requirements"—within 225 C.M.R. 29.08(2), which lists items that the "Notice of Intent to File . . . shall include." The other items in this list are tangible things that it appears DOER intends to require to be physically (or electronically) submitted as part of the Notice of Intent to File. But the Notice Requirements are a separate requirement. DOER should reorganize 225 C.M.R. 29.08 so that the current Section (2)(f) is not included in this list as part of Section (2) but rather is included elsewhere as a separate requirement. Failing to make this change also creates confusion as to whether the public meeting and associated notice must occur before submission of a Notice of Intent to File even though 225 C.M.R. 29.08(3) seems to clearly indicate that they need not.
- To ensure that the pre-filing requirements do not inadvertently create the opportunity for municipalities to unreasonably delay or deny a project, a more specific and objective check-list is needed.
- The 30 days provided in 225 C.M.R. 29.08(2)(f)(4) is far longer than should be necessary to determine whether Notice of Intent to File is complete. It should be shortened to 10 business days. After all, this is not an Application, just a notice of intent to file an application, and the review should not be substantive, just a confirmation that each required element is included.
- DOER should amend 225 C.M.R. 29.08(4) to clarify that the Local Government Representative's role at this stage is only to assess whether every required

element of a Notice of Intent to File is present, not to adjudicate the substance of any of the submissions. For instance, the Local Government Representative should check whether a draft Emergency Plan is included but should not be evaluating whether a draft Emergency Response Plan is adequate. It would be inappropriate for substantive assessment of the merits of an application to start at this stage and inconsistent with the structure of the process. Moreover, it would be inconsistent with the Climate Act's 12-month review requirement.

- The process for denying a Notice of Intent that is not cured (225 C.M.R. 29.08(4)(a)(1) is unnecessarily and unduly complex; it could simply be deleted. It is unclear to the Clean Energy Groups why there should be a process for denying a Notice of Intent to File at all. Rather the Local Government Representative could simply continue to find a notice deficient and the applicant can pursue the review of the Regulatory Circuit Rider if it believes the decision is in error. Adding a process for denial without prejudice does not seem to substantively change what would actually occur.
- The Draft Regulations do not provide any time limitation on the Regulatory Circuit Rider's review under 225 C.M.R. 29.08(5). The Clean Energy Groups recommend that the review be required to be completed within 7 business days.

9. Application Fees should be defined

225 CMR 29.09(1) states that "Permit fees shall be assessed at the time of the Consolidated Local Permit Application's submission to the Local Government…and may include a fee structure to cover required technical consultants including but not limited to engineers, architects, wetlands scientists, and attorneys." However, the appropriate level of these application fees is not defined in the regulations, nor is there any mention that it will be defined in a forthcoming guideline. This is problematic, as certain municipalities may seek out any opportunity to create barriers for clean energy facilities. Without defining an appropriate level for application fees, certain municipalities may set fees at a level that is intentionally unaffordable to a SCEIF at an early stage of development. This could be especially problematic if new fees are added to fees that are already applicable for some local applications. Moreover, the Climate Act does not seem to authorize this type of new fee. The Clean Energy Groups recommend that DOER not purport to authorize assessment of new fees absent statutory authority to do so.

10. Consolidated Local Applications

The Draft Regulations refer to a guideline frequently in connection with permit application requirements. The Clean Energy Groups are not aware of a corresponding draft guideline having been released. The Clean Energy Groups look forward to commenting on that guideline when it is available.

Especially because DOER intends to issue a guideline on the topic, the Clean Energy Groups are concerned that the Draft Regulations (specifically 225 CMR 29.09(2)) are overly broad and prescriptive in listing elements that will be required of all applications. This is particularly true for very small facilities that may be exempted from site suitability requirements under 225 C.M.R. 29.07(1) but remain subject to these application requirements. Because there is no minimum size for facilities potentially subject to this process, it could capture very small facilities (even residential-scale facilities), for which the burdens of this type of application may be unsurmountable.

The Clean Energy Groups do not believe it is necessary for the Draft Regulations to include the long list of sub-items in 225 CMR 29.09(2), which may be repeated in any event in guidelines. **Even if a listing is required, DOER should make even more clear that many of these elements are necessary only if the associated local approval is required.** That is, materials necessary for Wetlands approvals under the current subpart (f) are only required if the project is requesting such approvals, materials needed for site plan review under current subpart (s) are only required if site plan review is required, etc.

If DOER nonetheless includes this type of listing in its regulations, DOER should not include "but not limited to" in the introduction to the list as it currently does in 225 C.M.R. 29.09(2). Use of "but not limited to" implies that including all of the listed elements in an application would not be sufficient unless something unspecified is added, which would not make sense.

Critically, **the initial application should not include "all materials needed to secure electrical, plumbing, excavation, earth removal, or curb cut permits,"** as it currently does in 225 CMR 29.09(2)(d). For the reasons described above, some of these permits may require materials that would not or cannot be generated at the beginning of the permit process. Rather, DOER should require submission of materials necessary for those approvals but excluding any final engineering and design plans or similar documents.

In addition, section 225 C.M.R. 29.09(2)(k) lists a series of disclosures that are required by statute to be included in Consolidated Permit Applications. While we acknowledge that these requirements are in the statute, it is important to understand that permit application occurs early in the project development lifecycle, and Applicants will not have firm information about many of the items required in this section at that time. In

addition, it is common for the company that develops a project to sell it to a different company before construction, and the development company typically does not know at the time of permit application what other company will be the eventual owner. In light of this misalignment, and the fact that many of these requirements are vague, the Clean Energy Groups are concerned that these requirements could be used as an opportunity to deem an application incomplete, to deny an otherwise worthy application, or to deem an approved Applicant out of compliance with a permit after the fact. We urge DOER to clarify in guidance specifically what is required for a complete application in this section, with the recognition of the above constraints. Further, we recommend that DOER clarify that these disclosures are simply disclosures, and that their content cannot be grounds for denial of a permit.

11. Consolidated Local Permit Application Review Process

The Clean Energy Groups stress that the Climate Act's 12-month time limit for review was intended to be an outside limit. It was not intended to set an expectation that all applications would require a full 12 months of review. The Clean Energy Groups are concerned that the Draft Regulations craft a process that assumes a 12-month review period will be the norm and authorize Local Governments to pace themselves to that target. This would result in a local permitting and approval process that would be generally **worse** for deployment of SCEIF than the status quo. As described elsewhere in these comments, many (perhaps most) SCEIF can currently obtain all local permits and approvals in a matter of months. Certainly, there are problems where that process gets dragged on interminably for some projects, but for many, existing processes for approvals like site plan review or Orders of Conditions can be efficient, focused, and effective at minimizing and mitigating impacts.

The Clean Energy Groups recommend DOER make the following specific changes to 225 CMR 29.10:

- The determination of completeness for a Consolidated Permit application (225 CMR 29.10(1-2)), similar to the process for determining completeness of a Notice of Intent to File, includes unnecessarily long periods for completeness review that are likely to draw out the application timeline. The process as proposed allows for a 30-day review period by the Local Government, a 30-day cure period, another 30-day review period, and a final 30-day cure period. Together, this could add an additional **four months** to the process. Combined with the prefiling timelines, this could extend the approval process to **20 months**. Unfortunately, experience in New York and the possibility of local political opposition indicate that long delays of this type

could be common. We acknowledge the staffing challenges with municipal review of applications, but there are opportunities to streamline this process that would benefit all stakeholders, and DOER should bear in mind that the projects that will be subject to these regulations will generally be small and straightforward, of a type with projects that have, for years, been able to obtain the same local approvals from Local Governments within months.

- First, we recommend that DOER develop a **common application** that all Local Governments could use to ensure that the appropriate documents are submitted on the first attempt by the Applicant. The form should be clear and objective about what is required in an Application.
- Second, with a common application in place, we recommend only a **single review and cure period**. If there remains disagreement over completeness at that point, the application could then be submitted to the Regulatory Circuit Rider for review. Requiring a second two-month back and forth between the Applicant and the Local Government seems unlikely to be an efficient means of resolving disputes.
- Third, the regulations should explicitly require that **any determination that an application is incomplete be accompanied by a listing and explanation of all deficiencies. If an applicant resubmits having addressed each identified deficiency, the Local Government should not be able to, at that time, identify a new basis for an incompleteness determination.**
- Fourth, the regulations should explicitly state that a completeness determination can be based only on whether a required element, explicitly identified in applicable regulations or guidelines, has been included in an application. A completeness determination does not include an assessment of the merits of an application or the sufficiency of any element of an application that is submitted. This is critical because the 12-month available review period is intended precisely to adjudicate the merits of an application, and the Climate Act considered the need for that review in setting a minimum timeframe. Providing for a review of the merits of an application that occurs outside of the allowed 12-month review period would be inconsistent with the Climate Act. Rather than implement the Climate Act's intent to streamline permitting review, it would provide an incentive to shift substantive review into the completeness determination process, where it could inappropriately avoid the express limitations of the Climate Act.

- The Department should clarify 225 CMR 29.10(1)(c). Currently it does not explain to whom the digital copy referenced should be provided or when the referenced seven-day period begins.
- In 225 CMR 29.10(2) DOER should explicitly state that **all reviews should be conducted as expeditiously as reasonably possible, without unwarranted delay, and no slower than a comparable review is conducted for non-SCEIF applicants seeking the same approval.** The Clean Energy Groups are concerned that the Draft Regulations may encourage unnecessarily slow reviews. For example, a board or department may ordinarily (pursuant to current practice) schedule a particular type of hearing within a month, or issue a determination within two weeks of a hearing. This could be required by law, or it could be the standard practice of the board or department. The Draft Regulations seem to indicate that such boards and departments should no longer feel constrained to meet other time constraints because the only deadline is 12 months. That suggestion, without clear direction to conduct reviews in a timely manner, invites procrastination and delay. In 225 CMR 29.10(2), DOER should be explicit that, if other laws (such as municipal bylaws or ordinances) require a timeline for review less than 12 months, that shorter timeline still applies to that portion of the review. There is no basis in the Climate Act to allow for government bodies to violate otherwise applicable requirements, and certainly not in a way that slows down review of applications.
- Under 225 CMR 29.10(3), if a necessary permit or approval is denied earlier than 12 months into the review period, the review process for other permits or approvals can proceed for up to 12 months, during which time no appeal is possible. If a project will be denied, there is little benefit in continuing an effectively moot review process for a possible additional 12 months. That approach burdens applicants and local governments for little additional benefit. 225 CMR 29.10(5)(b) should be amended to remove the last sentence and, in its place, add a sentence making clear that an appeal is available but not required as soon as a single denial determination has been made.
- Applicants and Local Governments require additional direction in the regulations for two critical scenarios that are currently not addressed: (1) where permits or approvals are required from multiple municipalities and (2) where two or more local governments or boards both issue approvals of an application but contain conditions or requirements that are inconsistent or duplicative with each other (e.g. one requires a sound wall be placed at certain location and one requires that the same location be maintained in its current state to reduce visual impacts, or two approvals each contain a mitigation requirement to address the same impact (double-counting)). The Clean Energy Groups do not see in the Draft Regulations a

process for resolving either situation. The Clean Energy Groups recommend that a multi-municipality project be subject to essentially similar requirements to single municipality projects, but that there be additional procedures to ensure coordination and the eventual issuance of compatible and consistent approvals. As to the possibility of inconsistent subsidiary approvals, the Clean Energy Groups believe that the Climate Act clearly and deliberately places the responsibility for issuing an approval that is internally consistent on the Local Government. To ensure this consistency, Local Governments should be required to implement a process to coordinate their final determinations and avoid or resolve this occurrence. It would be wasteful, cause delay, and impair SCEIF deployment if projects were forced to appeal their own favorable decisions to resolve avoidable inconsistencies in an approval determination.

- Further, the Clean Energy Groups encourage DOER to provide flexibility to Local Governments to implement the Climate Act and not to preclude, for example, a local government that may choose to set up a single internal authority with authority over multiple approvals or the ability to amend and coordinate approvals for consistency.
- The timelines in 225 CMR 29.10(4) should be amended to account for the fact that information requests may include substantive requests, for example, requiring revised site plan drawings to modify a project footprint.[7] That type of request cannot reasonably be responded to in full within three to seven business days. In many cases, it may require engaging a professional consultant to generate revised plans. This process can be both time-consuming and expensive. Timelines should be flexible to account for the vastly different burden that may be associated with different types of requests. Based on general experience, two weeks is often but not always sufficient to respond to requests that require some degree of evaluation and consideration but do not require changes to project plans, studies, or assessments. More complex requests can require a far longer period even when pursued with utmost good faith and diligence. **The Clean Energy Groups recommend that specific directions about timelines be included in guidance rather than directly in the regulations, and that those directions be flexible.** One approach would be to set a default expectation but to require that timelines be commensurate with the

[7] Of course, some requests could be simple to the point of being capable of immediate responses. There is an extremely broad spectrum of potential requests form permitting authorities.

scope and burden of the request and subject to extension for good cause, pursuant to an expeditious decision from the Regulatory Circuit Rider.[8]

- For similar reasons, 225 CMR 29.10(4)(a)(1) should be amended to require that a failure to respond to communications must be found to be (1) knowingly caused, unreasonable, and significant; (2) in bad faith; or (3) for the purpose of delay, if it is going to be used as the basis for denying an application that otherwise meets applicable standards for approval. Again, any detail with respect to this issue would be better suited to guidance than regulations.

12. Circuit Riders

The Clean Energy Groups recommend that DOER clarify in the regulations or in guidance the extent to which an "answer" or other "help" or "assistance" from a Circuit Rider constitutes a binding determination or interpretation of DOER regulations or guidance. For instance, are Applicants or Local Governments free to disregard positions taken by a Regulatory Circuit Rider, and, if they do, will the Regulatory Circuit Rider's participation be part of the record for any appeal? Further, if a Regulatory Circuit Rider provides an interpretation of regulations or guidance to a Local Government or Applicant, is that party (or the Regulatory Circuit Rider) required to provide notice of that interpretation to other parties?

13. Conditions for Constructive Approval

Because DOER will be preparing and finalizing guidance on this topic, the Clean Energy Groups recommend that DOER remove the romanettes i through iv that appear in 225 CMR 29.12(1). The same content can be specified in guidelines and including specific statements in the regulations may unduly constrain DOER as it develops the corresponding guidelines. This is particularly important in this case as standard conditions should be flexible to address a wide variety of projects and situations, and it is not clear that DOER has yet finalized its intended approach.

14. Model Bylaw

The Draft Regulations include, at 225 CMR 29.13, provisions relating to implementation of a model bylaw. The development of a model bylaw is a complex

[8] The Clean Energy Groups also note that it is confusing why DOER would be issuing requests for information during the local review process, as this section implies. DOER should clarify to what types of DOER requests this secion is intended to apply.

undertaking because of the need for such bylaw to interact appropriately with other applicable laws, policies, and requirements. The Clean Energy Groups are unable at this time to provide robust feedback on the associated provisions in the Draft Regulation because it has not had sufficient time to review proposed draft model bylaws, but we look forward to providing feedback on the model bylaws for solar and energy storage as we believe these will help provide a common foundation for this new permitting process. The Clean Energy Groups encourage DOER to not include prescriptive elements in the Draft Regulation that could interfere with the development of effective model bylaws. Reserving specific requirements and obligations to guidance may be a more effective approach than attempting to include details in the regulations at this time.

The Draft Regulations also state that the Model Bylaw will outline procedures that a Local Government "shall follow" but then suggest that a Local Government "may" adopt the Model Bylaw, meaning that adoption is optional. That seems to send mixed signals. It may also be misinterpreted as suggesting that a Local Government cannot issue a Local Consolidated Permit without having adopted some bylaw that incorporates the requirements of 225 CMR 29. This is not the case. The applicable provisions of the 2024 Climate Act, coupled with 225 CMR 29, will apply to Local Government conduct and will preempt conflicting local law, even if a Local Government has not yet modified its bylaws.

We also note that "Local Government" includes regional agencies, such as the Cape Cod Commission, which do not have bylaws.

15. Petitions to Modify

In 225 CMR 29.14(2), the Draft Regulations provide for a successor in interest to petition for a modification to pre-existing permitting obligations for an SCEIF. Although it is not explicit, the Clean Energy Groups assume this is intended to apply to obligations that are associated with a consolidated local permit issued under the process set forth in the Draft Regulations. It would be helpful if the regulations specified any associated procedural requirements that would apply in such a situation. More important, this provision seems to suggest that a successor would not have the same right as the original permit holder to petition for an amendment of the permit. Both the original permit holder and any successor in interest should have the same right that any permit holder currently has to seek a major or minor permit modification.

Conclusion

The Clean Energy Groups thank DOER and its staff for their work on this significant undertaking and their efforts to advance the implementation of the Climate Act more broadly. We appreciate the opportunity to provide these comments.

Please do not hesitate to reach out with any questions or to discuss these issues further. The Clean Energy Groups look forward to continued cooperative efforts to implement the important policy changes directed by the Climate Act.

Sincerely,

/s/ Valessa Souter-Kline
Valessa Souter-Kline
Solar Energy Industries Association

/s/ Kate Daniel
Kate Daniel
Coalition for Community Solar Access

/s/ Natalie Treat
Natalie Treat
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Governor	**Lieutenant Governor**	**Secretary**	**Commissioner**

October 17, 2025

RE: Department of Energy Resources (DOER) 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulations, Public Comment Period

To Whom it May Concern:

On behalf of the Massachusetts Department of Environmental Protection (MassDEP) Wetlands Program, please accept the following comments on the Department of Energy Resources' (DOER's) 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulations. The comments fall into two categories. First, we note the ways that MassDEP typically assists local conservation commissions in their review of Notice of Intent applications pursuant to the *Wetlands Protection Regulations* of 310 CMR 10.00, prior to any potential appeal or request for Superseding Order of Conditions. While the primary focus of 225 CMR 29.00 is on standards and processes for siting and permitting clean energy infrastructure by local governments, the new process should not impede MassDEP's ability to assist local conservation commissions. Second, MassDEP offers targeted comments on specific sections of the draft proposed regulations.

1. Under the Wetlands Protection Regulations, *310 CMR 10.00,* MassDEP has several touchpoints with a Notice of Intent application prior to any potential appeal. MassDEP also frequently assists local conservation commissions with their review.

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Department of Environmental Protection

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Phone: 617-292-5500

MassDEP is providing the following summary of the current permitting process under *310 CMR 10.00* to highlight the ways MassDEP assists local conservation commissions prior to any potential appeal. These opportunities for collaboration should be preserved in 225 CMR 29.00:

a. Per *310 CMR 10.00*, under 10.05(4)(a): *(4) Notices of Intent. (a) Any person who proposes to do work that will remove, fill, dredge or alter any Area Subject to Protection under M.G.L. c. 131 § 40 shall file a Notice of Intent on WPA Form 3 and other application materials in accordance with the submittal requirements set forth in the General Instructions for Completing Notice of Intent (Form 3). If the applicant is not a landowner of the Project Locus, the applicant shall obtain written permission from a landowner(s) prior to filing a Notice of Intent for proposed work, except for work proposed on Great Ponds or Commonwealth tidelands. Two copies of the completed Notice of Intent with supporting plans and documents shall be sent by certified mail or hand delivery to the conservation commission, and one copy of the same shall be sent concurrently in like manner to the Department* [i.e., MassDEP]. *If the project requires a 401 Water Quality Certification pursuant to 314 CMR 9.00: 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States Within the Commonwealth and/or is a water-dependent use project that requires a permit, license or written approval pursuant to 310 CMR 9.00: Waterways the applicant may file a Notice of Intent that is a Combined Application. In that event, an additional copy of the Combined Application shall be sent to the Department's Boston Office.*

b. Once a Notice of Intent (NOI) application is deemed complete by the conservation commission, the MassDEP regional office reviews the application and typically provides comments to the municipal conservation commission and proponent highlighting issues the conservation commission may want to consider in its review, noting deficiencies/requiring additional information, and/or noting any performance standards that the proponent may need to demonstrate have been met.

c. MassDEP issues a file number to confirm that the NOI has met the minimum submittal requirements *(310 CMR 10.05(4)(c))*. Submittal requirements include a filing fee. Part of the fee goes to the local conservation commission and part goes to MassDEP *(310 CMR 10.03(7)(a))*.

d. Once abutter notification and legal advertisement requirements are met, the conservation commission holds a public hearing or hearings, votes on whether the project has met the performance standards of *310 CMR 10.00* and issues or denies an Order of Conditions (OOC).

e. Note that individual Water Quality Certifications are handled entirely by MassDEP. However, some projects are certified by MassDEP provided an OOC is obtained under the Wetlands Protection Act. If a project is subject to 314 CMR 9.00 and a valid Order of Conditions is not issued as part of the process under 225 CMR 29.00, the project may be required to submit a separate Water Quality Certification Application to MassDEP.

2. MassDEP also offers the following regulation-specific comments based on our review of the *225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulations*:

a. *29.07(3): Site Suitability Report:* MassDEP recommends that DOER consider the level of effort required to review Site Suitability Reports to ensure Local Governments have the capacity to complete in allotted time, prior to Constructive Approval deadlines. Site Suitability Reports should be easy to understand and structured to inform decision-making.

b. *29.07(6) and (7): Compensatory Environmental Mitigation and Compensatory Environmental Mitigation Fees:* The final version of 225 CMR 29.07(6) and (7) should clarify that the authorized mitigation measures related to Wetlands Resource Areas must comply with mitigation requirements in *310 CMR 10.00*. The Wetlands Protection Regulations, *310 CMR 10.00*, have specific mitigation

requirements that require full restoration or replacement of each protected Wetland Resource Area. The fee payments intended as mitigation for Resource Areas proposed in 225 CMR 29.07(7) do not meet the Performance Standards of 310 CMR 10.00. The Compensatory Environmental Mitigation proposed in 225 CMR 29.07(6) must include compensatory mitigation that meets the performance standards in 310 CMR 10.00 for all proposed alteration or loss of Areas Subject to Protection under MGL c. 131 § 40.

c. *29.08(2)(c):* Please specify that the Abbreviated Notice of Resource Area Delineation (ANRAD) or Request for Determination of Applicability (RDA) included in an applicant's "Notice of Intent to File Application" are required to comply with *310 CMR 10.00* using existing WPA forms. WPA Form 4A is for ANRADs and WPA Form 1 is for RDAs.

d. *29.08(2)(f): Public Notice Requirements:* The public notice should state where the application in full may be viewed or where to request a copy. *310 CMR 10.00* requires abutter notification and notification of the public hearing or meeting.

e. *29.09(2)(f) Consolidated Local Permit Application*: We propose a slight amendment to 225 CMR 29.09 to make it clearer to the applicant that the standards of the Wetlands Protection Act and Wetlands Regulations at *310 CMR 10.00* apply to local wetlands permit decisions and that applicants must submit all materials required by those laws in order to be able to obtain an approval from the local government as part of its consolidated application. We propose adding the underlined text to 225 CMR 29.09(f):

"All materials necessary to request local permits required under M.G.L. c. 131, s. 40, 310 CMR 10.00: Wetlands Protection, other applicable federal and state laws, regulations and guidance, and all applicable local bylaws…"

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f. *29.09(2)(h)*: This section should reference MassDEP's Stormwater Management Standards in *310 CMR 10.00* and MassDEP's Stormwater Handbook.[1]

g. *29.12: Common Conditions and Requirements for Constructive Approval:* Special Conditions (i.e., site-specific conditions) are typically critical for projects to meet the Performance Standards at *310 CMR 10.00*. Common Conditions related to wetlands should be robust and comprehensive to be protective of Wetland Resource Areas. Projects receiving Constructive Approval should be required to undergo review under *310 CMR 10.00* in order to meet the Performance Standards at *310 CMR 10.00*.

h. *29.13: Model Small Clean Energy Infrastructure Facility Permitting Bylaw:* Note that many municipalities already have Wetlands Protection Bylaws. The regulations at *225 CMR 29.00* should state that current, individual local bylaws cannot conflict with the referenced Model Small Clean Energy Infrastructure Facility Permitting Bylaws. The Regulations at *225 CMR 29.00* should clarify if local bylaws may continue to be applied by the municipality for local consolidated permits.

i. *29.15: Reporting:* MassDEP recommends certain requirements be added for projects that receive Constructive Approval to help account for the lack of site-specific conditions in the final permit. Consider requiring additional environmental monitoring requirements or higher frequency site inspections/reports. DOER should consider and outline enforcement responsibilities in the case of Constructive Approvals.

[1] MassDEP's Stormwater Handbook is available at https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards.

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MassDEP Wetlands Program appreciates the opportunity to comment on *225 CMR 29.00*. Please contact Elizabeth Stefanik, elizabeth.a.stefanik@mass.gov if you have any questions or would like to discuss MassDEP's comments in more detail.

Sincerely,



Timothy M. Jones
Director, Division of Wetlands & Waterways
Bureau of Water Resources
Massachusetts Department of Environmental Protection

Mass Audubon

October 17, 2025

Mr. Rick Collins
Director, Division of Clean Energy Siting and Permitting
Department of Energy Resources (DOER)
100 Cambridge Street, 9th Floor
Boston, MA 02114

Via Email: DOER.Siting.Permitting@mass.gov

Commented [MM1]: Instructions for submission: Written comments will be accepted between September 26, 2025 and 5:00 PM on October 17, 2025. Please email written comments as attached PDF files to DOER.Siting.Permitting@mass.gov with the words "S&P Follow On Rulemaking Comments" in the subject line. Written comments can also be submitted via mail to Rick Collins, Department of Energy Resources, 100 Cambridge Street, 9th Floor, Boston, MA 02114.

Re: S&P Follow-On Rulemaking Comments

Dear Mr. Collins and DOER Siting and Permitting Team:

Mass Audubon appreciates the opportunity to offer comments on DOER's proposed regulations for small clean energy infrastructure (CEI) facility siting and permitting (225 CMR 29.00).

We sincerely appreciate that real progress is being made towards better alignment of the state's ambitious goals to accelerate clean energy and storage deployment – which are mission critical for rapidly replacing fossil fuels with low-carbon electricity – with the state's broad suite of goals to protect and restore the invaluable and irreplaceable services provided by natural and working lands. These services include climate resilience, carbon removal, biodiversity and wildlife habitat, provision of clean drinking water, local food production, and recreation, among others, and are expressed with specificity across various state plans and commitments: the Clean Energy and Climate Plan for 2030 and 2050, a commitment to protect 30 percent of state lands and waters by 2030 (and 40 percent by 2050), Governor Healey's groundbreaking plan to protect and restore biodiversity, and the ResilientMass Plan.

As our 2023 *Growing Solar, Protecting Nature* analysis found, repeating the last decade's pattern of siting clean energy projects – i.e., utilities, energy developers, and private landowners choosing sites with little or no consideration of outcomes to natural and working lands, and often lacking meaningful community engagement, input, or review – would result in significant additional land use change, loss of critical ecosystem services, and further erosion of the public's trust and acceptance of these projects.[1] Further conversion of natural lands at that pace would put the Commonwealth's goals for carbon removal, wildlife habitat and biodiversity, local food

[1]Manion, M., Jonathan R. Thompson, Katie Pickrell, Lucy Lee, Heidi Ricci, Jeff Collins, Joshua Plisinski, Ryan Jones, Gabe Kwok, Drew Powell, & Will Rhatigan (2023). *Growing Solar, Protecting Nature.* Mass Audubon and Harvard Forest. DOI:10.5281/zenodo.8403839 Available at: https://storymaps.arcgis.com/stories/932be293f1af43c8b776fdad24d9f071

production, clean water, and restoration to increase resilience to climate impacts completely out of reach. Moreover, under status quo laws and regulations, communities have little ability to review and shape CEI projects and therefore often litigate against them, increasing the time and expense for approval of much-needed new clean generation capacity.

These trends have not set a tenable path to cleaning our electricity grid, meeting our climate and biodiversity goals, or addressing community concerns about equitable impacts. We applaud the leadership demonstrated by Governor Healey – in establishing the *Commission on Clean Energy Infrastructure Siting and Permitting* (CEISP) in 2023, she brought together key stakeholders with the charge of finding workable solutions to eliminate redundancies and accelerate permitting timelines, improve the balance between clean energy deployment and state goals to maintain natural and working land values, and address needs of communities to play a meaningful role in project siting.

Mass Audubon was proud to serve on the CEISP alongside other statewide environmental organizations, utilities, energy developers, municipalities, and labor representatives. We and other CEISP members endorsed a set of recommendations for consideration by the legislature that, if enacted effectively in statute and regulation, could both accelerate clean energy deployment while also fundamentally shifting siting decisions to better protect natural resource and ecosystem values while adding an explicit role for meaningful community engagement and input.

We also endorsed the general approach set forth in *An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers* (the "Climate Act," passed in Nov. 2024). For the first time, the Climate Act required promulgation of regulations such that both large and small clean energy infrastructure projects must avoid, minimize, and mitigate "negative impacts of siting on the environment, people and the commonwealth's goals and objectives for climate mitigation, resilience, biodiversity and protection of natural and working lands, to the extent practicable."[2]

Reforming energy system permitting and siting decisions and outcomes is a highly ambitious endeavor. In many aspects, DOER's regulations for small clean energy infrastructure (CEI) projects are an impressive first draft of a major reform of a highly complex system that must meet multiple public interest goals: delivering clean, reliable, and affordable electricity to consumers; protecting natural and working lands; and providing communities with an explicit and meaningful role in decision-making to permit and host projects.

[2] For small clean energy projects, the 2024 Climate Act requires: "…a mitigation hierarchy to be applied during the permitting process to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate negative impacts of siting on the environment, people and the commonwealth's goals and objectives for climate mitigation, resilience, biodiversity and protection of natural and working lands, to the extent practicable;"

For large clean energy projects, the Climate Act's language is slightly different: "…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 protection of natural and working lands to the extent practicable;"

We would also like to acknowledge that these regulations have been drafted in a very short time period to meet aggressive statutory deadlines. We especially commend the dedication and hard work by staff from DOER, EEA, DPU/EFSB, and other state agencies who have collected multiple rounds of stakeholder feedback on earlier concepts to develop draft regulations and associated guidelines under intense time pressure.

In particular, we applaud the inclusion of the following improvements to the status quo framework for siting and permitting of small and large clean energy projects:

- Potential for faster, more cost-effective clean energy deployment by consolidating and coordinating local review under a common set of standards from DOER.
- New requirements for meaningful and early community engagement (i.e., well in advance of filings by developers).
- New science-based methods for objective evaluation of site suitability, based on critical environmental values including terrestrial carbon storage and sequestration, protections for biodiversity, wildlife habitat, and ecosystem integrity, resilience to climate change, and agricultural productivity.
- New requirements to minimize and mitigate impacts on natural and working lands, using best statewide datasets describing natural resource services listed above.
- Creative use of *flexible guidance* to complement regulations, which can be updated accordingly as technology, economic conditions, and best management practices change, and as new or updated data and science become available.
- Requirements for validation by qualified third parties, e.g. for site scoring evaluations.
- Assurance for communities that compliance with these regulations will be consistent with the solar and battery zoning exemption at MGL Ch.40A S.3, improving certainty and reducing litigation risks for all concerned.

Despite these notable improvements, Mass Audubon has major concerns that **the proposed DOER regulations for small CEI projects fall short of the mandate set forth in the 2024 Climate Act to *avoid, minimize, and mitigate impacts* on natural and working lands, and that municipalities are assigned a larger role in mitigation and implementation than is feasible or advisable.** DOER's regulations should work in close concert with EFSB regulations for large CEIF and site suitability guidance to set clear, strong, and consistent incentives for utilities and developers to shift siting choices for new project locations. Specifically, these regulations should shift clean energy development towards sites with lower impacts on natural and working lands, and set strong enough disincentives – through the clear statutory mandate to avoid, minimize, and mitigate impacts – to prevent further development on the most ecologically valuable lands. **The fact that these regulations exempt key small transmission and distribution projects from site suitability requirements means that not only sites for those projects but natural lands surrounding them are at risk of unchecked conversion and losses.**

Moreover, we believe that the Climate Act of 2024 clearly assigns responsibility to state agencies, and not to municipalities, for establishing and implementing the mitigation

hierarchy. We believe it is much more appropriate for the state to establish a system for compensatory mitigation, including fee collection and distribution towards protection and restoration of state-level priority lands. In our view, a town-led approach to compensatory mitigation could result in highly inconsistent outcomes, clearly incentivizes utilities and developers to target smaller under-resourced towns, and would likely fall short of adequately compensating the public for losses of public goods. Finally, the requirement for towns to establish compensatory mitigation programs and apply and collect mitigation fees is simply beyond the capacity and capabilities of many rural towns in particular.

Mass Audubon strongly recommends additional changes to these and EFSB regulations in order to close loopholes and strengthen incentives for both utilities and energy developers to avoid and minimize siting on our highest-value natural and working lands. Otherwise, it is entirely possible that impacts of future CEI projects on natural systems and communities will not materially improve upon recent trends.

High-level Recommendations

In this section we provide our recommendations for high-level changes to regulations for small CEI project siting and permitting. We believe these are highly consistent with statutory language in the 2024 Climate Act and the spirit of recommendations from the CEISP.

Note that some of our comments touch on aspects of the EFSB's proposed regulations for siting and permitting of large CEI facilities. Given that small and large CEI projects are closely interconnected within a single electricity grid system, it is difficult to parse out in a single set of comments how the potential impacts of these projects on nature and communities should be addressed according solely to differences in project size and agency jurisdiction and oversight.

We will submit separate comments on both EFSB's draft regulations for large CEI projects and EEA's guidance documents on site suitability and minimization and mitigation. However, we believe that these regulations must work in concert by setting consistent incentives (and disincentives) to utilities and energy developers to limit land use change and community impacts to acceptable levels for all types of projects – clean generation, energy storage, and transmission and distribution, regardless of whether they are 'small' or 'large'.

- **A requirement for 'avoid' should be added to the regulatory requirements.** Our most valuable natural and working lands provide our communities and residents with services – removal of carbon emissions, local food production, critical habitat for wildlife, filtering drinking water – that are simply irreplaceable. To be consistent with statutory requirements, the state's proposed regulations and site suitability scores for small CEI projects should clearly establish that some areas should be avoided and completely off-limits to new CEI project development (note: we believe other forms of development – not just energy - should also be required to avoid highest value natural and working lands).

Commented [CW2]: I think this needs a little editing...I'm finding it confusing if we are saying they "should" be avoided but then right after it says they should be "completely off limits" for new projects...are there other kinds of projects where it's more just a recommendation to avoid those areas? Or should it say "completely off-limits to new *large* CEI project development"? And the sentence seems unfinished at the end - "avoid high value lands"(?)

- **Small transmission and distribution projects should not be categorically exempt from site suitability requirements. Utilities should also be required to pay compensatory mitigation for grid enhancement projects which enable nearby siting of ground-mount solar or other generation and storage projects that cause significant losses to natural and working lands.** We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. In the proposed framework, however, electric utilities' choices of sites for new or expanded electricity transmission and distribution projects are currently exempt from site suitability guidance and requirements to avoid, minimize, or mitigate impacts.

  These regulations, as well as those applying to large CEI projects, should hold utilities – not just energy developers – accountable for avoiding, minimizing, and mitigating the impacts not only from their transmission and distribution project sites, but also for impacts to nearby natural and working lands where generation and storage projects must locate to secure cost-effective interconnections. Our analysis of 14 National Grid and Eversource substation expansion projects (known as Capital Improvement Projects, or CIPs) approved under the DPU's provisional planning process show that nearly 25,000 acres of high-value natural and working lands which are technically viable for ground-mount solar development are within 2 miles of one of these CIPs, and thus are at risk of conversion and loss of ecosystem services.[3] Developers of ground-mount solar projects have few degrees of freedom in choosing sites – they must locate as close to CIPs as is feasible. Since utilities make decisions about CIP sites (and associated expansion of hosting capacity), their CEI projects should be subject to the mitigation hierarchy and utilities should be required to pay at least half of any compensatory mitigation fees based on site suitability scores for enabled projects, with energy developers paying the other half. Moreover, these fees are operating expenses and thus should not be added to the utilities' rate base, nor should they be passed on to ratepayers.

- **Capacity demands on many municipalities for siting and permitting small CEI projects -- especially in applying mitigation requirements -- are too high.** We support

[3] D.P.U. 23-09 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Barre-Athol Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, January, 31, 2023);
D.P.U. 23-06 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Gardner-Winchendon Capital Investment Project Proposa*l (Massachusetts Department of Public Utilities, January, 12, 2023);

D.P.U. 23-12 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Spencer-Rutland Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, February, 1, 2023);

NSTAR Electric Company d/b/a Eversource Energy-D.P.U. 22-47, *Marion-Fairhaven Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, April 15, 2022).

the effort to provide an explicit role for municipalities in decisions to site and permit smaller CEI projects located in their communities. However, many of the rural and under-resourced towns where many of the projects are proposed lack sufficient capacity and expertise to establish a new mitigation program, collect compensatory mitigation fees, or implement other aspects of this program. Moreover, we think a town-led approach to compensatory mitigation of impacts to the state's common trust could result in highly inconsistent outcomes, incentivize utilities and developers to deliberately target smaller, under-resourced towns, and could fall short in adequate compensation of Massachusetts' citizens for impacts to irreplaceable state-level public goods. We are also concerned about the overall administrative burden for cities and towns, which increases the possibility of constructive project approvals. We recommend that EEA take on the role of establishing a new compensatory mitigation program, and a statewide trust fund (or leverage an existing trust fund) to deploy these funds for protection and restoration of priority lands.

- **Need for land use change look-back provisions**: Site suitability project evaluation should include a multi-year (e.g. 5-year) look-back period for forest carbon, BioMap habitat, the Index of Ecological Integrity, and other criteria to ensure there has not been manipulation of the land to affect the site suitability scoring. This avoids the possibility of a perverse incentive to remove trees or degrade habitat in order to score more favorably under site suitability.

- **Program Tracking and Adjustment**. Performance tracking and reporting of small CEI projects should be required and include indicators and metrics describing new environmental criteria, based on the results of a periodic assessment, to ensure they are functioning as intended.

Specific Comments

Below we provide comments on and recommendations for specific elements within the regulations for small CEI projects (225 CMR 29.00).

29.02 Definitions

- **Add definition for "avoid"** – The 2024 Climate Act's statutory language clearly states that the full mitigation hierarchy requires developers to 'avoid, minimize, and mitigate impacts,' so *avoid* should be added to regulations and definitions governing small CEI projects. Suggested language: "The process, as part of siting and permitting, of not including a location as part of any evaluation of siting a Clean Energy Infrastructure Facility due to impacts from the development, maintenance, or operation of that facility."

Commented [CW3]: Do we need this?

- **Key Stakeholders** – It is not clear why the regulations establish a one-mile radius around a small CEI project as a geographic limitation for defining key stakeholders. These projects can have impacts on statewide public goods and resources such as carbon

removal capacity which affect citizens well beyond this very narrow geography. We recommend dropping any geographic limitation in the definition of key stakeholders.

- **Definition of Local Government Representative** – This definition should be clarified to indicate that the representative is on a local board or department with authority to issue permitting decisions.

29.06 Public Health, Safety and Environmental Standards

- Criteria listed should also include wetland resources and Priority Habitat used to implement the MA Endangered Species Act, which are regulated under current Massachusetts statutes.

29.07: Application of Site Suitability Guidance

- The minimization and mitigation measures do not clearly identify whether/when a project can be denied due to high unsuitability.
- Provisions for Compensatory Environmental Mitigation rely on the *Minimization and Mitigation Measures Guideline*, which needs substantial improvements. We will provide comments on that guidance later.

(1) Exemptions:

- Small transmission and distribution projects should **not** be exempt from the application of site suitability guidance even if not in a newly established public right-of-way. The vast majority of these projects will *not* be sited in these areas, and will be located on private or leased lands.

(3) Site Suitability Report:

- The report should also include and assess measures and metrics to avoid impacts identified as part of any assessment of Criteria-specific Suitability Scores, pursuant to 225 CMR 29.07(5) through (7).

(4) Request for Score Review:

- We support independent Score Review by third-party validators and the opportunity for municipalities and key stakeholders to dispute scores.

(6) and (7) Compensatory Environmental Mitigation and Local Fees:

- Add requirement that all practicable measures to avoid/minimize impacts must be done first.
- As noted earlier, we believe the state should administer funds raised through the application of compensatory mitigation fees.

- This section needs language to establish "look-back" provisions to ensure land conditions have not changed recently, e.g. forest cutting, in an effort to game the site suitability scoring.

29.08 Pre-Filing Requirements

- **Pre-filing requirements.** We support extensive pre-filing consultation. Any wetland boundaries should be required to be approved via an Order of Resource Area Delineation (ORAD) issued by the conservation commission or a negative Determination of Applicability (DOA) certifying none, prior to application submission.

29.10 Consolidated Local Permit Application Review Process

- **Determination of complete application.** We recommend that failure to determine or issue notification of deficiency within 30 days should only result in an application's being deemed complete, not constructive approval of the project.

We also support provisions requiring prompt response to requests for additional necessary information. This will prevent delays by applicants while also ensuring reasonableness of requests to cure deficiencies.

Commented [CW4]: Not sure if "requests to cure deficiencies" is legal jargon but this feels a little word salad-y. Can we just say it will prevent delays? Or re-word?

Commented [MM5R4]: It uses same language that is in the regs.

29.14 Enforcement

- **Enforcement.** Add language to clarify that local boards and departments retain the authority to enforce parts of the permit under their jurisdictions.
- **Successor in interest.** This language applies to the sale of a project, but needs additional clarification i.e., to cover a project that is leased or otherwise under different underlying fee owner.
- **Decommissioning.** In addition to allowing decommissioning provisions to be included in a local permit, the regulations should also specify what forms of surety should/may be provided.

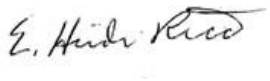
Commented [CW6]: Just making sure we're not missing a word here?

We sincerely appreciate the opportunity to weigh in on DOER's proposed regulations for small clean energy infrastructure projects. Please do not hesitate to reach out with any questions regarding these comments.

Respectfully submitted,



Michelle Manion, Vice-President of Policy and Advocacy



Heidi Ricci, Director of Policy and Advocacy

cc:

Commissioner Elizabeth Mahony, Department of Energy Resources

Climate Chief Melissa Hoffer

Secretary Rebecca Tepper, Energy and Environmental Affairs

Undersecretary of Energy Michael Judge

Undersecretary of Environment Stephanie Cooper

TUE Chairs Rep. Mark Cusack and Sen. Michael Barrett

Commissioner Thomas O'Shea, Department of Fish and Game

Mass Audubon

October 17, 2025

Mr. Rick Collins
Director, Division of Clean Energy Siting and Permitting
Department of Energy Resources (DOER)
100 Cambridge Street, 9th Floor
Boston, MA 02114

Via Email: DOER.Siting.Permitting@mass.gov

Re: S&P Follow-On Rulemaking Comments

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Reforming energy system permitting and siting decisions and outcomes is a highly ambitious endeavor. In many aspects, DOER's regulations for small clean energy infrastructure (CEI) projects are an impressive first draft of a major reform of a highly complex system that must meet multiple public interest goals: delivering clean, reliable, and affordable electricity to consumers; protecting natural and working lands; and providing communities with an explicit and meaningful role in decision-making to permit and host projects.

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[2] For small clean energy projects, the 2024 Climate Act requires: "…a mitigation hierarchy to be applied during the permitting process to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate negative impacts of siting on the environment, people and the commonwealth's goals and objectives for climate mitigation, resilience, biodiversity and protection of natural and working lands, to the extent practicable;"

For large clean energy projects, the Climate Act's language is slightly different: "…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 protection of natural and working lands to the extent practicable;"

We would also like to acknowledge that these regulations have been drafted in a very short time period to meet aggressive statutory deadlines. We especially commend the dedication and hard work by staff from DOER, EEA, DPU/EFSB, and other state agencies who have collected multiple rounds of stakeholder feedback on earlier concepts to develop draft regulations and associated guidelines under intense time pressure.

In particular, we applaud the inclusion of the following improvements to the status quo framework for siting and permitting of small and large clean energy projects:

- Potential for faster, more cost-effective clean energy deployment by consolidating and coordinating local review under a common set of standards from DOER.
- New requirements for meaningful and early community engagement (i.e., well in advance of filings by developers).
- New science-based methods for objective evaluation of site suitability, based on critical environmental values including terrestrial carbon storage and sequestration, protections for biodiversity, wildlife habitat, and ecosystem integrity, resilience to climate change, and agricultural productivity.
- New requirements to minimize and mitigate impacts on natural and working lands, using best statewide datasets describing natural resource services listed above.
- Creative use of *flexible guidance* to complement regulations, which can be updated accordingly as technology, economic conditions, and best management practices change, and as new or updated data and science become available.
- Requirements for validation by qualified third parties, e.g. for site scoring evaluations.
- Assurance for communities that compliance with these regulations will be consistent with the solar and battery zoning exemption at MGL Ch.40A S.3, improving certainty and reducing litigation risks for all concerned.

Despite these notable improvements, Mass Audubon has major concerns that **the proposed DOER regulations for small CEI projects fall short of the mandate set forth in the 2024 Climate Act to *avoid, minimize, and mitigate impacts* on natural and working lands, and that municipalities are assigned a larger role in mitigation and implementation than is feasible or advisable.** DOER's regulations should work in close concert with EFSB regulations for large CEIF and site suitability guidance to set clear, strong, and consistent incentives for utilities and developers to shift siting choices for new project locations. Specifically, these regulations should shift clean energy development towards sites with lower impacts on natural and working lands, and set strong enough disincentives – through the clear statutory mandate to avoid, minimize, and mitigate impacts – to prevent further development on the most ecologically valuable lands. **The fact that these regulations exempt key small transmission and distribution projects from site suitability requirements means that not only sites for those projects but natural lands surrounding them are at risk of unchecked conversion and losses.**

Moreover, we believe that the Climate Act of 2024 clearly assigns responsibility to state agencies, and not to municipalities, for establishing and implementing the mitigation

hierarchy. We believe it is much more appropriate for the state to establish a system for compensatory mitigation, including fee collection and distribution towards protection and restoration of state-level priority lands. In our view, a town-led approach to compensatory mitigation could result in highly inconsistent outcomes, clearly incentivizes utilities and developers to target smaller under-resourced towns, and would likely fall short of adequately compensating the public for losses of public goods. Finally, the requirement for towns to establish compensatory mitigation programs and apply and collect mitigation fees is simply beyond the capacity and capabilities of many rural towns in particular.

Mass Audubon strongly recommends additional changes to these and EFSB regulations in order to close loopholes and strengthen incentives for both utilities and energy developers to avoid and minimize siting on our highest-value natural and working lands. Otherwise, it is entirely possible that impacts of future CEI projects on natural systems and communities will not materially improve upon recent trends.

High-level Recommendations

In this section we provide our recommendations for high-level changes to regulations for small CEI project siting and permitting. We believe these are highly consistent with statutory language in the 2024 Climate Act and the spirit of recommendations from the CEISP.

Note that some of our comments touch on aspects of the EFSB's proposed regulations for siting and permitting of large CEI facilities. Given that small and large CEI projects are closely interconnected within a single electricity grid system, it is difficult to parse out in a single set of comments how the potential impacts of these projects on nature and communities should be addressed according solely to differences in project size and agency jurisdiction and oversight.

We will submit separate comments on both EFSB's draft regulations for large CEI projects and EEA's guidance documents on site suitability and minimization and mitigation. However, we believe that these regulations must work in concert by setting consistent incentives (and disincentives) to utilities and energy developers to limit land use change and community impacts to acceptable levels for all types of projects – clean generation, energy storage, and transmission and distribution, regardless of whether they are 'small' or 'large'.

- **A requirement for 'avoid' should be added to the regulatory requirements.** Our most valuable natural and working lands provide our communities and residents with services – removal of carbon emissions, local food production, critical habitat for wildlife, filtering drinking water – that are simply irreplaceable. To be consistent with statutory requirements, the state's proposed regulations and site suitability scores for small CEI projects should clearly establish that some areas should be avoided and completely off-limits to new CEI project development (note: we believe other forms of development – not just energy - should also be required to avoid highest value natural and working lands).

- **Small transmission and distribution projects should not be categorically exempt from site suitability requirements. Utilities should also be required to pay compensatory mitigation for grid enhancement projects which enable nearby siting of ground-mount solar or other generation and storage projects that cause significant losses to natural and working lands.** We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. In the proposed framework, however, electric utilities' choices of sites for new or expanded electricity transmission and distribution projects are currently exempt from site suitability guidance and requirements to avoid, minimize, or mitigate impacts.

  These regulations, as well as those applying to large CEI projects, should hold utilities – not just energy developers – accountable for avoiding, minimizing, and mitigating the impacts not only from their transmission and distribution project sites, but also for impacts to nearby natural and working lands where generation and storage projects must locate to secure cost-effective interconnections. Our analysis of 14 National Grid and Eversource substation expansion projects (known as Capital Improvement Projects, or CIPs) approved under the DPU's provisional planning process show that nearly 25,000 acres of high-value natural and working lands which are technically viable for ground-mount solar development are within 2 miles of one of these CIPs, and thus are at risk of conversion and loss of ecosystem services.[3] Developers of ground-mount solar projects have few degrees of freedom in choosing sites – they must locate as close to CIPs as is feasible. Since utilities make decisions about CIP sites (and associated expansion of hosting capacity), their CEI projects should be subject to the mitigation hierarchy and utilities should be required to pay at least half of any compensatory mitigation fees based on site suitability scores for enabled projects, with energy developers paying the other half. Moreover, these fees are operating expenses and thus should not be added to the utilities' rate base, nor should they be passed on to ratepayers.

- **Capacity demands on many municipalities for siting and permitting small CEI projects -- especially in applying mitigation requirements -- are too high.** We support

[3] D.P.U. 23-09 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Barre-Athol Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, January, 31, 2023);
D.P.U. 23-06 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Gardner-Winchendon Capital Investment Project Proposa*l (Massachusetts Department of Public Utilities, January, 12, 2023);

D.P.U. 23-12 – Massachusetts Electric Company and Nantucket Electric Company, each d/b/a, *National Grid Spencer-Rutland Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, February, 1, 2023);

NSTAR Electric Company d/b/a Eversource Energy-D.P.U. 22-47, *Marion-Fairhaven Capital Investment Project Proposal* (Massachusetts Department of Public Utilities, April 15, 2022).

the effort to provide an explicit role for municipalities in decisions to site and permit smaller CEI projects located in their communities. However, many of the rural and under-resourced towns where many of the projects are proposed lack sufficient capacity and expertise to establish a new mitigation program, collect compensatory mitigation fees, or implement other aspects of this program. Moreover, we think a town-led approach to compensatory mitigation of impacts to the state's common trust could result in highly inconsistent outcomes, incentivize utilities and developers to deliberately target smaller, under-resourced towns, and could fall short in adequate compensation of Massachusetts' citizens for impacts to irreplaceable state-level public goods. We are also concerned about the overall administrative burden for cities and towns, which increases the possibility of constructive project approvals. We recommend that EEA take on the role of establishing a new compensatory mitigation program, and a statewide trust fund (or leverage an existing trust fund) to deploy these funds for protection and restoration of priority lands.

- **Need for land use change look-back provisions**: Site suitability project evaluation should include a multi-year (e.g. 5-year) look-back period for forest carbon, BioMap habitat, the Index of Ecological Integrity, and other criteria to ensure there has not been manipulation of the land to affect the site suitability scoring. This avoids the possibility of a perverse incentive to remove trees or degrade habitat in order to score more favorably under site suitability.

- **Program Tracking and Adjustment**. Performance tracking and reporting of small CEI projects should be required and include indicators and metrics describing new environmental criteria, based on the results of a periodic assessment, to ensure they are functioning as intended.

Specific Comments

Below we provide comments on and recommendations for specific elements within the regulations for small CEI projects (225 CMR 29.00).

29.02 Definitions

- **Add definition for "avoid"** – The 2024 Climate Act's statutory language clearly states that the full mitigation hierarchy requires developers to 'avoid, minimize, and mitigate impacts,' so *avoid* should be added to regulations and definitions governing small CEI projects. Suggested language: "The process, as part of siting and permitting, of not including a location as part of any evaluation of siting a Clean Energy Infrastructure Facility due to impacts from the development, maintenance, or operation of that facility."

- **Key Stakeholders** – It is not clear why the regulations establish a one-mile radius around a small CEI project as a geographic limitation for defining key stakeholders. These projects can have impacts on statewide public goods and resources such as carbon

removal capacity which affect citizens well beyond this very narrow geography. We recommend dropping any geographic limitation in the definition of key stakeholders.

- **Definition of Local Government Representative** – This definition should be clarified to indicate that the representative is on a local board or department with authority to issue permitting decisions.

29.06 Public Health, Safety and Environmental Standards

- Criteria listed should also include wetland resources and Priority Habitat used to implement the MA Endangered Species Act, which are regulated under current Massachusetts statutes.

29.07: Application of Site Suitability Guidance

- The minimization and mitigation measures do not clearly identify whether/when a project can be denied due to high unsuitability.
- Provisions for Compensatory Environmental Mitigation rely on the *Minimization and Mitigation Measures Guideline*, which needs substantial improvements. We will provide comments on that guidance later.

(1) Exemptions:

- Small transmission and distribution projects should **not** be exempt from the application of site suitability guidance even if not in a newly established public right-of-way. The vast majority of these projects will *not* be sited in these areas, and will be located on private or leased lands.

(3) Site Suitability Report:

- The report should also include and assess measures and metrics to avoid impacts identified as part of any assessment of Criteria-specific Suitability Scores, pursuant to 225 CMR 29.07(5) through (7).

(4) Request for Score Review:

- We support independent Score Review by third-party validators and the opportunity for municipalities and key stakeholders to dispute scores.

(6) and (7) Compensatory Environmental Mitigation and Local Fees:

- Add requirement that all practicable measures to avoid/minimize impacts must be done first.
- As noted earlier, we believe the state should administer funds raised through the application of compensatory mitigation fees.

- This section needs language to establish "look-back" provisions to ensure land conditions have not changed recently, e.g. forest cutting, in an effort to game the site suitability scoring.

29.08 Pre-Filing Requirements

- **Pre-filing requirements.** We support extensive pre-filing consultation. Any wetland boundaries should be required to be approved via an Order of Resource Area Delineation (ORAD) issued by the conservation commission or a negative Determination of Applicability (DOA) certifying none, prior to application submission.

29.10 Consolidated Local Permit Application Review Process

- **Determination of complete application.** We recommend that failure to determine or issue notification of deficiency within 30 days should only result in an application's being deemed complete, not constructive approval of the project.

We also support provisions requiring prompt response to requests for additional necessary information. This will prevent delays by applicants while also ensuring reasonableness of requests to cure deficiencies.

29.14 Enforcement

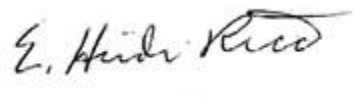
- **Enforcement.** Add language to clarify that local boards and departments retain the authority to enforce parts of the permit under their jurisdictions.
- **Successor in interest.** This language applies to the sale of a project, but needs additional clarification i.e., to cover a project that is leased or otherwise under different underlying fee owner.
- **Decommissioning.** In addition to allowing decommissioning provisions to be included in a local permit, the regulations should also specify what forms of surety should/may be provided.

We sincerely appreciate the opportunity to weigh in on DOER's proposed regulations for small clean energy infrastructure projects. Please do not hesitate to reach out with any questions regarding these comments.

Respectfully submitted,



Michelle Manion, Vice-President of Policy and Advocacy



Heidi Ricci, Director of Policy and Advocacy

cc:

Commissioner Elizabeth Mahony, Department of Energy Resources

Climate Chief Melissa Hoffer

Secretary Rebecca Tepper, Energy and Environmental Affairs

Undersecretary of Energy Michael Judge

Undersecretary of Environment Stephanie Cooper

TUE Chairs Rep. Mark Cusack and Sen. Michael Barrett

Commissioner Thomas O'Shea, Department of Fish and Game

Rick Collins
Director, Division of Clean Energy Siting and Permitting
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

October 17, 2025

Re: S&P Follow On Rulemaking Comments from MAPC, ELM, and MassBike

Dear Mr. Collins and the DOER Division of Clean Energy Siting and Permitting,

Thank you for the opportunity to comment on the Department of Energy Resources' (DOER) regulations on Small Clean Energy Infrastructure Facility Siting and Permitting (225 CMR 29.00). Our organizations work across the Commonwealth to ensure that our residents have access to open space and recreation opportunities, clean energy, and a resilient environment.

We have been closely following the clean energy infrastructure (CEI) siting and permitting regulations and have advocated for passage of the siting and permitting reforms through the Legislature and many of the undersigned groups are sending separate comment letters on other aspects of the proposed regulations. We appreciate the dedication to a holistic approach to clean energy siting undertaken by the Commonwealth.

As organizations that work to create opportunities for people to utilize recreation and open space while expanding clean energy infrastructure, we ask that you expand language around recreational opportunities in the final guidelines. In the Guideline on Minimization and Mitigation, DOER notes "creates expanded recreational opportunities" as a Qualifying Mitigation Measure for Social and Environmental Burdens. While these provisions of the 2024 Climate Act (Chapter 239 of the Acts of 2024) apply to large clean energy infrastructure facilities (CEIF), Sections 65 and 74 of the law note specifically "shared use, recreational paths or access to nature" as benefits, indicating clear legislative intent for these measures to be considered as appropriate mitigation for environmental burdens. Our organizations recommend expanding the language in the Guideline to "Creates expanded recreational opportunities, including restoring or establishing new shared use paths, recreational trails, and access to nature.

Though there are currently ad hoc opportunities for utility corridors to be turned into public recreation space such as rail trails, codifying the practice of the "co-benefit" of a shared use path as part of major utility projects in statute and through regulation will create new opportunities for municipalities, state agencies, and advocates to create or extend our trail systems and create open space opportunities.

Thank you for the opportunity to comment on the draft guidelines and share our recommendations. If you have any questions, please contact Georgia Barlow, MAPC Senior Government Affairs Specialist, at gbarlow@mapc.org.

Sincerely,

Lizzi Weyant
Executive Director, Metropolitan Area Planning Council

David Melly
Legislative Director, Environmental League of Massachusetts

Galen Mook
Executive Director, MassBike

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Tuesday, October 21, 2025 9:10 AM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Rockett, Connor (ENE); Castillo, Marcela (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE)
Subject: FW: solar development comment

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Elizabeth Almen Martin <eamartin7@gmail.com>
Sent: Friday, October 17, 2025 5:27 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: solar development comment

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Rick Collins
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

DOER.Siting.Permitting@mass.gov

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations for Small “Clean” Energy Infrastructure. I am speaking for myself. It is good to have this opportunity for people from all over the state to get together and talk about our need to plan for reducing use of fossil fuels while protecting those rural resources that help urban civilization to exist.
I believe that a serious re-evaluation of Commonwealth of Massachusetts’ energy policy is urgently required and that this is a good place to begin. It is increasingly obvious that the growth of renewable (rebuildable) energy has not reduced overall energy use. It is also clear that we have exceeded planetary boundaries in a way that threatens human civilization as well as all the rest of the natural world.

Every sensible person should acknowledge by now that infinite growth on a finite planet is not possible. It is time for us to come together to question a state climate policy that aims to produce growth – especially growth requiring extraction and waste of important resources such as water, trees and farmland. Do we really want to sacrifice our forests and fields for Data Centers and AI?

Solar panels can help us get through the energy transformation that will happen if we are to survive. But they should be used as part of a strategy of overall energy reduction and appropriate technology entailing radical conservation of all resources. Radical conservation implies changing the way we produce things and using the appropriate technology that we know is available. It requires looking at nature-based solutions to problems and finding resource-based work for people as we begin to heal the incredible damage we have done to the earth. We

know what is going to happen if we continue to extract and burn. Solar panels are made of substances that are extracted from nature. They are formed using high heat that can only come from fossil fuels. As we plan to use solar panels to extend our use of fossil fuels should plan to use them wisely.

No natural lands should be used for solar panels. All of them should be attached to houses, parking lots, business buildings, and essential institutions. Safe battery technology is available for small scale residential use. Also, the very existence of this complicated siting process illustrates that industrial solar is not a protected use under 40A, contradicting the claim that this is a Dover amendment type situation.

Best regards,

Elizabeth A. Martin
Barre, MA
978-257-3967

Town of Lexington
PLANNING
DEPARTMENT
1625 Massachusetts Avenue
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Abby McCabe, Planning Director
Meghan McNamara, Assistant Planning Director
Aaron Koepper, Planner
Carolyn Morrison, Planning Coordinator

Memorandum

To: Rick Collins, Department of Energy Resources

From: Abby McCabe, Planning Director

Date: October 17, 2025

Re: S&P Follow On Rulemaking Comments

Request the effective date be **to July 1, 2026**. Lexington's Annual Town Meeting is in March with warrant articles due in early December. At this time, we are not ready to proposing any zoning amendments while these draft Regulations are in Draft form. The November 30, 2026 deadline doesn't allow for an Annual Town Meeting for which zoning amendments can be brought forward after DOER's Regulations have been finalized. Sufficient time is needed from the time the DOER's Regulations are finalized and the Town Meeting process which is a several month process.

Please remove the "Small" from the term Clean Energy Generation and Infrastructure Facility and rename it "Clean Energy Regeneration Facility" for infrastructure and generation facilities with a capacity up to 25 megawatts.

Please add proximity to residential dwellings in the site suitability score. Ground-mounted solar facilities should be at least **100 feet from the nearest residential dwelling**.

Please consider proposed tree removal in the site suitability score. Removal of mature trees and forested areas should be discouraged.

Please consider adding sufficient water capacity and fire department access to the site suitability criteria.

Please discourage clean energy development on steep slopes with grade over 20%.

These comments are submitted on behalf of Silo Electric LLC. Silo Electric is a developer of stand-alone energy storage facilities in Massachusetts.

We applaud the Commonwealth for passing siting and permitting reform legislation. We believe that these reforms, with modifications, will streamline the development of clean energy facilities.

That said, we have concerns about section 29.08, the Pre-Filing Requirements. We note that there appears to be no difference in the pre-filing process for the smallest facilities covered by this regulation versus the largest. While many small facilities are exempted from Site Suitability because of their size and perceived impact, this does not seem to exempt them from, or modify, any of the Pre-Filing Requirements. It is very onerous to notify and consult with all Key Stakeholders listed in the regulations, including all businesses and residences within one mile, for a very small clean energy facility. Many of these facilities are exempt from the site suitability process due to their small size. That small size, and small potential impact, should also mean less stringent and costly requirements for stakeholder engagement. In addition, the Regulations allow for a great deal of subjectivity and discretion on the part of the Local Government to determine if the Pre-Filing Requirements have been met. This ambiguity will give those municipalities who are opposed to clean energy facilities wide latitude to stymie projects.

Perhaps we are mis-reading the regulations and it was not the intent of DOER to subject a 100kW rooftop solar project to the same level of community engagement as a multi-acre 20MW solar project with 80MWh of batteries. But this is how it appears to us.

The regulations also treat stand-alone batteries differently to solar facilities with DC-coupled batteries. In the latter, these batteries seem to be treated as accessories under the definition of “Small Clean Energy Generation Facility”, and there doesn’t appear to be the same level of scrutiny regarding them versus stand-alone in the regulations and guidelines. We see this playing out already in municipal permitting. Solar plus battery facilities can sometimes move through the permitting process with no real scrutiny from the AHJ or others because solar facilities can be constructed “by right” in many places and their associated batteries are overlooked as accessory devices, even though they may be just as large or larger than a stand-alone facility. When a stand-alone facility later comes through for permitting it is treated as a new technology requiring a very onerous process, or even being blocked entirely by noting that there is no zoning category that allows them. We have had this happen multiple times. If the facility was solar plus storage, there would have been no issue.

The DOER should be working to fight the misperceptions of batteries, and stand-alone batteries in particular, as being somehow dangerous and threatening and therefore requiring significantly more scrutiny than a solar plus storage facility. Battery technologies are evolving constantly and the risk of fire, the only real hazard associated with batteries preventing them from being sited almost anywhere, is diminishing all the time. Ensuring that these regulations are not overly onerous to batteries is important.

One area where the DOER appears to be succumbing to public misperceptions of battery danger regards Zone II Wellhead Protection areas. The regulations allow municipalities to prohibit batteries in Zone II areas. But only stand-alone batteries – if it is a solar plus storage facility with "accessory" batteries, then the facility only must meet the standards of 310 CMR 10.00. Zone II areas are very large geographically, covering large percentages of some municipalities around the Commonwealth. Many things are allowed to be built in Zone II areas: factories, warehouses, car lots, etc. All these things have the potential for a fire and all have the potential to discharge contaminants into groundwater. There is no increased risk of groundwater contamination from a lithium iron phosphate stand-alone battery facility than from any number of other common structures that are routinely sited in these areas. Today, fire departments know not to fight a battery fire with water or with foam – they know to let it burn out on its own. This is how these systems are engineered. So, if there was a battery fire, there would be limited water run-off. And, even if there is run-off, recent after-event studies in New York and California show that water (and air) pollution following a lithium iron phosphate (LFP – the chemistry used by all modern BESS facilities) fire is no greater than for a typical structure fire. Allowing municipalities to ban stand-alone (only) batteries from Zone II areas simply reinforces misunderstanding and prejudice against this technology.

Anthony E. Moura
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(617)733-4523

10/17/2025

Massachusetts Department of Energy Resources (DOER)
100 Cambridge Street, Suite 1020
Boston, MA 02114

Subject: Comments on newly proposed Clean Energy Citing and Permitting Regulations

Dear DOER,
I am writing to provide comments on the proposed Clean Energy Siting regulations recently issued by the Massachusetts Department of Energy Resources. I do appreciate the Commonwealth's acknowledgement that the original regulations fell short of their intent to promote responsible renewable energy development while balancing environmental protection, land use priorities, community interests, and an environment conducive to investment by Developers.

I am a resident who by default has had to entrench myself in the current regulations in an attempt to protect myself and other community members from an inappropriately sited Solar / BESS project. To be clear, I am a proponent of **responsible** clean energy. But I am extremely aware how the current lack of regulations and siting specifics can allow one of these projects to be pushed through under the guise of "Green Energy". Specifically with a State Government that has openly stated that they are committed to these green energy initiatives, ignoring the collateral damage and effect they can have on residents. After peeling back the layers it is apparent that the SMART program had been designed to facilitate the profits and interests of Venture Capitalists and Global companies purchasing Green Credits to offset their carbon footprint within their other

ventures. It is highly disappointing that the revised siting and permitting regulations do not include more regulations to protect the interests of well-intended Massachusetts residents that would like to promote Green Energy.

The following are subjects that have not been addressed in previous regulations and to my knowledge have not been addressed in the current proposed regulations.

1. Moratorium on any projects that have been proposed and or accepted until appropriate regulations have been determined and put in place.
    a. You are going to allow ill sited, inadequately insured, and potentially dangerous projects to continue because they "beat the clock"?
2. Safety Infrastructure
    a. There are currently no regulations that outline requirements for safety infrastructure within a town reviewing an application for a project. Nor are there regulations allowing a town to deny a project because they do not have the infrastructure to handle an emergency that may occur as a result of a project (i.e., a BESS failure).
        i. Example: A project was passed by the town of Tolland that included (4) BESS units (11,008kWh). There is no water source near the site nor municipal water in town. We only have (1) 3500-gallon tanker truck, a fully volunteer fire department, most of whom have a full-time job out of town, or are retired seniors, and no surrounding towns with a fire dept better equipped.
            1. The town was more concerned about being sued by the developer than denying the project as proposed for safety concerns. There are no regulations to support their position of having an insufficient emergency response department.
            2. There could easily be regulations set in place that the Developer has to choose suitable siting from a safety stance or provide specific safety provisions if they do not exist currently in the sited town. Most of the targeted

areas for these projects are in rural areas with insufficient safety resources.

3. Insurance Requirements
    a. There are no requirements for insurance on these projects. Only General Liability is required as a result of general building / project standards.
        i. There are no requirements for environmental insurance.
            1. If there were a BESS failure on a sited project that contaminated ground water / drinking wells of residents adjacent to the site, there is no recourse for the residents.
                a. Homeowners insurance will not cover a contaminated well resulting from an adjacent property.
            2. Any costs related to the environmental cleanup required on a site could be placed on the Town.
    b. There should be regulations requiring adequate insurance coverage for ANY potential problem that might occur within these sites. Liability, Environmental, Decommissioning.
    c. Within the General Liability policy there are no requirements for the town to be named additional insured on an ACORD certificate.
            1. These projects are built by Special Purpose Entity's (LLC's) specifically created for the individual project. With no liability tied to the larger company funding the project.
            2. A large portion of these projects are sold within the first five years (after there has been a 100% ROI) with no requirements that the purchaser names the town additional insured.

4. BESS
    a. There is no differentiation between solar panels and BESS in a project. BESS are a new technology that has been progressing and being accepted faster than understanding and regulations can be implemented.
    b. Dangerous Industrial Equipment is treated the same as a solar panel or fence. If BESS were incorporated into any other industry the safety regulations surrounding them, and the appropriate siting location requirements would be monumental. Not to mention the safety regulations that would be tied to their use.
    c. BESS are not required to have any measurable distance between them and any other electrical equipment on site.
    d. There are no requirements for the supporting infrastructure of a BESS.
        i. A concrete pad is all that is needed.
        ii. No emergency containment other than the BESS housing itself (A modified shipping container) is required. It is stated that they meet required regulations but there are none other than UL listings that refer to the electrical components contained within the BESS. They have nothing to do with safety as it relates to the surrounding environment.
            1. There are regulations requiring a basic fuel tank to have containment large enough to hold the entire contents of a tank, and a roof to prevent rainwater from filling the containment system.
            2. Why not require a concrete structure around each individual BESS so in case of a thermal run-away event the individual unit can be cooled with water, that water would be contained, prevent polluting the surrounding area with fire suppression water, adjacent electrical equipment will be protected from the heat produced, and the environmental clean up would be contained within an impermeable structure? This structure would also assist in noise mitigation.

5. Noise
    a. There is no requirement setting a baseline of how ambient noise is to be measured on or around a site. Nor any factors that need to be taken into consideration. Time of year, wind, seasonal birds, etc...
        i. The calculations (Sound Modeling) used to determine the noise produced by the installed equipment (BESS, Inverters, Transformers) is based on **estimations** provided by the equipment manufacturers. Not on actual field measurements.
    b. There are no regulations requiring Sound Modeling to be field verified after installation and during operation of the system.
        i. Nor are there any penalties for the developer if the noise produced does not meet MA regulations.
        ii. Field Verified Sound Testing should be required to be performed by a third party selected by the town.
6. Site Decommissioning
    a. There are no sufficient regulations to cover actual decommissioning costs 20 years from the date these systems are approved.
    b. There are no current operations that will accept decommissioned solar panels
    c. You cannot use current labor rates to estimate costs 20 years from now.
    d. This topic as whole needs in-depth research to determine what is appropriate.
    e. The taxpayers are going to foot the bill 20 years from now after the developers have capitalized on the operation of the project.
7. Developers Profits at the cost of taxpayers
    a. The intent of the SMART program was to provide Environmentally sustainable energy. Due to the money the developers would have to spend on old industrial sites and areas better suited to these projects they have focused on Rural areas where the cost of land is low, and landowners do not have the same financial opportunities as landowners in other areas. This is purely profit based. The developers' ROI is usually less than 5 years on a 20-year project. We are cutting down forests and destroying agricultural land in the name of Green

Energy. The goals set by our administration are going to cost us in ways we cannot yet comprehend. On top of this we as taxpayers are subsidizing the profits of these venture capitalists. Then we will pay higher electrical bills because the legislation requires the electrical providers to purchase this electricity at a higher rate. The SMART program as a whole needs to be reevaluated and better executed.

Thank you for the opportunity to comment on these proposed regulations. I would welcome the chance to discuss these issues further or provide additional information if needed.

Sincerely,

Anthony Moura

Massachusetts Society of Municipal
Conservation Professionals
c/o Conservation Office, 1000 Commonwealth Ave.
Newton, MA 02459

OCtober 17, 2025

Energy Facilities Siting Board
Department of Energy
100 Cambridge Street, 9th Floor
Boston, MA 02114
DOER.Siting.Permitting@mass.gov

Re: 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting And Permitting; Guidance on Site Suitability Assessments for Clean Energy Infrastructure; and Draft Standards and Guidelines, Community Benefit Plans, Community Benefit Agreements

To Energy Facilities Siting Board:

On behalf of the Massachusetts Society of Municipal Conservation Professionals (MSMCP), I offer the following comments.

As busy municipal conservation professionals, we found the compressed time frame for reviewing and commenting on these proposed regulations challenging. The periodic releases of guidance documents made the review even more difficult. Fortunately for us, MSMCP Board Director Jennifer Carlino has submitted comments on behalf of the Town of Easton, and the MSMCP Board of Directors fully endorses and supports those comments (attached).

Sincerely,

John Keeley, President

MSMCP Board of Directors:

John Keeley, President, Burlington
Angela Panaccione, Vice President, Pioneer Planning
Brian Vasa, Clerk, Plympton
Jennifer Steel, Treasurer, Newton
Liz Allard, Harvard
Rebecca Bucciaglia, Bolton
Eleah Caseau, Shrewsbury
Jennifer Carlino, Easton
Sarah Fortune, Belchertown
Michelle Greene, At-Large
Michele Grzenda, Lincoln
Heather Hampson, Ayer
Regen Jamieson, Canton
Delia Kaye, Concord
Kathy Sferra (Associate), Stow
Cassie Tragert, At-Large
Dorothy A. McGlincy (Ex officio), MACC

Massachusetts Society of Municipal
Conservation Professionals
c/o Conservation Office, 1000 Commonwealth Ave.
Newton, MA 02459

CC MSMCP massconpros@gmail.com
Dorothy McGlincy, MACC dorothy.mcglincy@maccweb.org

The Massachusetts Society of Municipal Conservation Professionals (MSMCP) is a non-profit 501(c)3 organization dedicated to serving the professional staff members that work for Massachusetts Conservation Commissions. MSMCP works to raise the level of professionalism by providing a forum for professional information exchange, sponsoring technical and scientific seminars and conferences, and fostering cooperation among contiguous or regionally related conservation commissions and their staffs.

October 17, 2025

Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Via email to DOER.Siting.Permitting@mass.gov

To the Department of Energy Resources:

Please accept this written comment on behalf of our organizations, which collectively represent over 500,000 working people in Massachusetts. We write to give input on the draft regulations for Small Clean Energy Infrastructure Facility Siting & Permitting.

As you know, when the legislature passed *An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers* last year, it included provisions promoting workforce standards on "small clean energy infrastructure" projects—namely, the new language in Chapter 25A, Section 21, subsection (k) requires permit applicants to include "certification and disclosure requirements" related to the applicant's "commitment to expand workforce diversity," whether they "participate in a state or federally certified apprenticeship program," whether they comply with anti-discrimination laws, and whether the applicant and its contractors "have been found in violation of state or federal safety regulations," among other disclosures.

Subsection (o) then states: *"The department shall give added weight to applicants that demonstrate compliance with the provisions of 26 to 27F, inclusive, of chapter 149, and have a history of participation with state or federally certified apprenticeship programs."*

These standards have many purposes—among them are to ensure that responsible contractors are selected for infrastructure projects, to ensure that the projects train apprentices to work on future clean energy infrastructure, to put clean energy investments back into our local communities, to make sure the projects are built efficiently, safely, and in a high-quality manner, and to foster trust between project developers and our communities.

The regulations do specify that the aforementioned disclosures will be "specified by the Department in its *Guideline on the Consolidated Local Permit Application.*" However, they do not specify how the Department or municipalities will "give added weight to

applicants" that comply with c. 149 § 26 to 27F and have a history of participation with state or federally certified apprenticeship programs.

In short, the municipalities are required to collect the necessary information but are not instructed on how to use it. We suggest that, at a minimum, when the applicant is asked to disclose the required disclosures on workforce standards such as apprenticeship programs, the form should notify the applicant that added weight will be given to applicants that have a history of participation with state or federally certified apprenticeship programs.

The regulations should also make clear how the added weight shall apply, either in the same section as the disclosures, or another section of the regulations, such as 29.12 "Common Conditions and Requirements for Constructive Approval."

We also look forward to the draft *Guideline on the Consolidated Local Permit Application*, which we hope will further clarify how added weight will be given for these applicants.

Thank you for your consideration. We look forward to engaging further in this process in upcoming opportunities for public comment.

Sincerely,

Chrissy Lynch
President, Massachusetts AFL-CIO

Frank Callahan
President, Massachusetts Building Trades Unions

Ryan Murphy
Executive Director, Climate Jobs Massachusetts Action

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENERGY RESOURCES

JOINT COMMENTS OF NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY AND NEW ENGLAND POWER COMPANY, MASSACHUSETTS ELECTRIC COMPANY, AND NANTUCKET ELECTRIC COMPANY, EACH D/B/A NATIONAL GRID ON DRAFT REGULATIONS PROPOSED BY THE DEPARTMENT OF ENERGY RESOURCES TO IMPLEMENT THE 2024 CLIMATE ACT

I. INTRODUCTION

On November 20, 2024, An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers (the "2024 Climate Act") was signed into law by Governor Maura Healey. The 2024 Climate Act requires several agencies, including the Executive Office of Energy and Environmental Affairs ("EEA"), the Energy Facilities Siting Board (the "Siting Board"), and the Department of Energy Resources ("DOER") to propose regulations for comment to implement the new streamlined siting and permitting pathways for clean energy facilities in the Commonwealth. Section 23 of the 2024 Climate Act created G.L. c. 25A, § 21 authorizes DOER to establish standards for the permitting of small clean energy infrastructure facilities by local governments. On September 12, 2025, DOER issued draft regulations creating 225 C.M.R. 29.00 (Small Clean Energy Infrastructure Facility Siting and Permitting).

DOER held five informational sessions (on October 6, 7, 8, 9, and 14), and a public comment hearing on Wednesday, October 15, 2025 to discuss the draft rules. Written comments were requested from stakeholders by October 17, 2025. NSTAR Electric Company d/b/a Eversource Energy ("Eversource") and New England Power Company, Massachusetts Electric

Company, and Nantucket Electric Company, each d/b/a National Grid ("National Grid"; together, the "Companies") submit these written comments in response to DOER's proposed regulations.[1]

II. BACKGROUND

The Companies strongly support the 2024 Climate Act and its overarching purpose to: (a) accelerate the responsible deployment of clean energy infrastructure through siting and permitting reform in a manner consistent with applicable legal requirements and the Clean Energy and Climate Plan; (b) facilitate community input into the siting and permitting of clean energy infrastructure; and (c) ensure that the benefits of the clean energy transition are shared equitably among all residents of the Commonwealth. Governor Healey Executive Order No. 620: Establishing the Commission on Energy Infrastructure Siting and Permitting (September 26, 2023). At the same time, the Companies recognize that the 2024 Climate Act created an enormous task for EEA, DOER, and EEA's other agencies; namely, developing a functional, efficient, and fully integrated state and local review process for multiple types of clean energy projects for implementation by July 1, 2026. The stakeholder process and draft regulations developed to date reflect significant work and effort by DOER and its sister agencies. The Companies greatly appreciate those efforts and stand ready to continue to assist DOER throughout the process.

The purpose of DOER's regulations is to "establish standards, requirements and procedures governing the siting and permitting of small clean energy infrastructure facilities by local governments." G.L. c. 25A, § 21(b); see 225 C.M.R. 29.01. As most relevant to the Companies,

[1] As part of the written comments that follow, the Companies have performed a detailed review of the draft regulations proposed by DOER for 225 C.M.R. 29.00 and provide specific suggestions and modifications in Section IV, below. In addition to the discussion provided in Section IV, the Companies attach proposed redlined revisions to the draft regulations.

"small clean energy infrastructure facilities" includes "small clean transmission and distribution infrastructure" facilities ("SCTDIF"). SCTDIF, in turn, is defined as follows:

> electric transmission and distribution infrastructure and related ancillary infrastructure, including: (i) electric transmission line reconductoring or rebuilding projects; (ii) new or substantially altered electric transmission lines located in an existing transmission corridor that are not more than 10 miles long, including any ancillary structure that is an integral part of the operation of the transmission line; (iii) new or substantially altered electric transmission lines located in a new transmission corridor that are not more than 1 mile long, including any ancillary structure that is an integral part of the operation of the transmission line; (iv) any other electric transmission infrastructure, including standalone transmission substations and upgrades and any ancillary structure that is an integral part of the operation of the transmission line and that does not require zoning exemptions; and (v) electric distribution-level projects that meet a certain threshold, as determined by the department; provided, however, that the "small clean transmission and distribution infrastructure facility" shall be: (A) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of clean energy infrastructure to the electric grid; (B) designed to ensure electric grid reliability and stability; or (C) designed to help facilitate the electrification of the building and transportation sectors; and provided further, that a "small clean transmission and distribution infrastructure facility" shall not include new transmission and distribution infrastructure facilities that solely interconnect new or existing generation powered by fossil fuels to the electric grid on or after January 1, 2026.

G.L. c. 25A, § 21(a); see 225 C.M.R. 29.02.

This definition is very broad and includes a wide variety of utility infrastructure projects, from the routine replacement of wires on a two-or-three-span tap line to a complex regional reliability project combining the construction of an entirely new underground transmission line through municipal streets with new or expanded transmission substations in several different municipalities. Projects at the smaller end of this spectrum might require a single local permit (e.g., a road crossing permit), or even no local permit at all; in contrast, the more complex projects might require zoning relief (but not zoning exemptions) and street opening permits from multiple towns and have environmental impacts that trigger the jurisdiction of local entities such as a

conservation commission.[2] During the deliberations of the Commission on Energy Infrastructure Siting and Permitting ("CEISP"), the Companies advocated for a focus on achieving the fundamental purposes of the 2024 Climate Act – i.e., accelerating and making more efficient the overall permitting process for critical clean energy infrastructure – without eliminating elements of the status quo that work. As the Companies stated during the CEISP process, most municipalities are able to process utility permit applications for SCTDIF in considerably less time than the 12 months allowed under the 2024 Climate Act. As will be discussed further below, it is in this context that the process being established by DOER must include all permitting pathways, consistent with the express provisions and purpose of the 2024 Climate Act.

III. COMMENTS ON KEY TOPICS

Several fundamental principles bear emphasis at the outset: DOER's regulations must be simple and workable, reliant on existing regulatory language and definitions, and provide as much consistency with the Siting Board's regulations (e.g., common conditions, pre-filing engagement, etc.) as possible. Of primary concern to the Companies is to ensure that DOER's regulations accurately implement both the plain language and intent of the 2024 Climate Act. Under the 2024 Climate Act, DOER's rules apply only if a proponent of a small clean energy infrastructure project ***elects*** to apply for a consolidated local permit under 225 C.M.R. 29.00. Specifically, the Legislature provided that a proponent "***may*** submit" and "***may elect*** to submit [a consolidated small clean energy infrastructure facility permit] application." G.L. c. 25A, § 21(c) (emphasis

[2] The upper bound on the scope of such a project is that it does not trigger the express statutory thresholds of a large clean transmission and distribution infrastructure that is subject to the authority of the Siting Board.

added).[3] Consistent with the substance and tenor of the discussions at the CEISP and the express terms of the 2024 Climate Act,[4] this permissive language contemplates three discrete permitting pathways for proponents of SCTDIF: (1) the process being established by DOER for local consolidated permitting (the "DOER process") in 225 C.M.R. 29.00; (2) the opt-in process being established by the Siting Board pursuant to G.L. c. 164, § 69U for seeking a consolidated permit,[5] which, upon request by an applicant and a showing of good cause, authorizes the Siting Board to issue a consolidated permit for a SCTDIF that is not otherwise subject to the Siting Board's jurisdiction (the "Section 69U process"); and (3) the existing process for obtaining certain local and state permits, pursuant to which an applicant applies for relevant local and state permits individually, consistent with current local and state standards and practices (referred to herein as the "a la carte" process).

As drafted, DOER's regulations suggest that proponents of small clean energy infrastructure are foreclosed from pursuing necessary local permits through the traditional "a la carte" method, even if a project requires only a single local permit that could be obtained within a

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[3] G.L. c. 25A, § 21 does not explicitly state what options are available to a project proponent in considering which permitting pathway to "elect." The Companies anticipate that most utility projects requiring local permits will either be ineligible for this process, because they are jurisdictional to the Siting Board, or would be better suited and more expeditiously reviewed using traditional local permitting processes.

[4] For example, the Companies and the Massachusetts Municipal Association made clear their opinion that any process developed by DOER should be optional. Commission on Energy Infrastructure Siting and Permitting, Recommendations to Governor Maura Healey on Clean Energy Infrastructure Siting and Permitting Reform (March 29, 2024), at pages 42-43.

[5] Section 69U provides in part as follows: "(a) Upon request by an applicant and upon a showing of good cause, the board may issue a consolidated permit for a small clean transmission and distribution infrastructure facility that is not automatically subject to the jurisdiction of the board pursuant to section 69G, if the applicant petitions the board to be granted a consolidated permit for such facility. The board shall review such petition in accordance with subsections (b) and (c). The board may issue such consolidated permit upon finding that the small clean transmission and distribution infrastructure facility will serve the public convenience and is consistent with the public interest. Upon application for a consolidated permit under this section, no applicant shall commence construction of a small clean transmission and distribution infrastructure facility at a site unless a consolidated permit for construction of that small clean transmission and distribution infrastructure facility pursuant to this section has been approved by the board."

reasonably short timeframe. See, e.g., 225 C.M.R. 04(1) ("225 CMR 29.00 applies to the siting and permitting of Small Clean Energy Infrastructure Facilities by Local Governments."); 225 C.M.R. 29.05(1) and (2) ("Applicants and Local Governments may comply with [225 CMR 29.00], or the Local Government's existing applicable standards practices through November 30, 2026, but not a mix of both" and "must comply with [225 CMR 29.00] no later than December 1, 2026"). To the extent this is DOER's intent, the Companies submit that DOER's interpretation is both legally incorrect and inadvisable as a practical matter. It could affect scores of needed utility projects each year, most of which require only a few relatively routine permits from local permitting agencies. This would protract the permitting of SCTDIF, cause significant delays in bringing these projects to fruition, and increase costs of permitting utility infrastructure. Ultimately, these costs would be reflected in customer rates and, similarly for the affected communities in the Commonwealth, it would trigger the incurrence of unnecessary costs by the cities and towns overseeing local permitting. As such, the Companies recommend that DOER's proposed regulations be modified to recognize the three different pathways for permitting SCTDIF, as contemplated by the 2024 Climate Act.

A. DOER's Proposed Regulations Are Contrary to the Plain Language of the 2024 Climate Act.

As stated above, the Legislature provided that a proponent "***may*** submit" and "***may elect*** to submit [a consolidated small clean energy infrastructure facility permit] application" rather than pursue a traditional local permitting pathway. G.L. c. 25A, § 21(c) (emphasis added). The language of the 2024 Climate Act provides a project proponent the choice whether to "elect" to pursue the local consolidated process pursuant to rules developed by DOER. Consistent with longstanding precedent of the Supreme Judicial Court ("SJC"), the statutory language must be given its plain and usual meaning in the context of the overall legislative scheme. See, e.g.,

Prudential Ins. Co. of Am. v. Comm'r of Revenue, 429 Mass. 560, 564 (1999) ("where the language of the statute is plain, it must be interpreted in accordance with the usual and natural meaning of the words"); eVineyard Retail Sales-Massachusetts, Inc. v. Alcoholic Beverages Control Comm'n, 450 Mass. 825, 831 (2008) ("It is well settled that a 'statute is to be construed as written, in keeping with its plain meaning'"); Purity Supreme, Inc. v. Attorney Gen., 380 Mass. 762, 782 (1980); Providence and Worcester Railroad Co. v. Energy Facilities Siting Bd., 453 Mass. 135, 145 (2009).

According to Merriam-Webster's Dictionary, "elect" means "to make a selection of" or "to choose" (available at: https://www.merriam-webster.com/dictionary/elect (last visited on Sept. 27, 2025)). Here, there can be no doubt of the permissive intent of these words and by its plain terms, the use of "may" and "may elect" does not require a particular result. See School Comm. of Newton v. Newton School Custodians Assoc., Local 454, SEIU, 438 Mass. 739, 750 (2003) (noting that the "distinction in statutes between 'shall,' a word of command, and 'may,' a word of permission, is not one which courts pass over lightly unless context or other provisions require it"). Indeed, for the phrase "may elect" to have any meaning, a proponent must have real options to choose from. See Wolfe v. Gormally, 440 Mass. 699, 704 (2004) ("a statute [must] be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous").

For SCTDIF, the 2024 Climate Act creates the DOER process and the Siting Board's Section 69U process. However, if a proponent of an SCTDIF project is limited to only the DOER process or the Siting Board's Section 69U process, then the proponent will not have any meaningful choice to "elect" because the Siting Board's process is not guaranteed to be available. For the Section 69U process to apply, a proponent must show "good cause" as determined by the Siting Board (an agency separate and apart from DOER) and the Siting Board has discretion to

decline to accept it.[6] If the Siting Board does not find that there is good cause for a Section 69U review, and a proponent does not "elect" to seek a local consolidated permit through the DOER process, then there must be a third pathway available through the traditional a la carte permitting.[7] However, if DOER's rules proscribe that the traditional a la carte local permitting option will not be available (after a transition period), then a proponent of a small clean energy infrastructure facility has no true choice for permitting its proposed facility. Such an interpretation is directly contrary to the right of an applicant to choose its permitting pathway, as well as the legislative intent of the 2024 Climate Act – to streamline (rather than complicate) permitting for small clean energy infrastructure facilities. See School Committee of Newton, 438 Mass. at 751 ("In the absence of explicit legislative commands to the contrary, we construe statutes to harmonize and not to undercut each other"); ENGIE Gas & LNG LLC v. Dep't. of Pub. Utils., 475 Mass. 191, 197 (2016) ("Where the court determines that a statute is unambiguous, we will reject any agency interpretation that does not give effect to the Legislative intent").

B. Foreclosing Traditional Local Permitting Directly Contradicts the Purpose and Intent of the 2024 Climate Act.

The motivating force behind the 2024 Climate Act was a broad recognition that the permitting process for critical clean energy infrastructure facilities in Massachusetts that are

[6] Based on the terms of the statutes, Applicants must have an election within the control of DOER. It is not appropriate for DOER to rely on the potential actions of other sister agencies. See Point of Pines Beach Ass'n, Inc. v. Energy Facilities Siting Bd., 419 Mass. 281, 285-286 (1995) (an agency must make its own findings "and it may not abdicate its responsibility by relying on conclusions of" a sister agency).

[7] Similarly, small clean energy generation facilities ("SCEGF") and small clean energy storage facilities ("SCESF") do not have a true choice of options to elect if DOER's interpretation of G.L. c. 25A, § 21 is adopted because G.L. c. 164, § 69V states that even when a proponent of a SCEGF or SCESF petitions the Siting Board, that application is limited to state permits and that "[a]ll local government permits and approvals for a small clean energy generation facility or a small clean energy storage facility shall be issued separately pursuant to section 21 of chapter 25A." G.L. c. 164, § 69V(a). Unless DOER allows for the traditional a la carte method of permitting as part of its process established pursuant to G.L. c. 25A, § 21, proponents of SCEGF and SCESF would literally have no choice to elect. If the Legislature's intent was to create only two options for local permitting and both are consolidated, then as a matter of consistency it makes no sense for the Legislature to have left state permitting open in some instances as a la carte.

desperately needed to help the Commonwealth achieve its ambitious clean energy and greenhouse gas reduction goals was too complicated, too lengthy, and too easy to thwart, while also recognizing that host communities and other stakeholders should have a more meaningful opportunity to engage with project proponents and participate in the permitting process. The intent was to create a process that works more efficiently and expeditiously without doing away with traditional processes that work. To the extent DOER believes that the 2024 Climate Act forecloses the traditional local permitting process, there are several adverse outcomes that result from that interpretation, which DOER should carefully consider for modification:

- Why would a proponent go through a comprehensive local consolidated review or Siting Board process if all that is needed for a project is one or two routine local permits that are traditionally granted under current laws and regulations in a few months?[8] In this case, it would be the opposite of streamlined permitting, which is contrary to the overarching purpose of the 2024 Climate Act.

- What happens to an applicant who follows the pathway of electing out of the local consolidated review as it is entitled to do by statute? If that applicant's sole remedy is to go to the Siting Board under Section 69U, and the Siting Board decides that the proponent does not have good cause, then there is no alternative for permitting. This would be inconsistent with the Legislature's careful crafting of an expedited permitting scheme for such facilities. The regulations should clearly identify that the consolidated permit process is an alternative to obtaining local permits under existing local statutes, rules, regulations, and ordinances.

- As written, if all small clean energy infrastructure facilities must follow the DOER process, permitting for such facilities at the local level would take longer (~12 months) than the permitting process for, as an example, a natural gas distribution line that needs only grants of location and street opening permits, that could typically be obtained in a matter of weeks or months. This is obviously contrary to the overriding aim of the 2024 Climate Act.

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[8] For example, routine reconductoring projects of existing underground transmission lines in public ways typically may require only a municipal street opening or excavation permit, which often takes only a matter of weeks. Upgrades to a substation to allow for interconnection of distributed energy resources may also require only a single local or building permit under local by-laws, which can frequently be obtained in a few short months at most. This is similarly true for "electric distribution-level projects" that, depending on how DOER ultimately defines the threshold for which of these projects meet the definition of SCTDIF, do not warrant or require any significant local permitting effort. There is no practical reason for such projects to be required to go through a detailed local consolidated review that may take at a year or more to complete.

- From the perspective of local governments, why require them in all cases to engage in a comprehensive consolidated review process lasting a year if, through the application of an a la carte review, they would be able to reasonably and routinely conduct such reviews without unnecessarily consuming scarce municipal resources?[9]

These negative outcomes are in direct conflict with the purpose and intent of the 2024 Climate Act. At a time when customer affordability issues are so acute and the need for expediting clean energy permitting is such a priority, the Companies request that DOER reconsider its treatment of the available permitting pathways for SCTDIF. Accordingly, the Companies strongly recommend that the draft regulations be revised to ensure that the DOER process is optional, and not mandatory, for small clean energy infrastructure facilities. In all instances, the Companies will continue to work cooperatively with municipalities on all projects, regardless of the Companies' chosen permitting pathway.

C. Existing within Municipalities' Home Rule Authority, the A La Carte Process Is Undisturbed by the 2024 Climate Act.

Even if there was somehow ambiguity in the 2024 Climate Act about the discretion afforded to applicants (which there is not), nothing in the 2024 Climate Act indicates that it foreclosed the a la carte pathway with respect to the issuance of individual permits by a local government by creating a consolidated local permitting process. Instead, the Legislature provided a new, alternative process to obtain local permits in a consolidated fashion (through the statutory directive that proponents "may elect") without eliminating altogether prior permitting pathways at the local level. Indeed, under the Home Rule Amendment to the Massachusetts Constitution, Mass. Const. Amend. Art. 2, § 6, local municipal authorities have a "broad grant of powers to

[9] Relatedly, during the public information sessions, several community members expressed concern that their resources, capacity, and staffing would not allow for the review of small clean energy infrastructure facilities within 12 months under the consolidated permitting process. It is foreseeable, therefore, that communities will refer many projects to the Siting Board for de novo adjudication under Section 69W. That in turn could overburden the Siting Board with applications that it had not planned for and significantly increase project costs.

adopt ordinances or by-laws for the protection of the public health, safety, and the general welfare." Bd. of Appeals of Hanover v. Hous. Appeals Comm. in the Dep't of Comty. Affairs, 363 Mass. 339, 359 (1973). Thus, due to the Home Rule Amendment, "municipalities are . . . free to exercise any power or function, excepting those denied to them by their own charters or reserved to the State . . . ." Id. at 358. Local municipalities' broad grant of power is limited, however, in that such ordinances or by-laws cannot be inconsistent with the Massachusetts Constitution or general laws promulgated by the Legislature. Id. at 360 ("municipalities can pass zoning ordinances or by-laws as an exercise of their independent police powers but these powers cannot be exercised in a manner which frustrates the purpose or implementation of a general or special law enacted by the Legislature").

To that end, well-settled precedent of the SJC makes clear that "municipal laws are afforded considerable latitude" and there must be "a sharp conflict between the local and State laws before concluding that the local law is preempted." Six Brothers, Inc. v. Town of Brookline, 493 Mass. 616, 623 (2024) (internal quotations omitted); see Bloom v. Worcester, 363 Mass. 136, 153-154 (1973).[10] A sharp conflict "exists only where '[t]he legislative intent to preclude local action [is] clear." Id., quoting St. George Greek Orthodox Cathedral of W. Mass., Inc. v. Fire Dep't of Springfield, 462 Mass. 120, 125-126 (2012); see Fafard v. Conservation Commission of Barnstable, 432 Mass. 194, 203 (2000) (finding that nothing in G.L. c. 91 precludes the local regulation of pier construction on Commonwealth tidelands). In determining whether a local ordinance or by-law is inconsistent with general law, "the same process of ascertaining legislative intent must be performed as has been performed . . . in our cases involving 'inconsistent' or

[10] Consistent therewith, in the context of the Commonwealth's Home Rule Amendment, "[i]f the State legislative purpose can be achieved in the face of a local ordinance or by-law on the same subject, the local ordinance or by-law is not inconsistent with the State legislation . . . ." Cnty. Com'rs of Bristol v. Conservation Comm'n of Dartmouth, 380 Mass. 706, 715, (1980), quoting Bloom, 363 Mass. at 155-156.

'repugnant' local ordinances or by-laws." Bloom, 363 Mass. at 155. This preemptive intent "may be stated expressly by the Legislature, or it may be implied where the purpose of the statute cannot be achieved in the face of the local rule." Six Brothers, 493 Mass. at 623 (internal quotations and citations omitted); see also Bloom, 363 Mass. at 155.

Reading the 2024 Climate Act as a whole, there is neither an explicit preemption provision in the 2024 Climate Act nor any indication that the overarching purpose of the 2024 Climate Act – "to accelerate the responsible deployment of clean energy infrastructure through siting and permitting reform" – cannot be achieved by providing clean energy facility project proponents the option to "elect" whether to pursue all necessary local permits on a consolidated basis (i.e., the DOER process), or on an individual basis (i.e., the a la carte process). Thus, the ability of local municipalities to continue to have the authority to issue permits for projects under their local ordinances and by-laws, when an applicant makes the election to pursue those permits through the a la carte method, coexists as an alternative to the DOER permitting process under the 2024 Climate Act. That is, they may appropriately operate "side by side." See Six Brothers, 493 Mass. at 622. As discussed above, it would be contrary to the purpose of the 2024 Climate Act to provide consolidated permitting for small clean energy infrastructure facilities that at the same time barred local municipalities from reviewing and issuing permits on an a la carte basis, especially if certain projects require only a limited number of permits from a local authority. Because the purpose of the 2024 Climate Act (streamlined permitting) can be achieved (and in fact is frequently *best* achieved) by issuance of individual local permits, and because the local action in such an instance is consistent with state law, the 2024 Climate Act cannot be read to prohibit such local action.

In the specific context of energy facilities siting, the Legislature knows how to speak clearly when it intends to give a permitting entity broad and exclusive authority over a particular

permit application through a singular permitting pathway. In other words, if the Legislature had intended to foreclose the a la carte process for applicants, it would have said so explicitly. The clearest example of this is that in G.L. c. 164, § 69T, the Legislature made clear that "[n]o applicant shall commence construction of a large clean energy infrastructure facility at a site unless an application for a consolidated permit for such [facility] . . . has been approved by the [Siting Board] and no state agency shall issue a construction permit for any such facility unless the petition to construct such facility has been approved by the [Siting Board]." G.L. c. 164, § 69T. This language leaves no doubt that an applicant must obtain all permits necessary for a large clean energy infrastructure facility from the Siting Board pursuant to Section 69T. Similarly, in G.L. c. 164, § 69U, if an applicant pursues a consolidated permit from the Siting Board pursuant to Section 69U, having submitted such an application and having shown good cause to the Siting Board, "no applicant shall commence construction of a small clean transmission and distribution infrastructure facility at a site unless a consolidated permit for construction of that small clean transmission and distribution infrastructure facility pursuant to [Section 69U] has been approved by the [Siting Board]." G.L. c. 164, § 69U(a). The Legislature could have included, but did not include, similar language in G.L. c. 25A, § 21, and this silence is telling.

IV. SPECIFIC COMMENTS ON DRAFT REGULATIONS

As drafted, DOER has created a local consolidated permitting process that would in many instances be more burdensome, for both the municipality and the proponent, than traditional local permitting.[11] Specific comments on DOER's proposed draft regulations are provided below. In

[11] The Companies are also concerned regarding the application of DOER's model bylaws and their interaction with varying municipal bylaws that exist on the same topics in cities and towns across the Commonwealth. It is unclear to the Companies to what extent DOER's model bylaws will apply particularly where existing bylaw provisions in a given city or town are different from DOER's model bylaws. Resolution of such distinctions may be difficult, contentious, and time consuming without clear guidance from DOER. As a result, the Companies recommend further guidance from DOER and clarity in its rules on this topic.

addition, the Companies have attached suggested redlined edits in Attachment A, provided herewith.

225 C.M.R. 29.02 (Definitions)

- "Key Stakeholders" are defined as "Members of the public including local residents, public interest groups, and organizations within a community located within one mile of a proposed Small Clean Energy Infrastructure Facility that could be affected by that project, or a person or organization representing local residents." As the Companies have stated on multiple occasions during the 2024 Climate Act implementation process, a one-mile buffer for SCTDIF projects is excessive, particularly in dense urban and suburban environments where such a buffer would mean involving potentially thousands of residents and multiple municipalities that, as a practical matter, would not experience any impacts associated with a project. Historically, the Siting Board requires notice within buffers of ¼-mile for new substation construction and within 300 feet of each edge of a proposed new transmission line.[12] Accordingly, the Companies recommend that the buffer for the definition of Key Stakeholders be modified to a quarter mile at most. Further, the Companies suggest that the last phrase – "or a person or organization representing local residents" – be deleted because it is redundant with the initial phrase of "local residents, public interest groups, and organizations."[13]

- In addition, the current definition of "Key Stakeholders" includes "federally recognized, state-acknowledged, or state-recognized tribes." The Companies recommend adding the clarification that the Companies need only consult with such tribes "with a presence in Massachusetts." This language is consistent with how MEPA's current EJ reference list refers to tribes and should be adopted here.

- The draft regulations define "Minimization" as the "reduction of impacts to the smallest possible amount or degree." However, the concept of "minimization" is well understood in extensive precedent of the Siting Board and is commonly understood to mean the reduction of impacts "to the extent practicable." The Companies suggest edits accordingly.

- The draft regulations define "Mitigation" as "[m]easures taken which have been subject to review and input from the general public and include, but are not limited to, the repair, rehabilitation, or restoration of an area affected by an adverse impact of siting a Small Clean Energy Infrastructure Facility." In general, the Companies welcome input from the public (and, in fact, several aspects of the regulations require the Companies to solicit input from the public). Any input that may be received from the public with respect to mitigation,

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12 Notably, for purposes of obtaining local zoning relief, under current law, notice requirements extend out 300 feet from a proposed development that needs zoning relief. G.L. c. 40A, § 11.

13 The Companies note that the term "Key Stakeholders" also appears in the Siting Board's draft regulations at 980 C.M.R. 16.00 and in EEA's Office of Environmental Justice and Equity's Draft Standards and Guidelines on Community Benefit Plans and Community Benefit Agreements. The Companies recommend that the definition be consistent in each source in which it is referenced.

however, must be balanced with considerations of, for example, regulatory requirements such as affordability, ensuring a nexus between mitigation and direct project impacts, as well as the costs and benefits of a proposed mitigation measure. Accordingly, the Companies recommend striking the phrase "which have been subject to review and input from the general public" as it relates to mitigation to avoid confusion or unreasonable expectations by members of the public.

- The "Pre-filing Period" is defined as a "period not more than sixty (60) days before the Applicant's planned submission of a Consolidated Local Permit Application." Consistent with prior comments of the Companies to the Siting Board with respect to the Siting Board's pre-filing engagement and outreach regulations, the Companies submit that community engagement is a fluid, two-way process that should not be limited to a prescribed time period. Accordingly, the Companies suggest striking the reference to 60 days from the regulation defining "Pre-filing Period."

- "Site Footprint" is currently defined as follows: "The area of land and water encompassed by Small Clean Energy Infrastructure Facility's equipment, plus any land significantly impacted by construction of the Small Clean Energy Infrastructure Facility, including, but not limited to, land altered for clearing, grading, and roadways." The Companies submit that this definition is too broad and subjective, and should instead be defined more consistently with other regulatory regimes, such as the Wetlands Protection Act. Accordingly, a Site Footprint should more specifically be defined as: "The area within the parcel(s) of land or areas of water that comprises the limit of work upon which or within which a Small Clean Energy Infrastructure Facility is proposed to be located."

- The definition of SCTDIF includes "(v) electric distribution-level projects that meet a certain threshold, as determined by [DOER]…" To date, DOER has not provided a proposed threshold. The Companies note that these types of projects are often routine and part of the usual business that the Companies conduct in the various municipalities in which they serve on a regular basis. If the DOER process is going to be mandatory (an outcome which the Companies oppose), then the threshold for this definition must be very high and limited to only the most significant scopes of new distribution infrastructure.

225 C.M.R. 29.04 (Applicability)

- As discussed in Section III, above, the Companies suggest that the regulations be clarified to confirm that the DOER process is optional, not mandatory. To that end, the Companies recommend that 225 C.M.R. 29.04(1) be revised (as proposed in green text) to instead read as follows: "225 CMR 29.00 applies to the siting and permitting of Small Clean Energy Infrastructure Facilities by Local Governments when the Applicant elects this permitting pathway to secure a local permit or approval. Nothing in these rules shall prevent an Applicant from seeking needed local permits, approvals, or authorizations individually outside of the local consolidated permitting process, or from the Energy Facilities Siting Board pursuant to G.L. c. 164, § 69U."

225 C.M.R. 29.05 (Concurrency and Transition Periods)

- The Companies acknowledge that the 2024 Climate Act authorizes DOER to "establish a transition or concurrency period for the effective date of any standard that it establishes." G.L. c. 25A, § 21(b). However, as drafted, DOER's rules appear to contemplate a complete transition away from the traditional local permitting pathway to the DOER process. Specifically, the draft regulations state that "Applicants and Local Governments may comply with the standards and practices established in 225 CMR 29.00, or the Local Government's existing applicable standards practices through November 30, 2026, but not a mix of both" and that "Applicants and Local Governments must comply with the standards and practices established in 225 CMR 29.00 no later than December 1, 2026." 225 C.M.R. 29.04(1) and (2). If the phrase "Local Government's existing applicable standards" means the current a la carte permitting process, and the effect of these draft regulations is to foreclose Applicants from electing the a la carte permitting process, then the Companies believe that this regulation conflicts with the 2024 Climate Act for the reasons stated above in Section III of these comments. Accordingly, the Companies suggest striking 225 C.M.R. 29.05(1) in its entirety and editing 225 C.M.R. 29.05(2) to read as follows: "Applicants and Local Governments must comply with the standards and practices established in 225 CMR 29.00 for submission of Consolidated Local Permit Applications no later than December 1, 2026."

225 C.M.R. 29.06 (Public Health, Safety, and Environmental Standards)

- DOER's draft regulations at 225 C.M.R. 29.06(1) refer to DOER's "*Guideline on Public Health, Safety, and Environmental Standards*" ("Guideline") and "criteria and standards" with which Applicants must comply. As written, it is unclear whether the "criteria and standards" are referring to the Guideline or existing local bylaws and ordinances. The Companies will provide further comments on this topic in future written comments pursuant to a schedule to be determined by DOER.[14]

225 C.M.R. 29.07 (Site Suitability)

- The Companies agree that SCTDIF projects are statutorily exempt from site suitability requirements if the project is not located in a newly established public ROW. 225 C.M.R. 29.07(1)(b). This exemption is explicitly articulated in the 2024 Climate Act (see, e.g., Section 5, inserting G.L. c. 21A, § 30); thus, there is no need or benefit to including the words "as defined in the Site Suitability Guidance" and that phrase should therefore be deleted.

- The draft regulations establish a role for a "Site Suitability Score Reviewer" ("Reviewer") who is responsible "for calculating Criteria-specific Suitability Scores and Total Site

[14] On October 6, 2025, DOER issued draft guidelines on the topics of: (1) public health, safety, and environmental standards; (2) pre-filing engagement; (3) common conditions and requirements in case of constructive approval; and (4) minimization and mitigation measures. According to DOER, a "public comment process for these guidelines will take place later this year." The Companies look forward to offering comments at the designated time.

Suitability Scores." 225 C.M.R. 29.02. This is a complex task and the person serving in this role must have suitable credentials and experience while being clearly independent of all potential parties. The Companies have a variety of serious concerns regarding the site suitability scoring process as laid out in the draft regulations and the various opportunities for disagreement and delay. Given the Companies' concerns about the unwieldiness of the site suitability scoring process as currently contemplated by the regulations, the Companies suggest that it may be more efficient for DOER to skip the intermediate score reviewer role and simply have DOER calculate the metric (rather than the Reviewer), in consultation with the Applicant, or reserve the matter for the Siting Board, as appropriate.

- 225 C.M.R. 29.07(5)(a) authorizes a Local Government to "prescribe different types of Minimization and Mitigation Measures, which shall have a rational nexus to the impacts of the proposed Small Clean Energy Infrastructure Facility's siting on the environment, people, and the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity, and protection of natural and working lands, to the extent practicable." The Companies appreciate the reference to a "rational nexus" with project impacts. To further clarify and to ensure that Minimization and Mitigation Measures are properly targeted, the Companies recommend the following edits: "A Local Government may use the Site Suitability Report required by 225 CMR 29.07(3) to prescribe different types of Minimization and Mitigation Measures, which shall have a rational nexus to the environmental and community impacts of the proposed Small Clean Energy Infrastructure Facility~~'s siting on the environment, people, and the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity, and protection of natural and working lands, to the extent practicable~~."

- In 225 C.M.R. 29.07(5)(c), the draft regulations state that a Local Government "may not require Minimization measures for Small Clean Energy Infrastructure Facilities that achieve highly suitable Total Suitability Scores or Criteria-specific Suitability Scores, as prescribed in the Site Suitability Guidance, without the express consent of the Applicant." The Companies note that this regulation does not waive existing local and state regulatory requirements. Similarly, in 225 C.M.R. 29.07(6), the Companies suggest clarifying edits to confirm that any Compensatory Environmental Mitigation that may be warranted is limited solely to those measures with a rational nexus to project-related impacts.

- In 225 C.M.R. 29.07(7), DOER sets forth provisions related to Compensatory Environmental Mitigation Fees. The Companies recognize that the 2024 Climate Act authorizes DOER to "promulgate rules and regulations allowing local governments to set fees for compensatory environmental mitigation for the restoration, establishment, enhancement or preservation of comparable environmental resources through funds paid to the local government or to a non-profit entity to be used at the election of an applicant to satisfy the standard of mitigation to the maximum extent practicable." G.L. c. 25A, § 21(b). As the Companies have stated previously, however, to the extent these fees are intended to be imposed on utility projects, they would directly increase costs to the Commonwealth's electricity customers. Infrastructure development should not be categorically viewed as a burden that has to be financially mitigated, but rather a necessity of the existing growth, development prospects, and the clean energy foresight of the

Commonwealth and, as such, are funded by the Companies' customers. Moreover, it is also important to recognize that the Companies (and other clean energy developers) already comprehensively mitigate the impacts of their projects pursuant to state and local permitting requirements (e.g., replication of wetlands, replanting of trees, noise and visual mitigation) at a significant expense. Imposing a specific fee for this same purpose would be duplicative and potentially costly to customers. In addition, because of the affordability concerns associated with these fees, DOER should explain how it intends to oversee this aspect of the regulations and what the magnitude of these fees are anticipated to be.

225 C.M.R. 29.08 (Pre-Filing Requirements)

- The draft regulations require an Applicant to "submit a Notice of Intent to File Application during the Pre-filing Period" and that the "Pre-filing Period shall not be more than sixty (60) days prior to the planned submission of a Consolidated Local Permit Application." 225 C.M.R. 29.08(2). As discussed above, the Companies suggest striking any reference to a prescribed time period for the Pre-filing Period. To the extent DOER wishes to establish a prescribed time period for the submission of a Notice of Intent to File Application, the Companies recommend that DOER adopts the Siting Board's current draft regulation that calls for such a pre-filing Notice "no less than 45 days and no more than 90 days prior to filing an Application." See 980 C.M.R. 16.04(1)(h).

- In addition, 225 C.M.R. 29.08(2) provides a list of items that must be included in a Notice of Intent to File an Application. Many of the items listed, however, are not required in every instance for every project. For example, not all utility projects require Abbreviated Notice of Resource Area Delineations because not all utility projects are located near or within jurisdictional wetland resource areas. Accordingly, the Companies recommend the qualifier of "if applicable" to the list of items required.

- According to the draft regulations, an Applicant "may contest the Local Government Representative's determination that pre-filing requirements are not met by requesting review of the Applicant's pre-filing activities by the Regulatory Circuit Rider." 225 C.M.R. 29.08(5). The draft regulations are silent, however, with respect to the anticipated timeframe for the Circuit Rider's review. To limit the risk of undue delay, the Companies suggest that the Circuit Rider's review be required as soon as possible, and no more than 5 business days.

225 C.M.R. 29.09 (Consolidated Local Permit Application)

- 225 C.M.R. 29.09(1) purports to allow "permit fees" to be assessed at the time of the Consolidated Local Permit Application and that such permit fees "shall be referenced in the Local Government's Clean Energy Infrastructure Permitting Bylaw and may include a fee structure to cover required technical consultants…" The 2024 Climate Act does not authorize this type of fee, and, further, municipalities already impose fees, as appropriate, for various individual permit applications. The Companies submit that any "permit fees" should be limited to the fees already in place by local government and 225 C.M.R. 29.09(1) should be stricken in its entirety.

- In 225 C.M.R. 29.09(2)(a), the draft regulations refer to DOER's "*Guideline on the Consolidated Local Permit Application.*" To the Companies' knowledge, DOER has not yet issued this Guideline document. The Companies look forward to reviewing the Guideline document and will provide further comments at that time.

- More generally, the Companies submit that the extensive list of items for inclusion in a Consolidated Local Permit Application as set forth in 225 C.M.R. 29.09(2) is overbroad and unnecessary. Not all projects require all of the local permitting information called for therein. To simplify the Consolidated Local Permit Application, the Companies suggest that Section 29.09(2) strike subparts (a) through (j) and instead be condensed to state simply that the "Applicant shall provide information including but not limited to local permit applications and related supporting materials."

225 C.M.R. 29.10 (Consolidated Local Permit Application Review Process)

- As written, the draft regulations do not appear to contemplate, or provide direction for, SCTDIF projects that span multiple municipalities and therefore require review by several municipalities. Because this is common, the draft regulations should be revised to reflect and appropriately address this occurrence.

- Several aspects of the draft regulations at 225 C.M.R. 29.10(3) are problematic. First, the regulation states that all "Local Government boards, offices, commissions, and departments tasked with reviewing the Consolidated Local Permit Application under 225 CMR 29.10 shall issue their respective decisions . . . within twelve (12) months of the date" that an application is received. In other words, the local process can now take up to 12 months. As written, this is in many cases much longer than the current local permitting pathway available to applicants. At a minimum, the regulations should be revised to state that Local Government boards and departments should issue permits as expeditiously as possible, consistent with existing laws on such permits, but in no event shall a decision take longer than 12 months.

- Further, 225 C.M.R. 29.10(3) states that "[i]f a Local Government board or department issues a decision on Individual Application Components denying the application before other Local Government boards and departments reach a decision on their respective Individual Application Components, the Local Government boards and departments with pending applications shall continue their review and issue a decision on their respective Individual Application Components." In addition, 225 C.M.R. 29.10(3)(a) provides that if one or more Local Government boards or departments issue a decision to deny a project, the entire application is denied. Because of the significant effect of a single denial, an Applicant should not have to wait to seek redress for a denial until all Individual Application Components are ruled upon. The Companies submit that if an Individual Application Component is denied, that single denial should immediately trigger an Applicant's ability to seek a de novo adjudication with the Siting Board's Director pursuant to G.L. c. 164, § 69W.

- 225 C.M.R. 29.10(4)(a) states as follows: "An Applicant shall respond to all communications made by the Local Government or the Department within three business days, provided that communications are made in person or using the contact information listed on the Consolidated Local Permit Application." Further, the "Applicant shall submit any revisions requested in such communication within seven business days, unless an extension has been granted in writing by the Local Government or the Department." It is the Companies' understanding that the spirit of this regulation is to ensure that an Applicant addresses the good faith concerns of the Local Government as expeditiously as possible. This is always the Companies' intent. However, depending on the extent and scope of information requested in a "communication," it may not always be feasible or possible to answer substantively within the three or seven days established in the regulation. Moreover, the Companies note that the use of the word "revisions" is problematic and should instead be "information." The Companies may not agree with suggested "revisions" for important and good faith reasons, and the regulations should be written to reflect that possibility.

- Consistent with the Companies' belief that a single denial of an Individual Application Component should trigger an Applicant's ability to seek a de novo adjudication by the Siting Board, DOER should strike the final sentence currently contained in 225 C.M.R. 29.10(5)(b). At a minimum, the sentence should be revised as follows: "A denial~~single decision~~ on Individual Application Components is ~~not~~ eligible for an independent De Novo Adjudication if requested by an Applicant, but may not be~~or~~ otherwise independently appealed or reviewed."

225 C.M.R. 29.11 (Regulatory Circuit Rider)

- According to the draft regulations, the "Regulatory Circuit Rider services shall be provided free of charge to Applicants and Local Governments." 225 C.M.R. 29.11(2). The Companies wish to confirm that the Regulatory Circuit Rider will be an employee of DOER and will have suitable qualifications and experience.

225 C.M.R. 29.12 (Common Conditions and Requirement for Constructive Approval)

- DOER and the Siting Board each rely heavily on the concept of "common conditions" in their current draft regulations, which have only recently been issued for comment by DOER and the Siting Board. In 225 C.M.R. 29.12(1)(1), DOER refers to its "*Guideline on Common Conditions*." The Companies look forward to providing more specific comments on the common conditions in the coming weeks. As a general matter, however, as the Companies have stated before, conditions for a given SCTDIF are not one-size-fits-all and must always be subject to a caveat of "if applicable" or "as applicable."

V. CONCLUSION

The Companies appreciate the opportunity to participate in this important proceeding and submit these comments on DOER's proposed draft regulations. The Companies look forward to

reviewing the comments of other interested stakeholders and continuing to participate in DOER's rulemaking process, including any working group or technical sessions, to better formulate a fair and reasonable set of rules, guidelines, and standards to implement the requirements of the 2024 Climate Act.

Respectfully Submitted,

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY AND NEW ENGLAND POWER COMPANY, MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY EACH d/b/a NATIONAL GRID

By their attorneys,



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Dated: October 17, 2025

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:17 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Comments on Siting regs from City of Northampton

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Carolyn Misch <cmisch@northamptonma.gov>
Sent: Friday, October 17, 2025 2:56 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Comments on Siting regs from City of Northampton

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To Whom it may concern, please see our comments/ concerns about Solar Siting regs:

Northampton has a long standing requirement for applicants of all projects that result in tree removal of a certain size DBH to replace those trees or make a payment in lieu of replacement in accordance with a formula in our ordinance. It would appear that mitigation would be usurped by this ESB review if there is a determination by the state that this is not relevant.

Compensatory Environmental Mitigation. Mitigation measures which are funded by but not performed by the Applicant and are consistent with the restoration, establishment, enhancement, or preservation of environmental resources comparable to those negatively impacted by the siting of a Small Clean Energy Infrastructure Facility

All materials necessary for site plan review, if required by the Local Government, including, but not limited to,..... SHOULD INCLUDE STORMWATER MANAGEMENT CONTROL PLAN, TREE INVENTORY AND REMOVAL PLAN FOR ALL TREES OVER 10" DBH

All requests for relief from applicable zoning or land use regulations, bylaws, and ordinances as well as any materials needed to support the requests including, but not limited to, zoning maps and use tables, and any other materials required under the Local
Government's bylaws or ordinances and all other information required by the Department in its Guideline on the Consolidated Local Permit Application; WHO GETS TO DECIDE ON THE REQUEST FOR WAIVER? THERE ARE SOME WAIVERS THAT WOULD NOT BE ALLOWED: IE TREE INVENTORY, STORMWATER MANGEMENAT THIS LIST SHOULD BE PARED SO APPLICANTS ARE NOT GRANTED CARTE BLANCHE THE ABILITY TO ASK FOR WAIVERS FROM ALL.

29.07 - Exemptions. Facilities located above existing, permitted parking lots could be included as an exemption to create an incentive for greyfield developement

29.13 M. This section should be clear that a community whose ordinances or bylaws meet or exceed the requirements of the model bylaw need not adopt a new set

29.02, definitions, abutter: require notification to abutters within 300 feet, not just those directly adjoining

Prefiling 29.08(f) Pre-filing meeting. Clarify applicant, not municipality responsibility

Unclear how this will interact with communities' existing zoning overlay districts, such as ridgeline protection, floodplain, scenic road, etc.

Communities with existing or proposed zoning districts specifically ridgeline protection bylaws and overlay zones

RE: siting guidelines This is not strong enough on limitations or prohibitions on tree clearing. Strong score implications need to be provided to any projects that propose significant tree clearing, and proh. Requiring mitigation planting for trees removed is critical for incidental tree removal, but clearing of significant forests should not be permitted.

Page 10: "*Large and Small Clean Energy Transmission and Distribution Infrastructure Facilities crossing through Protected Open Space may apply for a waiver if they can demonstrate no other suitable route or location exists*." How does this comply with PLPA??? We would **STRONGLY OPPOSE** any thought of a project proposed in protected open space, unless the applicant can demonstrate a preexisting reserved right for this activity within a deed or restriction.

Definition of open space should also include land currently enrolled in Chapter 61 programs

Section v - agricultural resources. Farmland of Local Importance should be added as a soils class with high point value.

Thank you,

Carolyn Misch, AICP
Director
City of Northampton Office of Planning & Sustainability

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October 17, 2025

Rick Collins, Director, Division of Clean Energy Siting and Permitting
Elizabeth Mahony, Commissioner
Massachusetts Department of Energy Resources
Via email to DOER.Siting.Permitting@mass.gov
Subject: S&P FOLLOW ON RULEMAKING COMMENTS

Dear Director Collins and Commissioner Mahony:

Community Labor United (CLU) would like to thank you for the opportunity to submit written testimony on 225 CMR 29.00 Clean Energy Siting & Permitting Draft Regulations and Preliminary Guidelines. For the last 20 years, CLU has united labor unions and community organizations representing 100,000 working class families in the Greater Boston area.

We commend the Department of Energy Resources' leadership and staff for your substantial and expeditious efforts to promulgate these regulations and guidance as required by "An Act Promoting a Clean Energy Grid, Advancing Energy Equity, and Protecting Ratepayers" ("2024 Climate Act").

Our written testimony in this letter addresses the following topics:

- The Draft Guideline on Uniform Set of Baseline Health, Safety, Environmental and Other Standards (Baseline Standards Guideline)
- The Draft Guideline on Common Conditions (Common Conditions Guideline)
- A recommendation to require Cumulative Impact Analysis in 225 CMR 29.00
- Clarify mechanisms to give added weight to proposals demonstrating compliance with certain sections of MGL 149
- The need for transparency of all application materials

Draft Guideline on Uniform Set of Baseline Health, Safety, Environmental and Other Standards

As you know, every Applicant is required to consult the Baseline Standards in preparing its Application, based on the type of Small Clean Energy Infrastructure Facilities (SCEIF) Project proposed. The Baseline Standards apply throughout the design, construction, operation, maintenance, and decommissioning of a SCEIF. In the event of a Constructive Approval, pursuant to 225 CMR 29.12 and 980 CMR 17.00, the Constructive Approval Permit would incorporate by reference the applicable Baseline Standards in effect at the time of the approval.

The "Background and Purpose" section of the Draft Guideline acknowledges that the Baseline Standards included in the document "do not constitute an exhaustive listing of all relevant health, safety, environmental and other standards that could be applicable to a SCEIF." Therefore, we recommend that the Baseline Standards Guideline be expanded to ensure key provisions include those that protect workers, advance job quality, and ensure the economic benefit of jobs in clean energy infrastructure reach people of color, women, veterans and other marginalized groups. Doing so is consistent with the 2024 Climate Act's stated intent to "give preference to proposals that demonstrate compliance with the provisions of sections 26 to 27F, inclusive, of chapter 149 of the General Laws, and have a history of participation with state or federally certified apprenticeship programs," which is otherwise not addressed in 225 CMR 29.00. These provisions help ensure that the economic benefits of clean energy infrastructure development extend to family-sustaining, high-road jobs for Massachusettsans across race, gender, geography and economic background.

Consistent with this goal, the key provisions addressed in the Baseline Standards Guideline should include the following standards:

1) **Massachusetts labor laws governing working conditions, wages, benefits, and protections from discrimination, among other topics.**

Applicants are required to file disclosures documenting their own and any contractors or subcontractors history of compliance with these laws as part of their application. The importance of these baseline standards should be reinforced via inclusion in the Baseline Standards Guideline.

- Chapter 149: Labor and Industries: This state law covers a wide range of topics, including wages, hours of labor, and safe working conditions G. L. c. 149
- Chapter 151: Minimum Fair Wages: This law covers Massachusetts' minimum wage and overtime regulations, which may differ from and supersede the federal FLSA depending on which law offers stronger protection to the employee G. L. c. 151
- Chapter 151A: Unemployment Insurance: This chapter governs the state's unemployment insurance system, which provides financial benefits to eligible workers who have lost their jobs G. L. c. 151A
- Chapter 151B: Unlawful Discrimination: This law prohibits unlawful discrimination in employment based on factors such as race, color, religious creed, national origin, ancestry, sex, and more G. L. c. 151B
- Chapter 152: Workers' Compensation: This chapter covers Massachusetts workers' compensation laws, which provide wage replacement and medical benefits to employees injured on the job G. L. c. 152

2) **Laws and Regulations governing professional licensure.**

Licensure laws protect the public by setting a minimum standard for professional competence, ensuring professionals have met educational, experience, and examination requirements. These include, but are not limited to, laws governing the licensing of:

- Sheetmetal workers (G. L. c. 112, §§ 237–251; 271 C.M.R. §§ 2–9)

- Electricians (G. L. c. 13, §§ 32 & 32A, G. L. c. 30A, § 19, G. L. c. 112, § 61,G. L. c. 141; 237 C.M.R. §§ 12–23)
- Plumbers and Gas Fitters (G. L. c. 142, §§ 1–22; G. L. c. 112, §§ 61–65E)
- Apprentice Standards (54 C.M.R. 26.00)
    - Including the ratio of apprentices to journeypeople, as established by the Division of Apprenticeship Standards or by statute, such as G. L. c. 141, § 8

3) Massachusetts law defining independent contractor status

Massachusetts' Independent Contractor Law (G. L. c. 149, § 148B) protects workers from misclassification, ensuring employees receive benefits and rights like overtime pay, workers' compensation, and unemployment insurance.

4) Municipal ordinances that support a diverse workforce

A number of municipalities in Massachusetts have policies that support the creation of pathways into construction trades by setting goals for the employment of local residents, people of color, and women on certain projects. These provisions are consistent with the 2024 Climate Act's provisions to ensure environmental justice communities benefit from climate infrastructure projects.Furthermore, local ordinances including the following and any similar measures should be included in the Baseline Standard Guideline:

- Boston Residents Job Policy (Boston, MA, Boston Municipal Code §§ 8-9.1, 8-9.2, 8-9.3, 5-5.3)
- Worcester Responsible Development Ordinance (Worcester, MA, Code of Ordinances, Responsible Development Ordinance, §§ 5.12.010–5.12.080 (2018)).

5) Municipal ordinances that protect workers

Some municipalities have passed enhanced protections against wage theft and require heightened safety measures on certain job sites. The Baseline Standards Guideline should include:

- Local wage theft ordinances, such as those in:
    - Cambridge (Cambridge, MA, Code of Ordinances, §§ 5.01.012–5.01.017 (Wage Theft Ordinance).
    - Somerville (Somerville, MA, Code of Ordinances, Ch. 9, Art. III, § 31A (2016) (Ordinance Relating to Wage Theft).
    - Worcester (Worcester, MA, Revised Ordinances, Ch. 2, § 39 (2016) (Wage Theft Ordinance).
    - Salem (Salem, MA, Code of Ordinances, § 2-2070–2-2071 (2023) (Wage Theft Prevention Ordinance).
    - Chelsea (Chelsea, MA, Code of Ordinances, §§ 2-284A, 14-32A (2016) (Wage Theft Ordinance; Violation of Wage Laws by Licensees and Permittees)).
- Local construction safety ordinances
    - Boston Safe Construction and Demolition Operations Ordinance (Boston, MA, Code of Ordinances, §§ 16-65.1–16-65.9 (2023) (Safe Construction and Demolition Operations Ordinance)).

6) **Baseline Standards for public projects**

Guidance should include measures applicable to any public applicants for clean energy facilities, including recent executive orders issued by Governor Healey.

- Prevailing wage pursuant to G. L. c. 149, §§ 26–27
- Project Labor Agreements on publicly supported infrastructure and construction projects, consistent with Massachusetts Executive Order No. 641 ("Using Project Labor Agreements to Promote Successful Delivery of Major Projects," 2025).
- Massachusetts Executive Order No. 638 ("Promoting the Equitable Participation of Women and Underrepresented Groups in Construction," 2024).

Draft Guideline on Common Conditions

Common Conditions for Constructive Approval Permits, like Baseline Standards, can support the creation of –and equitable access to–family-sustaining, highroad jobs in the clean energy sector. To do so, we recommend the Common Conditions Guideline be amended to incorporate the following:

1) **Conditions to ensure equitable pathways to careers**

- Applicants should develop a diversity and inclusion plan, including the hiring of local residents, people of color, women and gender minorities, veterans, people with disabilities and individuals with criminal records. The plan should include qualitative and quantitative metrics as well as identified data sources and methods to measure the progress and success of the plan.
    - Public reporting requirements can assist decisionmakers and the public in understanding the job impact of clean energy infrastructure. To this end, Applicants should provide a Weekly Certified Payroll Report and Workforce Participation Form to be published on the EFSB Permitting Dashboard or a similar public dashboard.
- Incarceration disproportionately impacts people of color and low income people, and employer Criminal Offender Record Information (CORI) checks can prevent formerly incarcerated people from obtaining employment and prospering after returning to their community. To this end, Applicants, contractors and subcontractors should only request CORI if it constitutes a bona-fide occupational qualification for the role in question.
- Clean energy projects can stimulate the local economy through the purchase of supplies and materials. Applicants should use best efforts to purchase supplies and materials from local vendors, including Minority Business Enterprise and Women Business Enterprise.

2) **Conditions to enhance occupational safety and health**

- To maximize safety in a growing industry, Applicants should develop safety plans, conduct safety meetings and appoint safety coordinators to protect workers and the public.

3) **Conditions to avoid misclassification**

- To ensure employees receive appropriate protections and benefits, Applicants, contractors and subcontractors should affirm they will not misclassify their workers as independent contractors, a common occurrence in the construction industry.

Finally, we recommend explicitly defining all records submitted or developed as part of this permitting process to be public records.

Require Cumulative Impact Analysis in 225 CMR 29.00

The 2024 Climate Act requires Applicants for Large Clean Energy Infrastructure projects before the Energy Facilities Siting Board to perform a Cumulative Impact Analysis as part of their application. Currently, 225 CMR 29.00 does not require a similar analysis for Small Clean Energy Infrastructure projects. However, Small Clean Energy Infrastructure projects may have a large impact on communities and the built and natural environment. Exempting small projects from the Cumulative Impact Analysis requirement of the 2024 Climate Act risks overburdening communities that already bear the brunt of pollution, industrial development, and economic and social marginalization. Cumulative Impact Analysis should be required by 225 CMR 29.00.

Clarify mechanisms to give preference to proposals demonstrating compliance with certain sections of MGL 149

In the 2024 Climate Act, Chapter 25A, Section 21 states, "The department shall give added weight to applicants that demonstrate compliance with the provisions of sections 26 to 27F, inclusive, of chapter 149, and have a history of participation with state or federally certified apprenticeship programs" (Chapter 25A, Section 21, subsection (o)). However, 225 CMR 29.00 does not include provisions to ensure that such proposals are prioritized by decision makers. The regulations should be revised and standardized to provide guidance when issuing decisions on Small Clean Energy Facility projects.

Transparency

Industry, decision makers, and the public can benefit from transparency in application, decision making, and enforcement processes. In order to ensure maximum transparency, DOER should amend 225 CMR 29 to include language assuring the broadest possible public access to records.

In closing, we thank you for your attention to our comments on these guidelines. We appreciate your ongoing diligent work to advance clean energy infrastructure and environmental justice, to build a thriving economy in the Commonwealth.

Sincerely,
Community Labor United
Alternatives for Community and Environment

Boston Climate Action Network
Chinese Progressive Association
Clean Water Action
Sheetmetal Workers Local 17

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:03 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments
Attachments: 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulation_0.pdf

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Charlotte Pechtl <CPechtl@cohassetma.gov>
Sent: Friday, October 17, 2025 12:33 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Cc: Melinda Wall <MWall@cohassetma.gov>; McIntyre, Chris <chris_mcintyre@harvard.edu>; Steve Magnell <SMagnell@cohassetma.gov>; Kathy Berigan <KBerigan@cohassetma.gov>; Tom Bell <TBell@cohassetma.gov>; Will Ashton <WAshton@cohassetma.gov>; Sanji Fernando <SFernando@cohassetma.gov>; Rockett, Connor (ENE) <Connor.Rockett@mass.gov>; Cassandra Thayer <cthayer@cohassetma.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Thank you for the opportunity to comment on the draft regulations DOER is proposing for small clean energy infrastructure project permitting. I only had a few comments at this time listed below. I look forward to any questions or follow-up from you and look forward to reviewing the draft site suitability guidelines.

Comments for Draft Regulations:

1. **Pre-Filing Requirements, Section 29.08 (2) (c)**
    a. I would further clarify “wetland evaluation” to include a wetlands delineation report consistent with current MassDEP guidliens and regulations (e.g., BVW Delineation

Handbook) in addition to including a map of the site that shows all delineated wetland resource areas and relevant buffer zones.

b. I appreciate the opportunity to review wetland delineations through an ANRAD or RDA for a potential project prior to reviewing the Consolidated Local Permit Application process as outlined in 29.09.

2. **Consolidated Local Permit Application, Section 29.09 (f)**
   a. I would clarify that this stage requires "**state and** local wetlands permits" under the Wetlands Protection Act (WPA) and local Bylaws as applicable. The Conservation Commissions issue Orders of Conditions for wetland projects under two (2) layers, the WPA and their Bylaws. The filing of a Notice of Intent (NOI) is commonly required from a wetlands permitting application perspective for the project. Sometimes, an RDA might be appropriate depending on the amount of work and type of work in the buffer zone. In any wetland resource area, the filing of a NOI is required per the WPA in most cases.
   b. Please also add the word **"replication"** to this section as this may be required under the WPA or Bylaws depending on the project. Replication is different from restoration and remediation.
   c. I would also recommend adding the word **"mitigation"** to increase consistency with the WPA.
3. I encourage you to continue working with Department of Environmental Protection (DEP) and their team of wetlands and waterways permitting professionals to maximize consistency and connectivity with the regulations in the WPA as well as their current guidelines for wetlands restoration, delineation, site mitigation, etc.
4. I encourage you to continue working with the Office of Coastal Zone Management (CZM), Natural Heritage Endangered Species Program (NHESP), Department of Conservation and Recreation (DCR), and Division of Marine Fisheries (DMF) to finalize these regulations.

I have copied my Conservation Commission in case they have any additional comments to submit **before 5pm today.**

Thank you again for your time and consideration,
Charlotte

Charlotte Pechtl, MPS
Conservation Agent

Phone: (781) 383-4100 x5104
Email: cpechtl@cohassetma.gov
Please note my email address has changed from cpechtl@cohassetma.org to cpechtl@cohassetma.gov.

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Acadia Center
Advancing the Clean Energy Future
15 Court Square • Suite 1000
Boston, MA 02108

October 17, 2025

Commissioner Elizabeth Mahony
Department of Energy Resources (DOER)
100 Cambridge Street, 9th Floor
Boston, MA 02114

S&P Follow on Rulemaking Comments

Dear Commissioner Mahony:

Thank you for the opportunity to provide written testimony to the Department of Energy Resources (DOER) in response to the draft guidelines on Small Clean Energy Infrastructure Facility Siting and Permitting (225 CMR 29.00). Acadia Center provided verbal testimony during DOER's public comment session on October 15, and we appreciate the opportunity to expand on our commentary even further through the below feedback and recommendations.

Acadia Center is a non-profit research and advocacy organization advancing transformative clean energy solutions that promote a livable climate and a more equitable economy at the state, regional and community levels, primarily in the northeastern U.S. and eastern Canada. Through rigorous data analysis and strategic partnerships, Acadia Center advocates for policies that significantly reduce carbon emissions and address systemic energy challenges. By collaborating with stakeholders, government, business, and communities, Acadia Center pursues ambitious but pragmatic strategies that help to ensure an inclusive and sustainable energy future for all. Acadia Center is heavily involved in Massachusetts policymaking and advocacy, including work on the 2024 Climate Act that initiated this rulemaking process.

Acadia Center thanks DOER for all its work thus far in developing these regulations in response to the passage of the 2024 Climate Act. Acadia Center is strongly supportive of the bill and its provisions advancing the clean energy transition, including those pertaining to siting and permitting reform, and we underscore the importance of these regulations to ensure effective implementation of the new law.

The Role of Municipalities in the Small Clean Energy Siting Provisions

First, Acadia Center strongly supports the streamlining of permitting into one application and into one consolidated approval process, so that well-developed, responsible clean energy projects can be permitted faster and with greater certainty. However, we do urge careful planning on the provisions that envision a single application – while this is the right idea, it is critical to ensure implementation is effective. For example, there must be alignment in software or, at minimum, in software functionality across municipalities for the single application. Acadia Center respectfully recommends the Department work quickly to select one or more appropriate software platforms for municipalities to use in a timely manner. Acadia Center recommends deploying supportive resources and funding directly to municipalities to ensure a smooth roll-out.

Attendees heard at the October 15th public hearing poignant testimony from municipal workers who already feel overwhelmed by the volume of project applications received. Many of them are volunteering their personal time to do related permitting work. As an example of new/added duties, section 29.13 (2) of the draft regulation states that a "local government representative" must fulfill a variety of duties related to organizing different departments and ensuring they stay on track with new processes, should they choose to adopt the Department's model bylaw. Such increased responsibilities may require significant resourcing. To help alleviate burdens on existing local government workers, both in general and for instances where towns elect to adopt the Department's model bylaw, the Department should deploy staff and/or contractors that travel to or are situated in different municipalities to offer new staffing capacity, provide technical assistance, and answer questions about the software, in addition to the existing Regulatory Circuit Rider assistance as needed. Acadia Center also agrees with the Conservation Law Foundation (CLF)'s

recommendation to create a standardized completeness checklist, and for Regulatory Circuit Rider capacity to be communicated early to municipalities in the process. Acadia Center also encourages greater clarity within the regulation, specifically on the definition of "local government" coordination between agencies: namely, the regulation should identify who the decision-making bodies will be within the spectrum of stakeholders, as well as how to resolve a situation in which one organization's lack of support may become a roadblock for an entire project.

The creation of a streamlined and coordinated permitting process should lead to an overall reduction in permits required; to improve the process further, flexible denials could also be incorporated as another potential solution, such that if one agency has cause to deny a project earlier in the process, the applicant should be informed even as other concurrent reviews continue. That way, the applicant can expediently submit a new application.

Acadia Center also reiterates its support for the 12-month deadline for permit turnaround. In addition, Acadia Center encourages the Department to consider conferring some level of recognition or even financial benefits to reward municipalities for a faster approval process. Some projects may, for a variety of reasons, already be able to be permitted in under a year. It would be counterproductive for some projects to get stuck in a slower process because the permitting timeline is being consolidated. Recognition could come in the form of an enhanced tier of Green Communities designations or associated criteria tied to exemplary expedited permitting performance, for example.

Third, Acadia Center would like to address the small transmission & distribution (T&D) definition and related exemptions from the legislation. Acadia Center strongly recommends, under section 29.07 1(b), not pursuing a complete exemption for this definition if a project is not in a new right of way (i.e., if a project is in an existing right of way). Other factors such as project cost-effectiveness and, for small T&D facilities, "right-sizing" for anticipated future load growth and hosting capacity needs, should also be considerations in suitability assessments for projects within existing rights of way, and there should not be blanket exemptions, especially for rebuild or asset condition projects (ACPs). This is due to the fact that a failure to right-size those projects could increase the need for additional projects in other existing or new rights of way down the line. As the Department is aware, the region is currently facing a massive ballooning of transmission costs driven by ACP investments, which focus only on rebuilds of existing transmission assets. By exempting the smaller of these projects from more oversight, the spending will continue growing unabated. As a result, Acadia Center encourages the Department to find creative ways to remove re-build transmission projects from the exemption and scrutinize their cost-effectiveness and sizing appropriateness closely. This could take the form of the proposed regulations linking back to the new authority and responsibilities conferred to the Department of Public Utilities (DPU) and utilities to ensure proposed ACPs include "due consideration" of Grid-Enhancing Technologies (GETs) and Advanced Transmission Technologies (ATTs) and which screen for cost-effective project alternatives (see Chapter 239, Section 46 of the An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers).

Community Benefits

Acadia Center appreciates the proposed regulation's inclusion of community benefit plans and agreements and strongly agrees with the importance of community engagement. However, Acadia Center encourages a greater emphasis and direct preference for Community Benefits Agreements because, as reflected in the proposed definitions, they are legally binding. There is a legitimate concern that, without a requirement for a legally binding community benefit agreement process, applicants will omit/forego this consideration. Twice in the proposed regulations, Community Benefits Plans are referenced while Agreements are omitted (see, 29.09(2)(b), 29.13(2)(b)); in each of these cases, the language construction is permissive/inclusive ("may") and non-limiting ("any"), suggesting that it should be easy to add references to Community Benefits Agreements in these locations as well.

In a similar vein, Acadia Center suggests the removal of the qualifier "if applicable", which appears multiple times throughout the regulations, specifically after social benefits and considerations. Acadia Center believes that consideration of community engagement and any related community or social benefits should be mandatory. Acadia

Center also aligns with CLF's comments on 225 CMR 29.08 Pre Filing requirements and potential improvements for community engagement, where CLF recommends enhanced outreach requirements for meetings, asking for: multilingual translation, accessibility by transit, childcare/flexible timing options, plain language descriptions of projects posted, and project details to be posted online. Acadia Center also agrees there should be more frequent meetings for projects situated in or near environmental justice populations as designated by the Roadmap Law.

Additionally, the regulation contains an overly restrictive examination of community benefits, 'within one mile' of the project. This definition should be relaxed, especially for transmission projects, which typically span for much further than a mile – even for rebuilds (e.g. the small T&D definition mentions 10 miles). If there is a way that this definition can be applied from any point on a transmission project in question, this level of clarification would be appreciated, especially if this definition is codified in statute and cannot be changed further. However, if this definition is malleable, Acadia Center encourages revising it to focus more on who is affected by the project, rather than arbitrary geographical constraints.

Other Considerations and Conclusion

Finally, Acadia Center wishes to address the definition of solar in the regulations. That solar is categorized only as 'ground mount' potentially excludes many dual use solar projects, including canopy solar, agrivoltaics, floating solar, and other types of rooftop or innovative projects. If the omission/exclusion of those non-ground-mount solar facilities is purposeful to focus the updated permitting regulations and site suitability criteria only on ground-mounted projects, it may be helpful for the Department to clarify that in the regulations and make reference to how permitting will operate for those projects to avoid confusion by municipalities.

The present moment underscores the extreme urgency of state siting and permitting reform in light of the sunsetting of the federal solar and wind Investment and Production Tax Credits, along with tremendously restrictive Foreign Entity of Concern rules put into place (including for battery energy storage facilities). With this in mind, Acadia Center urges the Department, through these regulations or other appropriate means, to give extra consideration to the types of projects impacted by the ill-conceived federal clean energy rollbacks, which will need to move even quicker to reduce costs and maintain profitability – especially if they are projects of a smaller size.

Thank you for your time and for the DOER staff's work on these draft regulations. Please do not hesitate to reach out to the Acadia Center team if you have any questions or wish to discuss our testimony further.

Best,

Anya Poplavska
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October 17, 2025

By email: DOER.Siting.Permitting@mass.gov

The Department of Energy Resources
100 Cambridge Street
9th Floor
Boston, MA 02114

Subject: S&P Follow On Rulemaking Comments

RENEW Northeast, Inc. ("RENEW")[1] and the American Clean Power Association (ACP)[2] submit these comments in response to the Department of Energy Resources' ("DOER") request for written comment on the 2024 Climate Act Local Siting and Permitting Reforms draft regulations. Thank you for providing an opportunity for public input on the design of the single consolidated local permit that a "small clean energy infrastructure facility" would be required to obtain to commence construction and operation.

RENEW and ACP greatly appreciate that these draft regulations allow projects that have already begun the permitting process to continue. However, we are concerned that the draft regulations allow municipalities too much time to continue using the old rules at their sole discretion. Solar projects in particular are on a strict timeline to retain eligibility for the Federal Investment Tax Credit (ITC). Waiting until December 2026 to begin permitting under the new rules creates a very tight timeline for projects with an in-service deadline of December 31, 2029. A project that begins permitting in Dec. 2026 can, under the new rules, expect a decision by Dec. 2027. If a de novo adjudication is required, that result would be expected in approximately July 2028. Typical timelines for construction and commissioning are 18 months, which provides zero cushion for frequent sources of delay such as equipment procurement, utility construction, and final witness tests, etc. In the context of the rapidly closing window to preserve the ITC, the difference between implementing the new rules in July vs. December 2026 is quite material. Projects that begin permitting under the old rules have no guarantee on the timeline for a decision, and appeals, if needed, typically take years. In light of the Commonwealth's twin goals of deploying clean energy and preserving ratepayer affordability, it is imperative that permitting reform implementation not become the reason that projects lose eligibility for the ITC, which would cause projects to be much less cost effective, if they remain viable at all.

Further, we commend DOER for providing clear and concise pre-filing requirements that do not adhere to strict timelines for the engagement process and instead allow project proponents to conduct the required engagement on a timeline that works for the project and for the host community.

RENEW and ACP support the establishment of clear and consistent requirements and standards that foster meaningful community engagement and outreach. At the same time, we recognize the inherent

[1] The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW. RENEW Northeast (www.renew-ne.org) unites environmental advocates with developers and operators of the region's largest clean energy projects to coordinate their ideas and resources with the goal of increasing environmentally sustainable power generation in New England from the region's abundant renewable energy resources.

[2] ACP is the leading voice of today's multi-tech clean energy industry, representing energy storage, wind, utility-scale solar, clean hydrogen, and transmission companies. ACP is committed to meeting America's energy and national security goals and building our economy with fast-growing, low-cost, and reliable domestic power. Learn more at cleanpower.org.

challenge of applying uniform standards to projects and municipalities with diverse characteristics and contexts. We are concerned, though, that the language proposed in 225 CMR 29.06(2) allowing municipalities to adopt additional standards above the baseline Public Health, Safety, and Environmental Standards if such additional standards are "reasonably necessary to protect the public health, safety, or welfare" is vague and may result in a continuation of the patchwork permitting environment that presently exists. While it may be reasonable for local governments to retain some control over standards to protect public health, safety and welfare, we are concerned that the wide range of interpretations for what may be "reasonably necessary" will result in instances in which local bylaws create duplicative or excessive requirements to those proposed by 225 CMR 29.00. We encourage DOER to socialize the new regulatory requirements with towns as early as possible to avoid any potential delays, and DOER must endeavor to ensure that local governments do not enact restrictive bylaws or ordinances that either restrict the development of small clean energy resources or supersede the requirements and standards provisioned by DOER. Such overly restrictive standards may have an adverse effect on the ability of project proponents, communities, or the Board in a de novo adjudication to adequately evaluate an application. One solution would be to restrict the language in 225 CMR 29.06(2) to remove the ability for broad interpretation of "reasonably necessary" so as to circumvent any additional standards that would create duplicative or excessive standards to those standards proposed both by the regulation and guidance. Allowing an overly broad authority for municipalities to implement additional standards undermines the goal of standardizing permitting, and in practice may lead to a higher frequency of applications for de novo adjudication by the EFSB.

Further, RENEW and ACP recognize the value of informing communities on project design and engaging key stakeholders early in the process. Yet, the definition of "Key Stakeholders" is overly broad, encompassing "[m]embers of the public including local residents, public interest groups, and organizations within a community located *within one mile* of a proposed Small Clean Energy Infrastructure Facility" (emphasis added). This is problematic because 225 CMR 29.07(2)(b) gives Key Stakeholders the authority to request a review of the Site Suitability Report, which could delay the process by 30 days. The proposed EFSB regulations for Pre-Filing Engagement, on the other hand, do not specify a geographic radius for Key Stakeholders, instead specifying "Project abutting residents" and other organizations "in the vicinity" of a proposed project. In addition, the EFSB draft regulations do not give Key Stakeholders any specific powers. We strongly recommend removing the one-mile radius from the definition of Key Stakeholders in 225 CMR 29.02, and amending 225 CMR 29.07(2)(b) so that the authority to request a Site Suitability Report review is more narrowly tailored.

One of the key outcomes of the 2024 Climate Act was a requirement that local governments issue decisions on permit applications within 12 months. The draft regulations have two provisions, which could lengthen the permitting process by an additional 8 months: the determination of completion of all tasks required for the Notice of Intent to File and the determination of completeness of an Application. We recognize the need for some flexibility to ensure completeness of these requirements, but we believe there are opportunities to streamline this process. Regarding the Notice of Intent to File, we recommend reducing the timelines both parties have to review and respond from 30 days to 15 days, which should be plenty of time for local governments to determine whether all activities have been completed and for prospective applicants to respond to any additional requests for information. Regarding the completeness determination on the Application, we first suggest that DOER develop a common application for all municipalities to eliminate variations across the state and allow applicants to have a predictable process with greater clarity on whether their application is likely to be deemed complete. Second, we again suggest reducing the 30-day window for each party to 15 days and allow for only one back and forth, after which parties could request a determination from the Circuit Rider if there remains a dispute over completeness.

These recommendations would reduce the maximum time after Notice of Intent to File from 20 months to 15 months, while still providing all parties with ample opportunities to review and respond.

RENEW and ACP appreciate the opportunity to provide input on this important regulatory process. We remain committed to supporting the successful implementation of the 2024 Climate Act and welcome the opportunity to participate in future working groups and technical sessions, to ensure Massachusetts stays on track to attain its climate goals.

Sincerely,
Nathan Raike
Nathan Raike
State & Local Affairs Manager

Madelyn Smerillo
American Clean Power Association
Deputy Director, Siting & Permitting Policy

NORTHERN MIDDLESEX COUNCIL OF GOVERNMENTS
SERVING THE REGION SINCE 1963

Jennifer Raitt
Executive Director
NMCOG

Stephen Themelis
Chair
NMCOG Council

October 17, 2025

Director Rick Collins
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Delivered electronically

Re: NMCOG Comments on Draft 225 CMR 29.00 – Clean Energy Siting and Permitting Regulations

Dear Director Collins,

On behalf of the Northern Middlesex Council of Governments (NMCOG), thank you for the opportunity to provide comments on the proposed Clean Energy Siting and Permitting regulations.

NMCOG is the regional planning agency serving nine municipalities in the Greater Lowell region: Billerica, Chelmsford, Dracut, Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough, and Westford. NMCOG was established under Massachusetts General Law Chapter 40B and over time has expanded its role to support member municipalities in areas such as transportation, land use, housing, economic development, environmental sustainability, and intermunicipal collaboration. NMCOG supports accelerating clean energy deployment to meet the Commonwealth's climate targets. Our comments on the 225 CMR 29.00: Small Clean Energy Infrastructure Facility Siting and Permitting regulations highlight areas where additional clarification, flexibility, or safeguards would strengthen the proposed regulations and ensure they are workable for municipalities of all sizes.

NMCOG appreciated the opportunity to attend working meetings with DOER staff during the development of the draft regulations and commends DOER for proposing a unified framework that simplifies permitting, establishes consistent standards, and prioritizes previously developed sites. The inclusion of a regulatory circuit rider and model bylaw for small facilities is an excellent step toward capacity-building and consistency.

Several provisions in the draft regulations may pose challenges for municipalities, particularly small towns with limited staff or Town Meeting-based decision-making. Additionally, the site suitability and scoring frameworks for open space, agricultural land, and environmental justice

would benefit from stronger detail to ensure the regulations advance equity, protect valuable resources, and promote redevelopment of existing built areas.

Consolidated Local Review & Municipal Capacity (29.09, 29.10)

The 12-month timeline for consolidated local review is well-intentioned but may not align with municipal realities and may be challenging for municipalities to achieve:

- Town Meeting Alignment
  Many towns operate under an annual or semiannual Town Meeting schedule. When zoning amendments, special permits, or land transfers require Town Meeting authorization, meeting this timeline would necessitate special Town Meetings creating cost and scheduling burdens. NMCOG recommends allowing municipalities to request timeline extensions when an action requires Town Meeting approval or another public vote.
- Staffing & Administrative Capacity
  Planning departments with limited to no staff and all volunteer boards are typically overextended. Compressing review timelines risks procedural errors and limited public engagement. DOER should establish technical assistance or capacity grants, similar to the MVP or Green Communities models, to help municipalities manage review workloads and training. NMCOG, as well as other regional planning agencies, are well-positioned to assist with these reviews.
- Constructive Approval Safeguards
  The constructive approval provision (automatic approval upon inaction) may unintentionally reward procedural delay. NMCOG recommends that guardrails are added so that constructive approval cannot occur when applications are incomplete or when local boards are awaiting critical state or interagency input.

Site Suitability: Underutilized and Industrial Parcels (29.07)

The site suitability scoring system could better promote reuse of existing developed land and partnerships with landowners of large, underutilized properties:

- Leverage Existing Non-Residential Properties
  Encourage projects that redevelop industrial parks, warehouse districts, storage facilities, and non-residential property rooftops by offering additional scoring points or mitigation credits. These sites typically have access roads, electrical interconnections, and minimal new environmental impact, making them ideal for clean energy siting.
- Landowner Engagement
  DOER should encourage proactive engagement with large landowners through outreach templates and model partnership agreements, helping municipalities and developers identify candidate sites and reduce siting conflicts.

Agricultural & Open Space Protection

NMCOG recommends further refinement relative to agricultural and open space protection to ensure that these provisions meaningfully preserve working lands and natural landscapes:

- Stronger Penalty for Open Space Conversion
  Maintain or increase the mitigation burden for projects that propose to site on open space, ensuring such locations rarely "pencil out" economically compared to redevelopment or rooftop alternatives.
- Agricultural Resources & Mitigation Clarity
  - Clarify how agrivoltaics (dual-use agriculture and solar) offsets agricultural impact scores. Define measurable standards (e.g., crop yield thresholds, acreage maintained).
  - Extend the minimum 10-year agricultural use commitment to a longer or renewable term to protect farmland value.
  - Require mitigation farmland to be of equivalent or higher quality and within the same region to preserve agricultural capacity.
  - Evaluate cumulative farmland loss regionally to prevent fragmentation of viable agricultural districts.
  - Offer technical support and grants to farmers and landowners exploring dual-use systems or soil restoration measures.
- Property Tax Consistency for Dual-Use and Solar-Leased Farmland (29.07 & M.G.L. Ch. 61A Alignment)
  Many dual-use and agrivoltaic projects occur on parcels enrolled in Chapter 61A, which provides preferential tax assessment for active agricultural use. However, when a portion of that land is leased for solar energy generation, local assessors face ambiguity over whether rollback taxes or full withdrawal from 61A apply. To ensure consistency and maintain municipal revenue, DOER should coordinate with the Department of Revenue (DOR) and Massachusetts Department of Agricultural Resources (MDAR) to issue clear guidance allowing partial taxation:
  - The portion of land leased for solar energy should be taxed at standard commercial value during the lease term.
  - The remaining portion of the parcel that continues in bona fide agricultural use should retain its Chapter 61A status.
    This approach avoids punitive rollback taxes, protects municipal budgets, and encourages farmers to responsibly site small-scale solar projects on their properties without losing all 61A benefits.
- Technical Support and Incentives for Agricultural Partnerships
  To encourage dual-use and reuse, DOER should establish technical assistance grants for

farmers, land trusts, and developers to pilot agrivoltaic systems and soil restoration practices. These resources would complement the mitigation requirements under 29.07(7) and support compliance with agricultural best practices. By maintaining a strong penalty structure under 29.07, clarifying agrivoltaic and tax treatment criteria, and adjusting mitigation values to reflect real market dynamics, DOER can ensure that open space and farmland protection remain consistent with Massachusetts' climate, agricultural, and food security goals.

Environmental Justice (EJ) Scoring & Equity Safeguards

We appreciate that the draft regulations recognize environmental justice as a siting factor. To ensure equity and accountability, and move beyond qualitative factors, NMCOG recommends the following:

1. Minimum EJ Scoring Weight
   EJ should account for at least 20% of total site suitability. Projects in or near EJ neighborhoods must achieve a minimum EJ score to qualify for approval.
2. Transparency of Metrics
   Publish the complete EJ scoring formula, including sub-indicators like income, race, language isolation, asthma rates, and cumulative pollution exposure—and allow public review and correction.
3. Dynamic Mapping and Appeals
   Update EJ mapping regularly (e.g., every five years) and allow local petitions to adjust designations where conditions have changed.
4. Cumulative Burden Standard
   Require that projects in already overburdened EJ communities demonstrate no net increase in environmental or health burden unless accompanied by significant mitigation or community benefits.
5. Binding Community Benefit Agreements (CBAs)
   Projects located within or adjacent to EJ areas should be required to execute enforceable CBAs specifying measurable outcomes such as local hiring, discounted energy rates, or community resilience funds—with annual reporting and third-party oversight.
6. Local Benefit Allocation
   At least a defined portion (e.g., 25–50%) of mitigation or benefits should accrue directly to the host EJ community rather than being offset elsewhere.
7. Procedural Equity and Participation Support
   Guarantee translated materials, accessible hybrid meetings, and intervenor funding to ensure EJ residents can meaningfully participate and appeal scoring or permitting decisions.

8. Monitoring and Accountability
   Establish a public dashboard tracking projects, EJ impacts, and CBA compliance. Non-compliance should trigger enforcement actions or financial penalties.
9. Clean Energy Access in EJ Communities
   Where appropriate, incentivize distributed or rooftop solar projects within EJ communities that reduce energy costs and expand local ownership opportunities—so EJ areas are not excluded from the benefits of clean energy transition.

Implementation, Capacity Building, and Transition

NMCOG recommends the following relative to regulatory implementation, continued capacity building, and evaluation of the law.

- Transition Period
  Extend the 9-month concurrency period to at least 12–18 months to allow municipal staff training, bylaw updates, and coordination.
- Guidance and Templates
  DOER should provide early release templates (application forms, outreach checklists, sample bylaws) and offer recurring technical office hours.
- Performance Evaluation
  Establish metrics to track the framework's effectiveness, including permitting durations, appeals, EJ and farmland impacts, and regional distribution of projects.

Conclusion

NMCOG supports the Commonwealth's commitment to clean energy deployment and recognizes the urgent need to streamline permitting. Lasting success will depend on designing a process that balances speed with local capacity, environmental protection, and equity. NMCOG respectfully requests that DOER:

1. Align review timelines with municipal governance structures.
2. Establish clear safeguards for municipal staffing and constructive approval.
3. Incentivize reuse of existing industrial and commercial sites.
4. Strengthen agricultural and open space protection to prevent greenfield siting.
5. Adopt a transparent, enforceable Environmental Justice scoring framework.
6. Extend transition timeframes and expand technical assistance to municipalities.

We thank the Department of Energy Resources for its leadership and welcome further discussion on how these rules can be implemented to achieve Massachusetts' climate goals equitably and efficiently. We appreciate the opportunity to provide this feedback and ask that you contact Meghan Tenhoff, Principal Planner – Sustainability at mtenhoff@nmcog.org with any questions regarding NMCOG's comments.

Sincerely,

Jennifer Raitt
Executive Director

Comments on Draft Regulations: 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting

Dear DOER Clean Energy Siting & Permitting Team,

We appreciate the opportunity to submit comments on the draft regulations for 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting. We recognize and support the Commonwealth's commitment to advancing clean energy development, but urge that this framework be grounded in strong public safety standards, environmental protection, and respect for local governance. Our fear is that the standards as currently set are heavily skewed in favor of Energy developers and those with significant financial interests, at the expense of the health, safety and welfare of the residents (and voters) of the Commonwealth. Our comments reflect the concerns of residents in Duxbury, Massachusetts, who are directly impacted by a proposed Battery Energy Storage System (BESS) facility in a residential neighborhood.

1) Public Notice and Transparency

The draft regulations must strengthen public notice requirements and ensure that all risk and mitigation information is independent, complete, and accessible. Developers should be required to disclose full hazard analyses, fire suppression methods, runoff risks, and mitigation measures in plain language, verified by third-party engineers with no financial interest in the project outcome. Notices must be distributed through official channels and posted online and in public buildings at least 30 days before hearings. DOER should standardize a statewide public notice template including key data points such as proximity to homes, flood zones, and emergency response capacity.

2) Technical and Safety Oversight

Safety standards must be based on widely accepted, independent technical codes—not developer discretion. NFPA 855 and UL 9540A should be treated as baseline requirements, supplemented by additional oversight: third-party engineering review, local Fire Chief and Board of Health certification, and mandatory compliance audits during operation. DOER should create a public, state-managed incident database tracking all BESS fires, malfunctions, and emergency responses statewide. BESS are relatively new technology and safety standards are evolving across the country; the guidelines need to have room for evolution too.

3) Zoning and Land Use Compatibility

BESS facilities should be explicitly prohibited in residential zones and within wetlands buffers. Local zoning and wetlands bylaws must remain controlling under M.G.L. c. 40A and

c. 131 §40. Developers should be required to perform an Alternative Site Analysis demonstrating why industrial or brownfield parcels were not viable.

We recognize that certain clean energy facilities may seek protection under the **Dover Amendment (M.G.L. c. 40A, §3)**, which limits the extent to which municipalities can restrict uses deemed educational, religious, or public-utility related. However, the current interpretation of the Dover Amendment as it relates to energy infrastructure is **actively under review in the Massachusetts Appeals Court**, and its scope remains unsettled.

We urge DOER to ensure that these new regulations **do not preempt or weaken local zoning authority**, but instead clarify that municipalities retain the right to impose **reasonable conditions and restrictions** on siting consistent with established zoning principles—particularly where public safety, wetlands protection, and community character are at stake. Regulations should explicitly affirm that nothing in 225 CMR 29.00 supersedes a municipality's ability to enforce such reasonable, safety-based conditions.

4) Environmental and Health Protections

Environmental and public health safeguards must be rigorous. Developers should conduct site-specific groundwater, soil, and stormwater studies to identify lithium, PFAS, and heavy metal risks. Containment systems must be designed to prevent hazardous runoff or leaching. Post-incident remediation plans should follow MassDEP hazardous-waste cleanup protocols, with mandatory monitoring and public reporting.

5) Decommissioning, Insurance, and Vendor Qualification

The regulations should require comprehensive decommissioning and insurance provisions, including:
• A state-mandated decommissioning bond or escrow covering full restoration costs.
• General liability and environmental contamination insurance maintained throughout the project's life.
• A recycling and disposal plan consistent with MassDEP hazardous waste regulations.
• A state-mandated vendor qualification list, requiring proof of technical competence, safety record, and financial stability to prevent unreliable or inexperienced developers from entering the market.

6) Public Engagement and Equity

Public engagement must be transparent and inclusive. Developers should not control the community outreach process. Municipalities must co-host pre-filing public meetings, and DOER should ensure that outreach materials are accessible, bilingual, and archived publicly. DOER should provide technical assistance grants so towns can hire engineers and legal experts to fairly evaluate applications.

7) Local Authority and Enforcement

Constructive approval should never override local denials based on safety, health, or environmental concerns. Municipalities must retain authority for ongoing enforcement, inspections, and emergency response coordination. Any ownership transfer should trigger re-certification of all permit conditions. DOER should make clear that local governments have the right to enforce stricter protections when necessary.

8) Small Project Exemption and Cumulative Impacts

We are deeply concerned about the exemption in 225 CMR 29.07(1) that removes projects with a total site footprint of one acre or less from the requirement to complete a full site-suitability review and scoring process. While we understand DOER's intent to streamline smaller installations, this threshold risks creating a significant loophole for high-risk Battery Energy Storage Systems (BESS) and similar facilities.

Because many BESS facilities are modular by design, a developer could segment a larger project into multiple sub-one-acre parcels or "pods," each technically below the one-acre threshold, thereby avoiding meaningful environmental review, mitigation, and public scrutiny. The result would be an effective bypass of the Commonwealth's environmental and public-health safeguards.

We respectfully recommend that DOER:
1. Require site-suitability review for all projects proposed within or near residential zones, wetlands buffers, or critical resource areas, regardless of footprint size.
2. Clarify the definition of "site footprint" to include all disturbed land, access roads, utilities, fencing, stormwater infrastructure, and construction lay-down areas to prevent selective calculation of acreage.
3. Evaluate cumulative impacts of multiple adjacent sub-one-acre projects. A series of co-located "small" projects should be treated as a single facility for the purposes of environmental scoring, permitting, and mitigation.
4. Maintain municipal discretion to require full review of any facility that poses potential public-safety or environmental risk, even if it otherwise qualifies as a "small" project.

This clarification will close a loophole that could otherwise allow industrial-scale facilities to be pieced together without comprehensive environmental, safety, or community review.

9) Conclusion

Massachusetts has the opportunity to lead the nation in safe, equitable clean energy deployment. We urge DOER to refine these regulations to ensure full transparency, rigorous safety standards, and meaningful municipal participation. Communities must be partners, not bystanders, in the transition to renewable energy.

Thank you for your attention and consideration.

Sincerely,
Concerned Neighbors of West Street
Duxbury, Massachusetts

DOER.Siting.Permitting@mass.gov

Department of Energy Resources

100 Cambridge Street

Boston, MA 02114

Dear Department of Energy Resources,

Thank you for the opportunity to comment on the proposed regulations (225 CMR 29.00) and the Draft Model Bylaw that would change how towns review and approve energy projects such as Battery Energy Storage Systems (BESS).

While we strongly support Massachusetts' clean energy goals, we are deeply concerned that these regulations, as drafted, would weaken local control and put public safety at risk. Every community is different, and a one-size-fits-all statewide process cannot account for the unique risks posed by large battery systems in or near residential neighborhoods.

Key Concerns

1. **Loss of Local Control and "By-Right" Siting**
   Allowing Tier 1 and Tier 2 BESS projects "by-right" or through Site Plan Review effectively removes municipalities' ability to deny unsafe or unsuitable projects. Site Plan Review can impose conditions, but not reject a project outright, which undermines true local oversight.

2. **Constructive Approval and Compressed Timelines**
   The "constructive approval" clause could result in automatic approvals if a town misses a filing or hearing deadline. This risks fast-tracking complex industrial projects without adequate review, particularly in small towns with part-time boards.

3. **Safety and Emergency Preparedness**
   The regulations require Emergency Response Plans but do not mandate **local Fire Chief or emergency management approval** prior to permitting. Fire departments are often unprepared for lithium-ion battery fires and need clear authority and dedicated funding to ensure community safety.

4. **Environmental and Siting Risks**
   The draft does not sufficiently protect wetlands, aquifers, or evacuation corridors. Given the potential for chemical leaks, water contamination, and plume hazards from thermal runaway events, more stringent siting standards are essential.

    - Large-scale BESS facilities should have **a minimum 300-foot setback** from all residential property lines, schools, and public buildings.
    - **BESS should not be permitted in residential zoning districts** under any circumstances.

5. **Mitigation Payments and Appearance of Influence**
   The inclusion of mitigation or "host community" payments as part of the permitting process raises serious ethical concerns. Such payments, when made directly to towns or local boards, can appear coercive or functionally resemble **financial inducements** to approve projects. This undermines public trust and risks creating the perception—or reality—of pay-to-play siting decisions.

6. **Weak Decommissioning and Financial Protections**
   Allowing "other forms" of surety beyond cash or irrevocable bonds opens the door to inadequate financial coverage for decommissioning or cleanup costs should a developer default or dissolve.

7. **Public Engagement and Transparency**
   The pre-filing and abutter notification process lacks defined timelines and enforceable standards, limiting meaningful community input before applications are filed.

8. **Small Project Exemption Loophole**
   The exemption in **225 CMR 29.07(1)** that removes projects with a total site footprint of one acre or less from full site-suitability review creates a significant loophole. Developers could segment larger BESS projects into multiple sub-one-acre parcels or "pods," each technically below the threshold, to avoid environmental and public-safety scrutiny.

    - All projects proposed within or near residential zones, wetlands buffers, or critical resource areas should require full review, regardless of footprint size.
    - The definition of "site footprint" should include all disturbed land, utilities, fencing, and stormwater areas to prevent selective calculation.
    - Multiple adjacent sub-one-acre projects should be treated as a **single facility** for permitting and review purposes.

Recommendations

We respectfully urge DOER to:

- **Preserve municipal authority** to approve or deny projects based on local safety, zoning, and environmental conditions.
- **Remove or revise the "constructive approval" clause** to prevent automatic approvals.
- **Require local Fire Chief and emergency management approval** of all Emergency Response Plans before any permit is issued.
- **Prohibit BESS facilities in residential zoning districts** and establish **a 300-foot minimum setback** from occupied structures, schools, and public spaces.

- **Strengthen public notice and abutter engagement**, ensuring neighbors are informed well before applications are filed.
- **Explicitly protect wetlands, aquifers, and evacuation routes** from inappropriate BESS siting.
- **Close the small-project exemption loophole** to ensure all BESS projects receive comprehensive review.
- **Allow temporary moratoria** while towns update their bylaws to align with state guidance.
- **Require third-party safety and environmental review** for all Tier 2 and Tier 3 systems.
- **Mandate developer funding** for local fire training and emergency response equipment, managed transparently through public accounts.
- **Prohibit direct mitigation or host community payments** that could influence permitting decisions.
- **Tighten decommissioning financial security** requirements to guarantee full funding of site removal and remediation.
- **Limit waiver authority** to prevent circumvention of critical safety standards.

These regulations should **support—not override—local safety, environmental stewardship, and transparency.** Massachusetts can lead in renewable energy while still respecting community autonomy and ensuring robust public protections.

Thank you for considering these comments and for your continued work toward a safe, equitable, and community-centered clean energy transition.

Sincerely,
Matthew & Lindsey Carnuccio
700 West Street
Duxbury, MA 02332

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:47 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Please accept my comments as submitted: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Janet Sinclair <jasinclair@verizon.net>
Sent: Friday, October 17, 2025 8:16 AM
To: Collins, Rick (ENE) <Rick.Collins@mass.gov>; DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Please accept my comments as submitted: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello All,

Please submit my comments as submitted. I do not know how to send as a pdf.

Such a requirement is overly burdensome upon average people whose life experience is not computer related.

Rick, please acknowledge receipt and acceptance of my comments. Please do not require comments be as pdfs. Such a requirement limits public participation. Your process is already unduly complicated and confusing, even to those who are trying hard to follow along.

Thank you

Janet Sinclair

----- Forwarded Message -----
From: Janet Sinclair <jasinclair@verizon.net>
To: DOER.Siting.Permitting@mass.gov <doer.siting.permitting@mass.gov>; Collins Rick (ENE) <rick.collins@mass.gov>

Sent: Thursday, October 16, 2025 at 02:25:02 PM PDT
Subject: S&P Follow On Rulemaking Comments

Dear DOER and Rick Collins,

Thank you for giving people an opportunity to comment on this document, 225 CMR 29.00 Small Clean Energy Infrastructure Facility Siting and Permitting.

These are the areas that I have questions of concerns about.

1. **What is an abutter? Ithink this is too narrow:**
"Abutter. An owner of land that shares a common boundary or corner with the parcel of land on which a Small Clean Energy Infrastructure Facility is sited or proposed to be sited, including land located directly across a street, road or way. A street, road or way is not an Abutter." **Comment: For special permits, for example abutters to abutters get notified. There should be a definition of abutter that includes more properties. For much less impactful permits in our towns, my experience is that the "abutters" who get notified are many more than this. If having abutter status actually matters, it should not be this limited.**

2**. Who is a key stakeholder?**
"Key Stakeholders. Members of the public including local residents, public interest groups, and organizations within a community located within one mile of a proposed Small Clean Energy Infrastructure Facility that could be affected by that project, or a person or organization representing local residents. Key Stakeholders may include abutting residents (both owners and renters) and businesses, community-based organizations, environmental justice communities, elected or appointed municipal officials (e.g., mayor or town or city manager, relevant Council or Select Board members, Chair(s) of the Conservation Commission, Planning Board, Zoning Board, and Head of the Department of Public Works), regional planning officials, and federally recognized, state-acknowledged, or state recognized tribes". **Comment: People who live outside of one mile could be very affected and aggrieved**. **This definition of Key stakeholders should be expanded. The one mile limit should just go away. There are too many circumstances where impacts from projects affect much more than one mile from the project. For all of the special people that you list, here are many more who are not those people. Are we less valuable? Should we all set up organizations saying we represent someone so that we can be a "key stakeholder"? If key stakeholder status matters, I think anyone who has an interest should be a key stakeholder.**

3 The first notice for the project goes to one person-
" Notice of Intent to File Application. The Applicant shall submit a Notice of Intent to File Application during the Pre-filing Period. The Pre-filing Period shall be not more than sixty (60) days prior to the planned submission of a Consolidated Local Permit Application. Notices of Intent to File Applications shall be submitted to a Local Government Representative" **Comment: this should not be to just one person. This leaves too much influence in one person's hands. In our towns, but because someone is elected and appointed, this never means that these individuals can know and adequately looks out for everyone's concerns, espeically if there is disagreement or a conflict of values. Make it be five people who get all notifications.**

4 **The applicant submits an emergency response plan -**
"A draft Emergency Response Plan to be approved by the Local Government's fire, police, and emergency management departments" **Comment-Who decides what is a sufficient plan? Can citizens in the town disagree? What if they know more?**

5 **The mitigation fees are given to the towns or a non profit that the town chooses:**

"Compensatory Environmental Mitigation Fees established by the Local Government shall be paid by the Applicant in a manner to be established by the Local Government. Payment may be made to either the Local Government or a Non-Profit Entity". **Comment: Does this amount to bribery? I think it does.**

6- Will local authorities be overridden by the state agencies when it comes to "nuisances".
"All materials necessary for any permits or decisions to be issued by local public health and safety authorities, including any plans addressing nuisances, approved emergency response plans, other materials required by the state and local public health and safety authorities, and all other information required by the Department in its Guideline on the Consolidated Local Permit Application; ". **Comment: If there a conflict about "does this constitute and nuisance or a health hazard", will the town's concerns be upheld. Will citizens have a say?**

7 Comment and question: : There is not clear process for appealing decision in the document. Who can appeal? who makes final decisions? I realize some aspects of the law describe an appeal process, but I think that's related only to the whole permit.

8- This may make it easier in some ways, but what if a single decision is utterly aggregious? "A single decision on Individual Application Components is not eligible for an independent De Novo Adjudication or otherwise independently appealed or reviewed " **Human nature beiing what it is, it is aasy to imagine a Board or other authority making "bad" decisions as a result of being pressured in one direction or another. I think it is unwise and unfair to not be able to appeal individual parts of a permit. I also realize that this in itself is a central startegy to expidite permitting. Please create an avenue of appeal, or leave the avenues currently available intact.**

8 Comment and question: - If a town says "no" to a project, will that decision just be overturned like what is happening to us now? Meaning almost every time? Your insistence that we will have local control of anyting at all is troublesome to me.

9. My feeling about this whole process is that as the AG and the courts have been shutting down almost all local control, this law and these regulations are just a formal and legal path to free up the courts and the Ag's office. The effect is to shut down the local decision making process and make it so the developers don't have to spend money on lawyers to get their permits. Now our state agencies will guarantee the same outcomes. Why not just be like New Hampshire and have a state permiting agency. It would be more honest if this Admistration had just done that. This process is WORSE for the towns, except now we can just hand it all over to you.

Sincerely yours,

Janet Sinclair
71 Ashfield St.
Shelburne Falls, MA

October 17, 2025

BY ELECTRONIC MAIL ONLY
DOER.Siting.Permitting@mass.gov

Rick Collins
Massachusetts Department of Energy Resources
100 Cambridge St, 9th Floor
Boston, MA 02114

Subject: S&P Follow On Rulemaking Comments

Dear Director Collins,

The Environmental League of Massachusetts ("ELM") appreciates the opportunity to comment offered by the Department of Energy Resources (DOER) on their Draft Regulations for the siting and permitting of small clean energy infrastructure facilities as required by, "An Act promoting a clean energy grid, advancing equity and protecting taxpayers" ("2024 Climate Act"). ELM respectfully submits comments on the overall draft regulations, and in response to questions posed by DOER.

ELM commends DOER for its thoughtful approach and for incorporating several provisions that will significantly advance the Commonwealth's clean energy and environmental protection goals. We are pleased to express our support for the following elements of the draft regulations.

General Comments

- **225 CMR 29.01 – Purpose:** ELM supports DOER's emphasis on increasing the speed of clean energy deployment while balancing environmental justice, stakeholder engagement, and protection of critical lands. Timely action is critical to meeting the Commonwealth's climate mandates and ensuring an equitable transition to a low-carbon economy. By consolidating permitting and prioritizing efficient review processes for small clean energy projects, the proposed regulation will help remove unnecessary barriers to clean energy deployment while maintaining high environmental standards and community input.
- **225 CMR 29.07(5) – Application of Site Suitability Guidance, Minimization and Mitigation Measures:** ELM supports DOER's use of up-to-date, science-based data to identify suitable and responsible project siting. ELM also appreciates the menu of minimization and mitigation measures that Local Governments may consider as required permit conditions for key criteria, including those related to climate resilience, carbon sequestration, biodiversity protection, maintenance of natural and working lands, and

other environmental and social indicators. Having a non-exhaustive list of examples for municipalities to consider will enable them to more quickly consider permit conditions that will benefit their community.

- **225 CMR 29.07(7) – Application of Site Suitability Guidance, Compensatory Environmental Mitigation Fees:** ELM supports the option for municipalities to assess a Compensatory Environmental Mitigation fee in lieu of the Applicants' own performance of minimization or mitigation measures. ELM recognizes that the compensatory mitigation fee option introduces flexibility for project proponents, while offering opportunities to achieve beneficial community priorities for those locales who opt to assess the fee.
- **225 CMR 29.08 - Pre-Filing Requirements:** ELM supports provisions requiring early and meaningful community engagement prior to project filing, and the selection of a sequence-based approach. Establishing structured opportunities for dialogue before formal applications are submitted ensures that community voices are heard at a stage when feedback can meaningfully influence project design. This approach fosters transparency, builds trust, and helps identify and address potential concerns early, leading to better project outcomes and stronger local support.
- **225 CMR 29.11 – Regulatory Circuit Rider**: ELM supports provisions for a Regulatory Circuit Rider to provide technical assistance for Applicants and Local Governments to effectively implement DOER's reforms. Many communities, especially smaller or under-resourced ones, lack the staff capacity or technical expertise to navigate complex clean energy siting and permitting issues. This support will enable municipalities to make informed decisions, engage effectively with developers, and ensure projects align with local priorities.
- **225 CMR 29.13 – Model Small Clean Energy Infrastructure Facility Permitting Bylaw:** ELM supports DOER's commitment to develop a model siting and permitting bylaw to outline the procedures Local Government boards and departments should follow in conducting the Local Permit review process. Providing municipalities with a clear, standardized framework can help reduce uncertainty and administrative burden, while promoting consistency and predictability across jurisdictions.

Recommendations and Comments

ELM also offers the below recommendations to maximize the effectiveness and impact of key components of the regulations and guidance.

225 CMR 29.05 - Concurrency and Transition Periods

The 2024 Climate Act requires the Commonwealth to promulgate regulations and guidance to implement siting and permitting reforms by March 1, 2026. For clean energy projects subject to the Energy Facilities Siting Board (EFSB) jurisdiction, these reforms will become effective for applications filed on or after July 1, 2026. By contrast, DOER proposes a 9-month concurrency period through December 1, 2026, during which Local Governments may select whether to comply with existing standards and practices, or the new standards and practices promulgated by DOER in 225 CMR 29.00. This has the effect of creating a de facto effective

date of December 1, 2026, for all municipalities, even when some may be able to act more swiftly.

A. DOER should require compliance beginning July 1, 2026, but offer Local Governments opportunity to request a hardship waiver under clearly defined criteria

ELM recognizes the importance of ensuring Local Governments have sufficient time and resources to internalize new permitting processes that will impact when and where projects are sited in their jurisdictions. However, clean energy projects face urgent federal policy challenges that may make it nearly impossible for the Commonwealth to achieve its clean energy and climate goals if not adequately addressed in key reforms like 225 CMR 29.00. Under H.R.1 passed on July 4, 2025, solar and wind projects must commence construction by July 4, 2026, to leverage the federal Investment or Production Tax Credits (ITC/PTC). Projects that commence construction by that date can retain the full ITC/PTC only if they are placed in service by the end of the fourth calendar year after they start construction. The transition and concurrency period, as currently proposed, risk making December 1, 2026, the de facto date on which the reforms in 225 CMR 29.00 will become effective for most municipalities. This date is too late for many clean energy projects to leverage the new consolidated permitting processes AND claim federal tax credits that enable many projects to succeed.

The way DOER implements a transition period has the potential to materially impact the number of clean energy projects that are deployed because it directly determines how many will be subject to the slow, fragmented permitting process that 225 CMR 29.00 is designed to improve. If clean energy projects are unable to leverage the new procedures in 225 CMR 29.00, they risk missing the placed-in-service deadline necessary to secure the ITC and PTC. This, in turn, undermines the Commonwealth's ability to achieve its clean energy objectives necessary not only to combat the climate crisis, but to lower electricity bills for consumers.

As such, ELM recommends that Local Governments must comply with DOER's standards and practices established in 225 CMR 29.00 no later than July 1, 2026, except if granted a waiver from DOER to extend their date of compliance to no later than December 1, 2026. DOER should only grant a waiver for the additional extension if the municipality meets established and clearly defined hardship criteria. We feel this approach appropriately balances the objectives set out in the 2024 Climate Act of quickly deploying responsibly sited clean energy, while meeting the unique timelines and needs of individual towns across the Commonwealth.

Alternatively, if DOER opts to maintain a concurrency period during which Local Governments may choose whether to comply with existing applicable standards or those set out in 225 CMR 29.00, ELM recommends that such a concurrency period be shorter than 9 months, as currently proposed. ELM recommends that Local Governments' deadline for compliance be no later than September 1, 2026, which would provide a 6-month concurrency period. In such a case, ELM reiterates its recommendation to allow municipalities to request a hardship extension out to December 1, 2026 if they meet clearly-defined criteria.



225 CMR 29.07 - Site Suitability / Minimization and Mitigation

A. ***Total Site Suitability Scores should be grounds for permit decision-making in select cases***

ELM recommends that DOER clarify, in regulations or guidance, that Local Governments may utilize the Total Site Suitability Score as basis for their permit decision. As currently drafted, 225 CMR 29.07 allows Local Governments to use site suitability scores to require different minimization and mitigation measures, with the scope and type of such measures tied to the impacted criteria. However, the regulations don't specify whether and how scores could be used as grounds for permit approval or denial.

225 CMR 29.00 references both EEA's Site Suitability Guidance and DOER's Minimization and Mitigation Guidelines for how site suitability scores should be applied. Both documents hint, but do not state explicitly, that scores may inform permit approval or denial decisions. For instance, EEA's Site Suitability guidance states that "significant deference should be given to municipalities seeking mitigation measures for high Criteria-Specific Suitability Scores...if the project's Total Site Suitability Score is above 15." Further, DOER's Minimization and Mitigation Guidelines state that, "At their discretion, Local Governments may require the Applicant to pay Compensatory Environmental Mitigation Fees if the project's Total Site Suitability Score is above 15, or any Criteria-specific Suitability Score is a 4 or above." DOER's Guidelines also state that "Applicants may not be required to pay compensatory environmental mitigation fees for sites with a Total Site Suitability Score of 5 or below."

Both documents point to either end of the Total Site Suitability scoring rubric as grounds to either require minimization or mitigation measures (if a site is highly unsuitable) or prohibit imposing such measures (if a site is highly suitable). However, both sets of extremes raise the question of whether Total Site Suitability Scores should be grounds for permit denial if a site is highly unsuitable or harmful to a community.

Conceptually, projects with very high Total Site Suitability Scores would likely be so unsuitable that only extreme levels of mitigation could address the negative impacts. Further, because scores are intended to guide applicants' selection of project sites and alternatives, the scores partially serve the "avoid" function of the "avoid, minimize, mitigate" hierarchy. Under this framework, ELM stresses that for a very narrow set of projects with highly unsuitable total scores, municipalities should have grounds to deny a permit, as a very high total score indicates that an applicant did not appropriately avoid highly unsuitable sites. ELM recommends that DOER clarify that total scores may only serve as grounds for permit denial under a narrow set of circumstances, and that permit denials on this basis will be scrutinized during De Novo Adjudication. Regardless, DOER should still clarify that Local Governments have grounds for permit denial in such cases.

Importantly, ELM cautions DOER against identifying Total Site Suitability Score thresholds above or below which permit decisions are triggered. ELM cautions that specifying such thresholds risks prolonging deliberation on project scores, rather than focusing on identifying appropriate minimization or mitigation measures that would be applicable for



most projects. Rather, ELM recommends that DOER contextualize that the total site suitability score is grounds for permit decision-making in a narrow set of circumstances as described above and that in most cases, minimization and mitigation measures are the appropriate method of recourse.

B. ***DOER should include language that small projects in Burdened Areas must undergo a Cumulative Impact Analysis***

Under the 2024 Climate Act, EFSB is tasked with promulgating regulations for cumulative impact analysis (CIA) as part of its review of large and small clean energy facilities, provided that those regulations are informed by standards and guidance developed by EEA's Office of Environmental Justice and Equity (OEJE).

As currently drafted, DOER's 225 CMR 29.00 makes no mention of how EFSB's forthcoming Cumulative Impact Analysis (CIA) and OEJE's accompanying guidance would be applied to small projects under DOER's purview. To maintain consistency with the statute and any review or permitting conducted by EFSB for small clean energy infrastructure facilities (SCEIFs), DOER must require that a cumulative impact analysis be conducted in a manner consistent with guidance from OEJE. This process should be drawn from the regulation that will be issued by EFSB for SCEIFs. ELM recognizes that this process should differentiate between the risks posed by small vs. large clean energy projects.

EFSB will have jurisdiction over permit applications for small projects filed directly with the EFSB, and over De Novo appeals submitted by local governments, applicants, or other parties. EFSB will be required to consider cumulative impact analyses in these stages of permit applications. Therefore, to maintain uniformity across permitting for small projects, DOER must include cumulative impact analysis requirements in its proposed regulation for SCEIFs. Consistent procedures and standard conditions will benefit all parties involved in the permitting process for SCEIFs by promoting equitable application of the regulations and carefully planned outcomes. DOER's omission of CIA in its regulations risks creating two different standards for small projects, depending on who is reviewing the application. Such an outcome would create added confusion for Applicants and Local Governments and potentially create perverse and unintended outcomes.

ELM recommends that DOER include cumulative impacts analysis requirements in its final regulation by either issuing its own rules that are consistent with OEJE guidance, or by referring directly to EFSB rules. Because EFSB is also required to include cumulative impact analysis for review of permits pertaining to SCEIFs, DOER could include EFSB's provisions related to SCEIFs into its own rules. This will enable consistency throughout the regulatory process and allow DOER's regulations to move forward while EFSB finalizes its approach.

C. ***The outcomes of Site Suitability Assessments and Cumulative Impact Analyses should inform permit decision-making in a consistent way***

ELM strongly recommends - if DOER allows Total Site Suitability Scores to be grounds for permit decision-making in a narrow set of circumstances - that all state agencies apply this



decision-making framework for projects subject to a Cumulative Impact Analysis (CIA). At the time of this writing, the draft CIA regulations and guidance have not been released. However, ELM understands that projects will be required to undergo either a site suitability assessment or a cumulative impact analysis, but not both. ELM emphasizes the importance of consistently applying the outcomes of screening tools like Site Suitability Assessments and Cumulative Impact Analyses in permit decision-making. Maintaining consistency across both processes is essential to ensuring that, regardless of regulatory pathway, the basis for determining a permit approval or denial is consistent across projects and communities and does not inadvertently lead to inequitable deployment or mitigation. ELM intends to submit comments to this effect when the CIA draft regulations and guidance are released in the coming months.

D. ***The Compensatory Environmental Mitigation Fee should be high enough to disincentivize selection of unsuitable sites***

Although ELM supports offering Municipalities the option to assess a Compensatory Mitigation Fee in lieu of requiring Applicants to perform minimization or mitigation directly, ELM recommends that DOER set a higher maximum fee per acre in its Guidelines on Minimization and Mitigation.

As currently drafted, 225 CMR 29.07(7) states that, "In setting Compensatory Environmental Mitigation Fees, Local Governments shall…calculate the fee in accordance with Department specifications in [DOER's Minimization and Mitigation Guidelines]." The DOER Minimization and Mitigation Guidelines further state that the maximum fee per acre shall adhere to the rate established in the SMART 3.0 program (225 CMR 28.09), which sets a maximum fee of $50,000 per acre. ELM recommends that the maximum fee per acre be set at a higher rate because, at present, the Mitigation Fee formula results in a total compensatory mitigation fee payment that isn't high enough to disincentivize Applicants from proposing projects in unsuitable locations. Further, ELM emphasizes that setting a higher maximum fee per acre will make projects that site in highly suitable areas more cost-competitive, while disincentivizing sites that have negative impacts on people and the environment.

225 CMR 29.10 – Consolidated Local Permit Application Review Process

A. Ensure that Constructive Approval is a thoughtful and narrowly-applied mechanism for project advancement

As drafted, 225 CMR 29.10 would allow a permit application for a small clean energy infrastructure facility project to be approved by default if a municipality does not determine the completeness of the application within the designated 30-day window. The regulations state that "If the Local Government does not determine whether a Consolidated Local Permit Application is completed within 30 days of receipt, the Consolidated Local Permit Application shall be deemed to be complete and subject to the common conditions and requirements for constructive approval…"

ELM recognizes the need for expedited processes for the construction of clean energy infrastructure projects; however, we recognize the constraints that municipalities face in thoroughly and effectively reviewing applications on accelerated timelines. Constructive approval should not become a tool for project proponents to sidestep critical oversight and environmental protections, particularly in municipalities with limited resources across the Commonwealth.

ELM recommends that DOER provide further clarity on what additional options would be available for municipalities to request short-term extensions absent a final ruling the completeness determination of an application. DOER should release additional clarifying guidance for timing and administration of the proposed 12-month constructive approval period, as well as creating a narrowly defined list of eligible criteria for granting decision-making extensions at municipalities' request.

B. ***Offer More Support for Local Governments***

There must be support for municipalities to meet deadlines, especially those with limited planning capacity, or most projects will end up being constructively approved. While the "constructive approval" mechanism is meant to encourage timeliness, it risks enabling projects to move forward without adequate review, especially in communities with limited capacity. To avoid this, the Department should clarify ways to help municipalities meet deadlines and proactively offer a "checklist" or other informational material for what qualifies as a completed application. include a standardized completeness checklist.

If constructive approval is applied without sufficient safeguards, it could allow projects to move forward without full municipal or community input, particularly in under-resourced jurisdictions. ELM recommends that DOER establish procedural safeguards to ensure local governments receive timely reminders and assistance as they approach the 12-month review deadline and clarify whether and how a pending De Novo Adjudication or unresolved disputes pause or extend the timeline for constructive approval.

C. De Novo Adjudication

It is important to allow De Novo adjudication at the Energy Facilities Siting Board following a permit decision. However, to reduce ambiguity about this pathway for all stakeholders, the regulation should clarify how the De Novo process interacts with constructive approval timelines and whether a project can proceed during adjudication. Additionally, it is important to ensure affected community members, especially EJ populations, understand how and when to file a petition. This must be addressed during the outreach process DOER should require project proponents to offer clear and easy-to-understand information about adjudication options to host communities during the pre-filing engagement process.

225 CMR 29.11 – Regulatory Circuit Rider

A. Clarify Scope and Limitations

ELM is very supportive of this provision as a means to provide technical assistance to Applicants and Local Governments in implementing the new reforms in 225 CMR 29.00. To strengthen this provision, ELM recommends clarifying the scope and limitations of the Circuit Rider's Role, particularly in the case of disputes. For example, will the Circuit Rider's guidance carry binding effect? DOER should ensure that Circuit Riders are adequately resourced and staffed. Additionally, the function of the Circuit Rider should be clearly communicated to municipalities and applicants early in the process.

B. Ensure DOER is sufficiently resourced to execute the Regulatory Circuit Rider and its other expanded duties

ELM recognizes that the proposed regulations significantly increase the demand on DOER and host municipalities to expedite their approval process for small clean energy infrastructure projects. Increased operational support will be essential for DOER to successfully execute these new responsibilities, and ELM intends to advocate strongly to the Governor and Legislature for the necessary funding. DOER's ability to successfully implement its new responsibilities hinges on its staffing and resource capacity. DOER will be responsible for managing an increase in applications from across the Commonwealth, and the agency needs sufficient staff to provide the technical guidance needed to ensure these regulations and guidelines are being properly implemented.

ELM recognizes that municipalities across the Commonwealth are already resource-constrained, and the proposed regulations impose further responsibilities upon host-municipalities. Many municipalities across the Commonwealth lack the expertise to evaluate clean energy projects, and the impacts these projects have on their community. ELM appreciates the inclusion of the Regulatory Circuit Rider in 225 CMR 29.11 to assist municipalities in implementing the permitting process. However, ELM recommends that DOER has the necessary funding to ensure that it can implement the Circuit Rider Program to meet its likely demand.

The proposed Regulatory Circuit Rider will alleviate some, but not all the newfound responsibilities placed upon municipalities. ELM recommends that municipalities, specifically smaller communities with limited public resources, have the support that is needed to deal with these complex clean energy projects. ELM appreciates the inclusion of 225 CMR 29.06 and the flexibility that it gives municipalities to adopt additional standards that they see fit to protect the public health, safety, or welfare of the community. However, without an increase in funding, these additional standards that municipalities want to implement might not be feasible.

SRPEDD
Southeastern Regional Planning & Economic Development District

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Westport

Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114
October 17, 2025

Re: Comments on Draft Regulations and Guidance Implementing the 2024 Climate Act

To the Energy Facilities Siting Board,

On behalf of the Southeastern Regional Planning and Economic Development District (SRPEDD), representing 27 cities and towns in Southeastern Massachusetts, we appreciate the opportunity to provide further comments on the implementation of the 2024 Climate Act and related regulations.

We previously submitted comments on May 30, 2025, focused on critical environmental and regional concerns, including coastal vulnerability, wetlands, drinking water protection, agricultural soils, cumulative impacts, ecological connectivity, decommissioning, cumulative solar impacts, and the integration of transportation planning. While the Draft Regulations (225 CMR 29.00), Draft Guidance on Site Suitability Assessments, and Community Benefits Plan (CBP) Standards address many structural and procedural issues, several of SRPEDD's key concerns remain insufficiently addressed.

Areas Still Not Adequately Addressed:

1. Integration of Local and Regional Planning Priorities
    - Draft regulations require applicants to submit consolidated permit applications and pre-filing engagement, but they do not explicitly require consistency with local master plans, open space plans, or watershed-based plans.
    - Municipal and regional planning priorities, particularly in Environmental Justice communities, should be directly incorporated into site suitability scoring and mitigation requirements.
2. Comprehensive Energy Strategy and Demand Forecasting
    - The regulations still lack a statewide energy demand analysis that ties permitting decisions to coherent generation and transmission strategies.
    - Without this, projects may continue to be driven by opportunistic siting rather than a coordinated, environmentally suitable, and equitable plan.
3. Coastal Hazards and Drinking Water Protection
    - While "climate change resilience" is included in scoring criteria, the regulations do not sufficiently weight storm surge, saltwater intrusion, or drinking water aquifer vulnerabilities as high-risk exclusions.
    - SRPEDD urges explicit designation of Zone II/III wellhead protection areas, surface water supply watersheds, and coastal flood zones as ineligible or high-sensitivity areas.
4. Agricultural Land and Cranberry Bogs
    - Draft guidance includes "agricultural resources" in scoring, but it undervalues Prime Farmland soils and active cranberry bogs, which are critical for food security, carbon storage, and resilience.

- We recommend stronger weighting and explicit recognition of cranberry bog systems as high-value landscapes.

5. Cumulative Impacts and Project Density
   - Although cumulative impact analyses (CIA) are required in Burdened Areas, there is no regional lens for evaluating the cumulative environmental and land use impacts of solar and battery storage development.
   - Municipalities need clear thresholds or caps to prevent disproportionate siting burdens.
6. Ecological Connectivity and Rare Species
   - Draft guidance references biodiversity but does not fully integrate BioMap Core Habitat and Critical Natural Landscapes into exclusions or strong weighting for site suitability.
   - Landscape fragmentation and habitat corridor disruption should be considered as cumulative impacts.
7. Decommissioning and Lifecycle Management
   - Regulations mention compliance and enforcement, but there is still no requirement for financial assurance mechanisms (surety bonds, escrow accounts) to guarantee environmentally responsible decommissioning of solar and battery projects.
   - SRPEDD strongly urges mandatory decommissioning plans with updated cost estimates and secured funding.
8. Community Benefits Plans (CBPs) and Agreements (CBAs)
   - Draft CBP Standards are a strong step, but current rules do not:
     i. Require CBPs/CBAs as a condition of permit approval;
     ii. Ensure enforceability and accountability at the state level (EFSB currently declines enforcement of CBAs);
     iii. Provide metrics or oversight mechanisms to ensure delivery of promised benefits.
   - SRPEDD recommends CBPs be required in all projects of regional impact, with independent monitoring and reporting.
9. Transportation and Co-Location Infrastructure
   - Energy siting rules still do not integrate opportunities to co-locate with transportation corridors (e.g., MassDOT ROWs, rail, MassTrails) to reduce land conversion impacts.
   - Coordinating with the Massachusetts 2050 Transportation Plan and regional MPOs would advance decarbonization while minimizing ecological harm.

New Requests (additional concerns identified by SRPEDD):

1. Human Considerations in Wind Development
   - Regulations must account for human impacts in wind turbine siting. Clear standards should establish where turbines can and cannot be installed to avoid community impacts.
2. Time Concerns

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- The proposed March 1 deadline for promulgating procedural regulations is not feasible. Municipalities, developers, and regional agencies will not have sufficient time to adjust planning, staffing, and regulatory frameworks. A more realistic timeline is essential to ensure thoughtful implementation, adequate training, and meaningful stakeholder engagement.

3. Forested Land Protections
    - It remains unclear whether, between the SMART program changes and the site suitability analysis, forested lands will receive sufficient protection from development such as solar projects. SRPEDD strongly recommends that the site suitability framework place very high value on forested lands to ensure that renewable energy development is prioritized on lower-value, disturbed lands first. Forested lands are critical carbon sinks, biodiversity reserves, and essential to climate resilience, and they should be safeguarded accordingly.
4. Distribution System Expansion and Local Burdens
    - The Plymouth Study Group and related distribution studies within the SRPEDD region demonstrate that the Commonwealth has already approved significant distribution expansion to accommodate hundreds of MW of new solar projects. These upgrades reduce interconnection costs and will naturally attract additional projects, creating intense pressures on municipal permitting boards. As currently structured, the regulations do not provide towns with the resources or tools needed to effectively review the influx of large-scale solar and battery storage projects.

Summary of Key Recommendations:

- Explicitly incorporate local/regional plans and municipal input into site suitability scoring.
- Recognize coastal hazards, drinking water resource, forested lands, and agricultural soils as high-sensitivity exclusions.
- Require cumulative impact assessments for all projects, not just Burdened Areas, with thresholds to prevent disproportionate burdens.
- Establish mandatory financial assurance for decommissioning.
- Make CBPs/CBAs enforceable and integral to permitting decisions, with compensation directed to impacted towns.
- Include human-centered siting requirements for wind energy.
- Revise the March 1 timeline to allow for effective implementation.

We commend the Commonwealth's progress in building a more equitable and environmentally sound siting process and we stand ready to support continued refinement to ensure that clean energy development aligns with climate resilience, natural resource protection, and community priorities.

Respectfully submitted,

Danica Belknap

Danica Belknap

SRPEDD
Southeastern Regional Planning & Economic Development District

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Environmental Planning Manager
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Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:16 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow on Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Carolyn Charter <cstabilo@charter.net>
Sent: Friday, October 17, 2025 1:34 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow on Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello, my name is Carolyn Stabilo and I live in Hampden, Massachusetts.

I'm writing to acknowledge my appreciation for public comment on 225 CMR 29.00, but it feels too little, too late. As someone who has been directly impacted by these commercial facilities, both solar and batteries, in western Massachusetts, I disagree with this legislation. Let me explain…

Why should the state, who has no knowledge of the community a facility is sited to be in, not allow the municipality itself to have any say? That's how this reads. This law doesn't even cover basic information, such as how or why the state's denial or approval of a project can be appealed. It also doesn't explain what constitutes an "emergency plan." No battery energy storage facility (BESS) I've seen proposed, in either Massachusetts or elsewhere, includes an emergency evacuation plan for local residents. Who approves what "emergency response plan" is sufficient to protect not only ourselves, but our families? Are we really going to leave these important, life-threatening details to out of state developers, whose only main concern is their bottom line?

I've been following this "green revolution" for years, and we were not given the opportunity to even vote on this legislation. It was passed without majority approval.

None of this "renewable" energy should be at the expense of people and the environment. Unfortunately, since this bill is so broad and non-specific, that's exactly what will occur without major changes, or my hope, to repeal this bill and instead, continue to allow our towns to make the best decisions for us. As it is, most of the towns in Massachusetts have

limited financial means and staff to truly understand these complex projects, and there are no plans written into this bill that will assist us financially with finding professionals and consultants to verify that a project is safe.

I also believe, at the very least, the Notices of Intent need to go to multiple local offices, so no one is blindsided by a 40 year endeavor. Also, I can easily see any proposed “mitigation fees” could be used as a manipulation tactic by developers to get what they want. This money should be given to the towns in question, if nothing else to beef up their fire departments when there’s an emergency—because it’s not a question of if, but rather than when—and not “non-profits.”

This signs of an overstretch of government. Overall, I disagree and disapprove of this bill and I’m disappointed the state of Massachusetts doesn’t trust citizens’ judgement, all in the name of reaching impossible energy goals.

And the goal, who set that goal?

Sincerely, Carolyn Stabilo

Carolyn Stabilo
219 Ames Road
Hampden, MA 01036
cstabilo@charter.net / 413-566-0130

Eastham Conservation Commission

2500 State Highway
Eastham, MA. 02642
(508)-240-5900

October 17, 2025

To: Rick Collins
Massachusetts Department of Energy Resources
Attn: 225 CMR 29.00 Public Comment

Re: Public Comment on 225 CMR 29.00 – Small Clean Energy Infrastructure Facility Siting and Permitting Draft Regulation (S&P Follow On Rulemaking Comments)

Dear Department of Energy Resources:

On behalf of the Eastham Conservation Commission, I write to express our deep concern that the proposed regulation 225 CMR 29.00 will significantly undermine the ability of municipalities like ours to apply and enforce local environmental protections. In particular, we are alarmed that Eastham's more stringent wetlands bylaw and local regulations could be excluded from the permitting process entirely. The draft framework appears to sideline both the subject-matter expertise of Conservation Commissions and the Department of Environmental Protection, while removing the ability to defend Home Rule wetlands bylaws through judicial appeal. We are further concerned that rigid timelines and procedural shortcuts—such as constructive approval and de novo review—create opportunities for applicants to bypass local oversight. During de novo review, there is no guarantee that local boards like ours would even have a formal seat at the table. These concerns are detailed below.

Undermining Wetlands Protection and Local Bylaws

Massachusetts has long led the nation in wetlands protection, yet §29.06 of the draft regulation addresses environmental issues only in the broadest terms. It references "public health, safety, and environmental standards" and "encroachments on critical resources," but provides no connection to the Wetlands Protection Act (M.G.L. c.131 §40), 310 CMR 10.00, or municipal bylaws adopted under Home Rule. By authorizing DOER to define environmental standards

through its own Guideline and by limiting local standards to those that "do not conflict" with DOER's (§29.06(2)), the regulation effectively subordinates existing wetlands protections to an undefined state framework. This omission risks sidelining decades of local conservation work and undermines the Commonwealth's integrated system of resource protection.

These omissions, combined with later procedural provisions, could allow projects to sidestep wetlands review entirely:

- The regulation does not affirm the continued authority of local wetlands bylaws or regulations under M.G.L. c.131 §40, leaving room for preemption by future DOER guidance.
- The "Constructive Approval" clause (§29.12) and the de novo adjudication process (§29.10(5)) could allow applicants to bypass Conservation Commissions entirely. The Energy Facilities Siting Board (EFSB), which would assume jurisdiction, lacks an ecological mandate and is not required to apply local or state wetlands standards.
- Under 310 CMR 10.05(6)(c), Conservation Commissions may deny incomplete filings. Yet §29.10(3) allows applicants to treat such denials as a trigger for de novo review—effectively using procedural loopholes to avoid wetlands scrutiny.
- Section 29.10(3) also folds all local determinations into a single consolidated permit, eliminating the ability to pursue independent judicial appeals under local bylaws.

Erosion of Home Rule and Local Oversight

Sections 29.09 and 29.10 consolidate all local permits into a single decision, removing independent appeal paths for wetlands, zoning, and health boards. Section 29.06(2) further limits local standards to those "not in conflict" with DOER rules, weakening the ability of towns to uphold stronger environmental protections.

- The regulation does not grant municipalities standing or intervenor rights in appeals (§29.10(5)), reducing local governments to advisory roles rather than co-equal permitting authorities.
- By requiring applicants—not local boards—to host public meetings (§29.08), the regulation diminishes transparency and community trust in a process that should be led by public officials.
- The 60-day pre-filing period (§29.08) and the short Site Suitability scoring timeline (§29.07) are insufficient for meaningful ecological review, especially in coastal communities where field verification depends on seasonal conditions. These challenges are compounded by the wide disparity in municipal permitting capacity across the Commonwealth—some towns have robust professional staffing, while others rely entirely on volunteers—and by the limited availability of qualified professionals on Cape Cod to perform independent peer review for municipal permitting, as many coastal scientists and professional engineers are committed to research or private consulting work and lack availability within such short timeframes as proposed in the regulations.

Procedural Vulnerabilities and Lack of Expertise

From our collective experience reviewing hundreds of filings, we have seen how some applicants exploit procedural gaps and the limited availability of qualified peer reviewers to delay or divert local review, sometimes by omitting or understating jurisdictional resource areas or failing to address applicable local regulations and performance standards. Under §§29.10(1)–(3) and 29.12, these gaps are amplified by rigid timelines and automatic approval provisions that allow incomplete or insufficient filings to advance to de novo review before the EFSB, bypassing local expertise entirely.

- Incomplete or insufficient filings could be used strategically to obtain a denial and move the case to the EFSB under de novo review (§29.10(5)), removing oversight by local boards with environmental expertise.
- The 12-month constructive approval rule (§29.12) rewards stalling tactics—projects can be approved by default even when boards are waiting for applicants to provide essential data or for peer review results to be completed.
- The EFSB's focus on infrastructure reliability, rather than ecological integrity, means local expertise in groundwater, floodplain management, and habitat protection may be lost from the process.

Undefined Site Suitability Criteria

The regulation relies on Site Suitability Scores to determine whether projects are exempt from local mitigation requirements. While §29.07 establishes a scoring and reporting process, it does not define the underlying environmental criteria or require public rulemaking for future changes. Instead, these critical standards are deferred to DOER's "Site Suitability Guidance," which may be revised administratively without notice or input.

- These guidelines can be changed without public process, leaving municipalities vulnerable to shifting standards.
- Labeling already-cleared land as "highly suitable" (§29.07(5)(c)) risks incentivizing land clearing to qualify for exemptions.
- The regulation does not reference key environmental standards such as 310 CMR 10.00 (Wetlands Protection) or 310 CMR 22.00 (Drinking Water). Without these cross-references, critical groundwater and habitat protections may be weakened.

Recommendations

To safeguard environmental integrity and preserve meaningful Home Rule authority, the Eastham Conservation Commission respectfully recommends the following revisions to 225 CMR 29.00:

1. Explicitly affirm that local wetlands bylaws, Board of Health regulations, and zoning ordinances remain enforceable within the consolidated permit structure.

2. Require that de novo appeals (§29.10(5)) apply all relevant local and state standards and grant municipalities formal intervenor status in any EFSB proceeding.
3. Clarify that incomplete or insufficient filings under 310 CMR 10.05(6)(c) are ineligible for constructive approval or de novo review (§29.12).
4. Restore public meeting leadership to permitting authorities, rather than applicants (§29.08), to maintain transparency and public trust.
5. Extend pre-filing and review timelines (§§29.07–29.10) to accommodate seasonal fieldwork, peer review, and comprehensive ecological evaluation.
6. Define and publish Site Suitability criteria (§29.07) through formal rulemaking, and ensure they are publicly vetted and incorporate groundwater, habitat, and climate resilience metrics.
7. Preserve municipal rights to pursue independent judicial appeals under local wetlands bylaws (§29.10(3)).

Together, these revisions would restore balance between state and local authority, ensuring that efficiency does not come at the expense of ecological integrity or public accountability.

Clean energy expansion should complement—not compromise—Massachusetts' long-standing environmental protections. Local knowledge and ecological expertise are essential to responsible siting, and any framework that sidelines those perspectives will erode public trust. We urge DOER to revise 225 CMR 29.00 to uphold the Commonwealth's commitment to environmental stewardship, public safety, and Home Rule.

Sincerely,



Karen Strauss
Chair, Eastham Conservation Commission
karenstrauss@comcast.net

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 5:17 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Keetu Winter <kayy.winter@gmail.com>
Sent: Friday, October 17, 2025 1:44 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear DOER Representatives,

Thank you for the opportunity to comment on the draft regulations and model bylaws for Small Clean Energy Infrastructure. As a resident of Leverett, I urge that the regulations ensure fairness, transparency, and respect for local authority. Please change the regulations to address the following:

1. Definition of “Abutter” – Too narrow; should include “abutters to abutters.”

2. Definition of “Key Stakeholder” – The one-mile limit excludes people who may still be affected; broaden it.

3. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Selectboard), not just one.

4. Emergency Response Plan – Must clearly state who approves adequacy; local departments need authority.

5. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits may be unfair way for a developer to get .local approvals.

6. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

7. Appeals Process – Needs clarity on who can appeal and how.

8. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

9. Implementation will require funding and training to meet these new expectations. Please ensure these needs are recognized in the final regulations.

10. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can carry out fair and thorough review processes.

Sincerely,
Keetu Winter
Leverett, MA
860 921 7678

City of Cambridge
Executive Department

YI-AN HUANG
City Manager

October 17, 2025

Commissioner Elizabeth Mahony
Massachusetts Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Re: 225 CMR 29.00 draft regulations

Dear Commissioner Mahony,

The City of Cambridge appreciates DOER's invitation to submit comments on its recently issued 225 CMR 29.00 draft regulations for the siting and permitting of small clean energy projects at the municipal level and offer the following comments.

We support initiatives to enable the siting and permitting of clean energy facilities and infrastructure. Expanding access to clean energy generation and storage is critical to meeting the Commonwealth's ambitious and necessary climate goals. Appropriately streamlining the siting and permitting process will advance access to locally generated renewable energy.

Our main concern with your draft regulations is with **the practical impacts of implementing a consolidated application process.** As written, it has the potential to become confusing and burdensome to both applicants and municipal staff. For example:

1. The proposed regulations cover a range of different types of permits:
    - Some are discretionary in nature, including zoning special permits and variances that have built-in timeframes for public hearings, decisions, and appeals.
    - Some are more administrative, including electrical, plumbing and fire safety permits, which are typically issued by inspectors based on code compliance on a shorter timeframe and without public review.
    - There are also review procedures that allow municipal departments to address impacts on existing public infrastructure, such as temporary moratoriums on digging up newly reconstructed streets, which could affect project permitting and construction timeframes.

All of these permitting procedures serve different purposes, have different review timeframes, and can require very different types of information to be submitted. Some permits can be reviewed in parallel while others often come sequentially based on the level of detail needed.

Although it may be helpful to set a predictable timeframe for review, **requiring all materials to be submitted in a single application** and for a single decision to be issued incorporating all necessary permits **could have the effect of making the review process overly complicated and removing flexibility that would otherwise lead to a more efficient review**. It also could result in scenarios where an entire application is denied based on an issue with a single permit that could be more easily resolved outside of the consolidated process.

2. The proposed regulations would also **prescribe additional application materials and review steps that may not otherwise be required by the municipality**. This has the potential to increase applicants' effort and confusion if it is unclear how to apply standards that were not developed to meet objectives set by the municipality.

3. We are also concerned that projects, such as the construction of transmission lines in the public right-of-way, which often involve lengthy public engagement process undertaken by utility companies, **could result in siting and permitting processes exceeding the 12-months window, seemingly triggering pre-emptive approval which could prove disastrous**. We suggest that the regulations incorporate language that would allow for the project proponent and the municipality to extend the 12-month approval window by mutual agreement, if a longer process beyond the mandated pre-application process of 60 days proves insufficient.

4. We also believe that the requirement to notify abutters within a **one-mile radius of a proposed project does not make sense for highly dense urban areas**, which in Cambridge's case could encompass almost the entirety of the city's 120,000-person population, depending on the location of a proposed project. Cities should be allowed to determine notification distances based on existing practice as utilized by other permits should as Planning Board permits.

We recommend that the following be clarified in the final regulations:

- What types of installations would or could be exempted from the review required? Would equipment that is accessory to residential or commercial buildings be subject to a full application process as prescribed in the regulations?
- What application requirements and procedures are required for all proposals, and which could be optional depending on the permits that are needed for the facility, to

avoid making the process more cumbersome for otherwise more straight forward projects?

- If there is any conflict or ambiguity between the procedural requirements of 225 CMR 29.00 and the procedural requirements of other statutes, how would that be resolved?

We recommend considering an approach that would clarify limitations on how municipalities can regulate clean energy facilities, including:

- What can and cannot be required,
- What criteria can and cannot be imposed, and
- What overall timeframes must be met,

While allowing municipalities to develop procedures that are consistent with the policies, practices, and organization of each municipality, subject to appeal and review at the state level where appropriate.

We deeply appreciate your efforts and look forward to further refinement of the proposed regulations.

Sincerely,



Kathy Watkins
Deputy City Manager

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 17, 2025 4:52 PM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Castillo, Marcela (ENE); Rockett, Connor (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments/EFSB 25-10

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting Massachusetts Department of Energy Resources
100 Cambridge Street,
9th Floor, Boston MA 02114

Phone: (617) 762-6766

-----Original Message-----
From: Mass Audubon <action@massaudubon.org> On Behalf Of eric zimmerman
Sent: Friday, October 17, 2025 9:51 AM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: S&P Follow On Rulemaking Comments/EFSB 25-10

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Oct 17, 2025

DOER Commissioner Elizabeth Mahony

Dear DOER Commissioner Mahony,

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's

proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development).

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities these will help build the public's trust and ensure the durability of our clean energy future.

Sincerely,

Mr. eric zimmerman
21 Silver Hill Rd
Lincoln, MA 01773
(617) 595-6586
etzetera@gmail.com

Stacy Moura
46 View Drive
Tolland, MA 01034
stacymoura@gmail.com

10/17/2025

Massachusetts Department of Energy Resources (DOER)
100 Cambridge Street, Suite 1020
Boston, MA 02114

Subject: Comments on newly proposed Clean Energy Citing and Permitting Regulations

To the DOER,
I am writing in response to the newly proposed Clean Energy Siting and Permitting Regulations. Until this year I have not paid much attention toward the push for "Green Energy". In theory it sounds great, that is until you start reading the fine print and realize that these regulations are in place solely for the benefit of the Developers and Venture Capitalists who build these projects. In my opinion this is why Green Energy projects gets such push back. When the government shoves these projects in everyone's backyards with NO PROTECTIONS set in place for the community and the environment, it becomes a problem. This is not a case of NIMBY, it's a case unsuitable projects that lack protections, that get green lit under the guise of Green Energy. Unfortunately the new proposed regulations still fall short of any protections for the communities. The following is a list of concerns that have not been adequately addressed for the second time around.

BESS
1. The use of BESS on agricultural lands in general. A single standard container sized BESS ie: (Sungrow PowerTitan ST2752UX) weighs 58,202 LBS of which 41,799 LBS are the batteries which contain chemicals/ hazardous chemicals. This does not include the PFAS that is present in the built in fire suppression systems. 4 BESS for a project would be equal to **167,198 LBS of chemicals sitting on agricultural land.**

2. There is **no secondary containment** for a BESS in case of fire from a thermal runaway. The public has been gaslit that these BESS are safe. I can't even buy a picture frame from TJ Max without it having a prop. 65 cancer warning label on it, but I'm suppose to believe that the 167,198 LBS of chemicals/ hazardous chemicals siting in the field behind my house is safe??? Seriously???

3. BESS that are located upland of a Stormwater Management System. Some plans have a fire hose attachment that leads directly into the BESS in case of fire. This is used to cool the batteries. If the container melts or the water overflows from a Thermal Runaway, where will all those chemicals end up? Mostly, if not all could end up in the Stormwater Management System

that can lead directly into wetlands. To make matters worse, what would the ramifications be if the project that have already encroach into the buffer zones of wetlands?

4. There is no minimum distance required for a BESS to be from private wells or watershed area.

COMMON SENSE SOLUTIONS

1. BESS should be placed on brownfields or currently active Industrial sites only.

2. Secondary containment for all BESS, possibly housed in a concrete building.

3. Considering the environmental ramifications, NO energy projects footprint should be allowed to encroach into any wetland buffer zones. Projects are being squeezed onto parcels that are not conducive.

4. Require all BESS to be a minimum distance of 500 ft from any private wells or wetlands do to there importance and recharge value.

INSURANCE

1. Why is there NO Environmental Insurance required. The cost of clean up from contamination from a BESS failure will be astronomical.

2. The only required insurance is General Liability where the town is NOT listed as an additional insured. The only one who will get compensation is the insured Energy Facility. What happens if they claim bankruptcy? Who will be on the hook for the clean up? The town? The government?

3. If there is a BESS failure and private wells becomes contaminated, homeowners insurance will not cover it. There is NO policy that exists that covers contamination from another property. Does that mean I have to sue the LLC to clean up my private well/ property? What if I don't have the money to sue? Will the town or state be responsible since they approved these projects with no thought/ safeguard for these issues?

COMMON SENSE SOLUTIONS

1. Require companies to carry Environmental Insurance with the town being listed as primary insured. This would send a serious message that towns and communities will NOT be taken advantage of. Communities especially abutters are taking all the risk and with NO means to protect themselves.

2. Have the town be secondary insured under general liability.

3. Have the state be responsible for any additional environmental testing and cleanup to all effected groundwater or private wells that the Energy Facility's insurance did not cover.

NOISE

The amount of noise that is produced by the inverters and the BESS is a huge problem. Trying to convince residents that it meets state decibel so it's allowable is wrong. They are comparing the noise level to a strong breeze or a chirping bird. There is a big difference between the sound of the trees on a windy night and the constant annoying hum of a fan/motor 24/7. Communities should not have to be subject to this kind of air pollution. Obnoxious noise has been proven to cause mental health problems.

COMMON SENSE SOLUTION

Require Energy Facilities to enclose all noise producing components. Most companies make back there investment within 5 years of operation . To claim that it is financially unfeasible to comply would be a stretch.

FIRE RESPONSE

1. Most rural towns have no municipal water supply.

2. Most rural towns only have volunteer Fire Departments where there members are either of retirement age or have full time jobs.

COMMON SENSE SOLUTIONS

1. Ban all BESS from towns without a municipal water supply. It is too dangerous to allow these components in towns that lack pressurized water. The optics from a Thermal Runaway in a town with no municipal water that causes massive forest fires is NOT going to look good for the state.

2. In towns that have municipal water available to be hooked up to, should have at minimum a part time Fire Department.

CLEAR CUTTING

The clear cutting of more than 5 acres of forests for an Energy Generating Facility should be prohibited. How green is "Green Energy" when you cut down a forest?

As for the newly proposed Clean Energy Siting recommendations, again these recommendations are putting Developers and Investment Capitalists ahead of the environment and communities where these will be sited. Please note the following.

Application of Site Suitability Guidance
(1) **Exemptions**. The following types of Small Clean Energy Infrastructure Facilities shall be exempt from the requirements of 225 CMR 29.07:
(a) A Small Clean Energy Infrastructure Facility with a Site Footprint , of one acre or less;

Why would this be a good idea? Who does this benefit?

29.09 Consolidated Local Permit Application
(g) All requests for relief from applicable zoning or land use regulations, bylaws, and ordinances as well as any materials needed to support the requests including, but not limited to, zoning maps and use tables, and any other materials required under the Local Government's bylaws or ordinances and all other information required by the Department in its *Guideline on the Consolidated Local Permit Application;*

If I am reading the above statement correctly, it states that if you ask for relief you do not have to abide by any zoning or land use regulations, bylaws, and ordinances.

Again who is this benefitting?

I have to say I am extremely disappointed at the lack of community and environmental protections. Nothing in these laws protect us. It seems as though they were written by Developers and Venture Capitalists. I truly hope that you take these talking points and make changes to support the communities that bare the brunt of these facilities.

Thank you for your time,
Stacy Moura

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Tuesday, October 21, 2025 9:08 AM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Rockett, Connor (ENE); Castillo, Marcela (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE)
Subject: FW: Trees vs SOLAR

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Barb Schultz <barbs9988@gmail.com>
Sent: Saturday, October 18, 2025 5:58 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Trees vs SOLAR

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Can we please mandate that no more-or any-trees be obliterated to create solar?
Solar arrays can be erected over the huge unused parking lots of all the stores that have closed, or built huge parking lots for some reason. There is plenty of open space there already, and it should be put to some use.

If necessary, people can still use the parking spaces, just as Smith & Wesson does. It would provide some shade for the cars as well, something that is desperately needed in parking lots. Not cool enough to leave animals, babies, or old folks in. Just cool enough to not incur 2nd degree burns in the summer. Solar will transform parking lots to useful,energy saving areas.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Tuesday, October 21, 2025 9:08 AM
To: Meno, Stephen (ENE); Gage, Allison (ENE); Rockett, Connor (ENE); Castillo, Marcela (ENE); Droogan, Hailey (ENE); Bickford, Bailey (ENE)
Subject: FW: S&P Follow On Rulemaking Comments

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Charlie Grant <charleslgrant@gmail.com>
Sent: Sunday, October 19, 2025 10:19 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Cc: Ross Povenmire <rpovenmire@boxfordma.gov>
Subject: S&P Follow On Rulemaking Comments

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

My name is Charlie Grant and I am a volunteer member of the Planning Board for the Town of Boxford. Please find a comment below on the proposed rule making for small clean energy siting and permitting.

Boxford's regular Town Meeting occurs in May. With the proposed regulations set to be published in March 2026, this does not leave much time to hold public hearings on a proposed SCEF permitting bylaw for inclusion in the Warrant Article and Town Meeting approval (most Boards in Boxford meet once per month, leaving perhaps the April meeting to hold a public hearing before the bylaw is submitted). If the required bylaw doesn't make it into the regular May Town Meeting, approval would need to be sought at a special Town Meeting later in the year. A "No" vote at special Town meeting would run the risk of non-compliance with the regulation due to the December 2026 deadline.

We would suggest a later deadline for Towns to comply, such as June 30, 2027. It is entirely possible that the Town may pass the requisite bylaw before that date.

Thank you for your consideration in this matter.

Meno, Stephen (ENE)

From: DOER.Siting.Permitting@mass.gov (ENE)
Sent: Friday, October 24, 2025 11:08 AM
To: Meno, Stephen (ENE); Rockett, Connor (ENE); Castillo, Marcela (ENE); Gage, Allison (ENE); Bickford, Bailey (ENE); Droogan, Hailey (ENE)
Subject: FW: Draft Solar/BESS regulation deadlines

Rick Collins (he/him)
Director, Division of Clean Energy Siting & Permitting
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston MA 02114

Phone: (617) 762-6766

Creating a clean, affordable, resilient, and equitable energy future for all in the Commonwealth.

From: Heidi Doyle <hdoyle@sherbornma.org>
Sent: Thursday, October 23, 2025 1:33 PM
To: DOER.Siting.Permitting@mass.gov (ENE) <DOER.Siting.Permitting@mass.gov>
Subject: Draft Solar/BESS regulation deadlines

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Thank you for putting on the information sessions about the proposed new regulations. A major concern we have is the March 2026 deadline for final regs, with adoption by December 2026 does not work for our town. We have 1 annual town meeting near the end of April. For us to publish, hold a hearing, get this to Select Board and Advisory for warrant notice to all residents, we would need final regs by early January. We have also experienced delays with the AGO reviewing new articles- especially ADU and MBTA 3A- which many towns had to adopt. The proposed regulations would require most towns to adopt new bylaws and potentially create another backlog with the AGO. We are hearing that our ATM articles on ADU/MBTA from this year will not be available until November of this year- and this is after 2 extensions. The cost of a Special Town meeting for just this article would be burdensome for a town of our size.

For towns that have at least 2 annual meetings a year, your proposed timeline might work. For others, I hope you do add the extension potential that was mentioned on one info session, so we can make sure we are compliant and up to date.

Thank you for considering this timing concern.

Heidi Doyle
Sherborn Town Planner

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DENISE PRESLEY

October 16, 2025

VIA ELECTRONIC MAIL:

DOER.Siting.Permitting@mass.gov

Rick Collins
MA Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Dear Mr. Collins,

I live in Western Massachusetts, a part of the state that's acutely at risk if inappropriate regulations and model bylaws for Small Clean Energy Infrastructure are issued. As a resident of South Hadley, I urge that the regulations ensure fairness, transparency, and respect for local authority. My comments relate to the importance of recognizing that ill-fated projects can affect an entire town, and in some cases the region. Please change the regulations to address the following:

1. Definition of an "Abutter" – This is too narrow. A property owner need not share a boundary line to be affected by a project. An abutter to a facility should be expanded to properties at least 300' away that may be adversely affected.

2. Notice of Intent – Should go to multiple local officials (Planning Board, Conservation Commission, Select Board), not just one. And if there's a reasonable prospect that a project can affect one than one town, please consider placing notices regional newspaper publications to ensure citizens are informed.

3. Emergency Response Plan – Must clearly state who approves adequacy. Local boards of health, police and fire need authority.

4. Mitigation Fees – All fees going directly to municipalities or town designated nonprofits will likely result in biased endorsements for local approvals. Please consider having developers pay all mitigation fees to the Energy Facilities Siting Board, which can reimburse the municipality upon application. This method would also ensure more specificity in the amount due.

5. Local Authority & Nuisances – Local health and safety boards must retain decision-making power.

6. Appeals Process – Needs clarity on who can appeal and how.

7. Local Denial & State Override – Clarify whether a town's "no" can be overruled; local protections must have weight.

8. Please consider more protections for homeowners.

9. Finally, I urge you to address the fact that that many municipalities have limited planning staff and technical capacity. Implementation of these complex regulations will require funding, training, and clear technical guidance to ensure towns can perform fair and thorough review processes.

Very sincerely,

/s/ Denise L. Presley

19 THE KNOLLS | SOUTH HADLEY, MA 01075 | LINDELLPRESLEY@GMAIL.COM

CENTRAL MASSACHUSETTS REGIONAL PLANNING COMMISSION
1 Mercantile Street, Suite 520
Worcester MA, 01608
www.cmrpc.org

October 17, 2025

Rick Collins,
Department of Energy Resources,
100 Cambridge Street, 9th Floor,
Boston, MA 02114.
DOER.Siting.Permitting@mass.gov

Re: Siting and & Permitting Rulemaking Comments

Dear Mr. Collins

The Central Massachusetts Regional Planning Commission (CMRPC) is the Regional Planning Agency (RPA) that serves the City of Worcester and 39 surrounding communities in Southern Worcester County. Our region is incredibly geographically and demographically diverse. It includes the 2nd largest city in New England, many suburban communities that bridge the world between Boston and Worcester County and no less than 20 rural communities with substantial agricultural economies. Its this diversity that makes us strong and resilient. This region is home to many hi-tech companies, many farms, bio-tech companies, historic landmarks, and acres upon acres of forests and natural landscapes. We also host the Wachusett and Quabbin Reservoirs.

I have attended several sessions explaining the goals behind the new SMART program and the new siting and permitting regulations and guidelines. I have listened to conversations with many of my colleagues from other RPAs and environmental organizations, including Mass Audubon, Conservation Law Foundation, Sierra Club and others. We have hosted one regional dialogue with the some of our member communities where your colleague Stephen Meno, presented the new updates and addressed questions and concerns of those in attendance.

CMRPC works with many communities to assist with their efforts to seek opportunities presented by the state's Green Communities program. We have also been awarded a grant from the Environmental Protection Agency (EPA) to develop a Comprehensive Climate Action Plan (CCAP) to achieve net zero emissions by 2050. All this to say that we believe in the value and importance of promoting alternative energy sources to reduce our dependence on fossil fuels and to make our energy sources more resilient.

Our primary concerns with the new siting and permitting regulations and guidelines include ensuring that all of our communities, large and small, have adequate resources and opportunities to make decisions that are protective of their resources and that they will be adequately compensated for any risk to or loss of those resources.

Accelerating Massachusetts' deployment of solar, energy storage, and other clean energy resources is more important now than ever, and I appreciate the work the state is doing to clean up our electricity supply. However, another key goal of these regulations is to change the status quo approach: over the last

decade, too many high-value natural and working lands were converted for new clean energy projects, while also compiling impacts to communities already hosting many energy projects. I applaud the inclusion of new environmental criteria for evaluating sites for proposed energy projects, but I have concerns about whether the regulations, as currently drafted, apply these criteria in ways that adequately protect our most valuable lands.

Our most valuable natural and working lands provide our communities with services -- removing carbon emissions, local food production, critical habitat for wildlife, filtering drinking water -- which are simply irreplaceable. The state's proposed regulations should clearly establish some areas as completely off-limits to development of new clean energy projects (and any other form of development). I feel that areas that provide drinking water and prime agricultural soils should be entirely off-limits unless and until technology is sufficient to thoroughly protect the resources. Having also recently attended a MARPA session with Tori Kim of the Massachusetts Environmental Policy Act (MEPA) division, I wonder why the same level of diligence and process is not similarly applied to energy facility siting. They are proposing to expand MEPA to residential areas; why not energy facilities too.

We absolutely need to enhance the electric grid's capacity to deliver more clean, affordable energy. But in the proposed framework, electric utilities' choices of sites for new electricity transmission and distribution projects are not subject to the same requirements or standards as those from developers of solar, wind, or energy storage projects. These regulations must also hold utilities accountable for avoiding, minimizing, and mitigating the impacts of their transmission and distribution projects to nearby natural and working lands.

The new regulations enable cities and towns to require developers to minimize and mitigate impacts of energy generation and storage projects. However, I have concerns about whether the proposed system is strong enough to improve actual outcomes for natural lands and host communities. We feel strongly that our small rural and under-resources communities need support to responsibly and thoughtfully participate throughout the process. They should be given resources to engage a third-party consultant to advise them. That third party consultant should be of their own choosing and not someone assigned by the state or the developer. Guidance on mitigation efforts will be crucial for municipal leaders as they make decisions to protect their communities and position themselves to be compensated for risk and loss of assets.

Requirements need to be strong enough to actually change where utilities and developers propose new projects. A mitigation requirement to plant trees, for example, will not adequately compensate the state's citizens for losses of the many public goods drinking water, carbon storage, and biodiversity resulting from clearing mature forests.

Many towns lack sufficient capacity to establish a new mitigation program, collect mitigation fees, or implement other aspects of this program. The state should take a stronger role by establishing a new mitigation program to support cities and towns' efforts to require utilities and developers to minimize impacts and compensate the public for losses.

At some level, watching as many of our communities are grappling with multiple development proposals, it almost seems as though developers seek out communities with low capacity and use that as a means to take advantage of the circumstance and lack of capacity to further their development goals. There should be limits to how many proposals any municipality should contend with in a given period of time. And to take that even further, a limit to how many facilities a community should actually host. The challenge of creating a diversified energy grid is a state-wide problem that demands a state-wide solution that provides more evenly distributed benefits and burdens.

Attending (remotely) the Oakham hearing of the Energy Facility Siting Board (EFSB) last night (October 16, 2025), I was struck by how many very articulate and passionate individuals came out to speak about their concerns. Oakham's population is less than 2,000. Those concerns were often connected to public safety, risk of devasting fires, risk to emergency response personnel, loss of drinking water supplies, loss of habit, concerns for public health, impact on roadway infrastructure, concerns about impacts of noise, and the impact on land values and the resulting loss of population that may result. I also feel that impacts are not solely confined to a town's border and that neighboring communities should be consulted and provided similar resources to be fully engaged in the process. This became apparent at the Town of Barre was dutifully monitoring the hearing in Oakham.

Thank you for the opportunity to provide input on DOER and the Energy Facility Siting Board (EFSB)'s proposed regulations, respectively, to improve siting and permitting outcomes for small and large clean energy infrastructure projects. I hope you will consider incorporating changes to the final regulations that go further to secure protections for nature and communities, these will help build the public's trust and ensure the durability of our clean energy future.

Respectfully,



Trish Settles, AICP
Deputy Executive Director
Regional Collaboration and Community Planning

225 CMR: DEPARTMENT OF ENERGY RESOURCES

225 CMR 29.00: SMALL CLEAN ENERGY INFRASTRUCTURE FACILITY SITING AND PERMITTING

Section

29.01 : Purpose
29.02 : Definitions
29.03 : Administration
29.04 : Applicability
29.05 : Concurrency and Transition Periods
29.06 : Public Health, Safety, and Environmental Standards.
~~29.06~~29.07 : Site Suitability
29.08 : Pre-Filing Requirements
29.09 : Consolidated Local Permit Application
29.10 : Consolidated Local Permit Application Review Process
29.11 : Regulatory Circuit Rider
29.12 : Common Conditions and Requirements for Constructive Approval
29.13 : Model Small Clean Energy Infrastructure Facility Permitting Bylaw
29.14 : Enforcement
29.15 : Reporting
29.16 : Severability

29.01 : Purpose

The purpose of 225 CMR 29.00 is to establish standard conditions, criteria, requirements, and procedures for the efficient siting and permitting of Small Clean Energy Infrastructure Facilities by Local Governments.

29.02 : Definitions

Abutter. An owner of land that shares a common boundary or corner with the parcel of land on which a Small Clean Energy Infrastructure Facility is sited or proposed to be sited, including land located directly across a street, road or way. A street, road or way is not an Abutter.

Abbreviated Notice of Resource Area Delineation. Massachusetts Department of Environmental Protection WPA Form 4A, completed in accordance with 310 CMR 10.00: *Wetlands Protection*.

Anaerobic Digestion Facility. A facility that: (i) generates electricity from ~~a~~ biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; and (ii) has been determined by the Department, in coordination with the Department of Environmental Protection, to qualify under Department regulations as a Class I renewable energy generating source under M.G.L. c. 25A, § 11F.

Applicant. A Person or group of Persons who submits a Consolidated Local Permit Application for a Small Clean Energy Infrastructure Facility to a Local Government under 225 CMR 29.00.

Behind-the-Meter Small Clean Energy Infrastructure Facility. A Small Clean Energy Generation Facility or Small Clean Energy Storage Facility that serves On-site Load other than parasitic or station load utilized to operate the Small Clean Energy Generation Facility or Small Clean Energy Storage Facility.

Board. The Energy Facilities Siting Board established by M.G.L. c. 164, § 69H.

Community Benefits Agreement. A legally binding, negotiated agreement between a project applicant and a community, often represented by a coalition of community groups or a local government body, which outlines benefits the communities will receive and is prepared in accordance with the standards and guidelines developed by the Office of Environmental Justice and Equity, pursuant to M.G.L. c. 21A, § 29.

Community Benefits Plan. A non-~~legally~~ binding document that outlines how a project will engage with and benefit local communities during development and operation of a Small Clean Energy Infrastructure Facility and is developed in accordance with the standards and guidance developed by the Office of Environmental Justice and Equity, pursuant to M.G.L. c. 21A, § 29.

Consolidated Local Permit. A permit issued by a Local Government for a Small Clean Energy Infrastructure Facility that includes all required local permits, approvals, or authorizations that the Applicant would otherwise need to obtain individually from the Local Government.

Consolidated Local Permit Application. A single comprehensive application used by Applicants to apply for a Consolidated Local Permit for a Small Clean Energy Infrastructure Facility.

Compensatory Environmental Mitigation. Mitigation measures which are funded by but not performed by the Applicant and are consistent with the restoration, establishment, enhancement, or preservation of environmental resources comparable to those negatively impacted by the siting of a Small Clean Energy Infrastructure Facility

Compensatory Environmental Mitigation Fees. Fees set by the Local Government and paid by the Applicant to fulfill Compensatory Environmental Mitigation obligations.

Conservation Commission. A body comprised of members lawfully appointed pursuant to M.G.L. c.40, § 8C. For the purposes of M.G.L. c. 131, § 40 and 310 CMR 10.00: *Wetlands Protection*, it shall also mean a mayor or board of selectmen, where no conservation commission has been established under M.G.L. c. 40, § 8C.

Constructive Approval. The granting of a Consolidated Local Permit based on the non-issuance of a decision on a Consolidated Local Permit Application by a Local Government within twelve (12) months of receipt of a complete Consolidated Local Permit Application.

Criteria-specific Suitability Scores. The scores for each criterion examined in the Site Suitability Guidance, as assessed following the methods outlined in the Site Suitability Guidance, which represent the suitability of a site for a given Small Clean Energy Infrastructure Facility.

Department. The Massachusetts Department of Energy Resources, established by M.G.L. c. 25A.

De Novo Adjudication. An adjudicatory proceeding where the ~~director~~ Director of the Board will consider a Consolidated Local Permit Application based on evidence submitted in the proceeding that may include but is not limited to the information submitted to the Local Government as part of the application for a proposed Small Clean Energy Infrastructure Facility.

Emergency Response Plan. A plan created by the Applicant in consultation with the Local Government's fire, police, and emergency management departments outlining the guidelines and procedures to be taken in response to emergencies.

Guideline. A set of clarifications, interpretations, and procedures, including forms, developed by the Department to assist in compliance with the requirements of 225 CMR 29.00. The Department may issue a new or revised Guideline after providing notice and a minimum of a twenty-one-day public comment period on a draft version. Each Guideline shall be effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 29.00.

Host Municipality. The Municipality or Municipalities in which a Site Footprint is located.

Individual Application Components. The materials, disclosures, descriptions, and all other documents an Applicant is required to submit under 225 CMR 29.09(2).

Key Stakeholders. Members of the public including local residents, public interest groups, and organizations within a community located within ~~one~~ ¼ mile of a proposed Small Clean Energy Infrastructure Facility that could be affected by that project~~, or a person or organization representing local residents~~. Key Stakeholders may include abutting residents (both owners and renters) and businesses, community-based organizations, environmental justice communities, elected or appointed municipal officials (e.g., mayor or town or city manager, relevant Council or Select Board members, Chair(s) of the Conservation Commission, Planning Board, Zoning Board, and Head of the Department of Public Works), regional planning officials, and federally recognized, state-acknowledged, or state-recognized tribes with a presence in Massachusetts.

Local Government. A municipality or regional agency, including, but not limited to, the Cape Cod commission, established by chapter 716 of the acts of 1989, and the Martha's Vineyard Commission, established by chapter 831 of the acts of 1977, that has permitting authority over Small Clean Energy Infrastructure Facilities.

Local Government Representative. A decision-making entity within a Local Government.

Minimization. The reduction of impacts to the ~~smallest possible amount or degree~~extent practicable.

Mitigation. Measures taken ~~which have been subject to review and input from the general public and~~that include, but are not limited to, the repair, rehabilitation, or restoration of an area affected by an adverse impact of siting a Small Clean Energy Infrastructure Facility.

Municipality. A political subdivision that operates under state law, typically classified as either a city or a town.

Non-Profit Entity. A corporation organized for a purpose consistent with M.G.L. c. 180, § 4, except for corporations organized prior to March 11, 1831.

Notice of Intent to File Application. The Applicant's pre-filing submission, which meets the requirements identified in 225 CMR 29.08.

On-site Load. Any new or existing electric load located at the site of a Small Clean Energy Infrastructure Facility, including any parasitic load that may result from the installation of the Small Clean Energy Infrastructure Facility, and that is wired to receive a portion of the electrical energy output from the Small Clean Energy Infrastructure Facility before the balance of such output passes through the Small Clean Energy Infrastructure Facility's metered interconnection onto the electric grid.

Person. A natural person, partnership, corporation, association, society, authority, agency, department, or division of the Commonwealth, or any body politic or political subdivision of the Commonwealth including municipal corporations.

Pre-filing Engagement Certification Checklist. An initial self-certification document, which shall be filed by an Applicant with its Notice of Intent to File Application, that affirms the Applicant's intent to comply with the consultation and engagement requirements identified in 225 CMR 29.08.

Pre-filing Engagement Completion Checklist. The updated self-certification document reflecting the completed pre-filing consultation and engagement requirements identified in 225 CMR 29.08.

Pre-filing Period. A period ~~not more than sixty (60) days~~ before the Applicant's planned submission of a Consolidated Local Permit Application during which the Applicant must complete all pre-filing requirements identified in 225 CMR 29.08.

Regulatory Circuit Rider. An individual appointed by the Department, for the purpose of offering technical, administrative, and regulatory assistance on Small Clean Energy Infrastructure Siting and Permitting topics.

Request for Determination of Applicability. A request by the Applicant to the relevant Conservation Commission to determine the applicability of the M.G.L. c. 40, § 131 to a proposed site.

Site Footprint. The area within the parcel(s) of land or areas~~and~~ of water ~~encompassed~~ that comprises the limit of work upon which or within which~~by~~ a Small Clean Energy Infrastructure Facility is proposed to be located~~'s equipment, plus any land significantly impacted by construction of the Small Clean Energy Infrastructure Facility, including, but not limited to, land altered for clearing, grading, and roadways~~.

Site Suitability Guidance. Guidance and criteria for the assessment of the suitability of the proposed siting of a Small Clean Energy Infrastructure Facility, as established by the Executive Office of Energy and Environmental Affairs, pursuant to M.G.L. c. 21A, § 30.

Site Suitability Score Modifier. Positive or negative adjustments to a Small Clean Energy Infrastructure Facility's Total Site Suitability Score that are reflective of development potential or social and environmental benefits, as prescribed in the Site Suitability Guidance.

Site Suitability Score Reviewer. An entity selected by the Executive Office of Energy and Environmental Affairs, in consultation with the Department that will be responsible for calculating Criteria-specific Suitability Scores and Total Site Suitability Scores.

Small Clean Energy Generation Facility. Energy generation infrastructure with a nameplate capacity of less than 25 megawatts that is an Anaerobic Digestion Facility, Solar Facility or Wind Facility, including any ancillary structure that is an integral part of the operation of the Small Clean Energy Generation Facility.

Small Clean Energy Infrastructure Facility. A Small Clean Energy Generation Facility, Small Clean Energy Storage Facility or Small Clean Transmission and Distribution Infrastructure Facility.

Small Clean Energy Storage Facility. An energy storage system as defined in M.G.L. c. 164, § 1 with a rated capacity of less than 100 megawatt hours, including any ancillary structure that is an integral part of the operation of the Small Clean Energy Storage Facility.

Small Clean Transmission and Distribution Infrastructure Facility. Electric transmission and distribution infrastructure and related ancillary infrastructure, including: (i) electric transmission line reconductoring or rebuilding projects; (ii) new or substantially altered electric transmission lines located in an existing transmission corridor that are not more than 10 miles long, including any ancillary structure that is an integral part of the operation of the transmission line; (iii) new or substantially altered electric transmission lines located in a new transmission corridor that are not more than 1 mile long, including any ancillary structure that is an integral part of the operation of the transmission line; (iv) any other electric transmission infrastructure, including standalone transmission substations and upgrades and any ancillary structure that is an integral part of the operation of the transmission line and that does not require zoning exemptions; and (v) electric distribution-level projects that meet a certain threshold, as determined by the Department; provided, however, that the Small Clean Transmission and Distribution Infrastructure Facility shall be: (A) designed, fully or in part, to directly interconnect or otherwise facilitate the interconnection of clean energy infrastructure to the electric grid; (B) designed to ensure electric grid reliability and stability; or (C) designed to help facilitate the electrification of the building and transportation sectors; and provided further, that a Small Clean Transmission and Distribution Infrastructure Facility shall not include new transmission and distribution infrastructure facilities that solely interconnect new or existing generation powered by fossil fuels to the electric grid on or after January 1, 2026.

Solar Facility. A ground mounted facility that uses sunlight to generate electricity. The nameplate capacity for a Solar Facility shall be calculated in direct current, unless otherwise specified.

Total Site Suitability Score. The sum of all Criteria-Specific Suitability Scores and any Site Suitability Score Modifiers, representing how suitable a site is for a Small Clean Energy Infrastructure Facility, across all criteria measured in the Site Suitability Guidance.

Town Clerk. An officer of the Municipality as defined under M.G.L. c. 41, § 15. For the purposes of these regulations, the Town Clerk shall serve as the default Local Government Representative, unless specified otherwise by bylaw or ordinance.

Wind Facility. An onshore or offshore facility that uses wind to generate electricity.

29.03 : Administration

225 CMR 29.00 shall be administered by the Department.

29.04 : Applicability

(1) 225 CMR 29.00 applies to the siting and permitting of Small Clean Energy Infrastructure Facilities by Local Governments when the Applicant elects this permitting pathway to secure a local permit or approval. Nothing in these rules shall prevent an Applicant from seeking needed local permits, approvals, or authorizations individually outside of the local consolidated permitting process, or from the Energy Facilities Siting Board pursuant to G.L. c. 164, § 69U.

(2) Adding Facility Type to the Definition of Small Clean Energy Generation Facility. Following a rulemaking by the Department in consultation with the Board, the Department may add additional facility types to the definition of a Small Clean Energy Generation Facility, provided that the type of generation facility added produces no greenhouse gas emissions or other pollutant emissions known to have negative health impacts.

29.05 : Concurrency and Transition Periods

~~(1) Applicants and Local Governments may comply with the standards and practices established in 225 CMR 29.00, or the Local Government's existing applicable standards practices through November 30, 2026, but not a mix of both.~~

~~(2)~~(1) Applicants and Local Governments must comply with the standards and practices established in 225 CMR 29.00 for submission of Consolidated Local Permit Applications no later than December 1, 2026.

29.06 : Public Health, Safety, and Environmental Standards

(1) The Applicant shall conform to all public health, safety, and environmental standards in accordance with Department specifications in its *Guideline on Public Health, Safety, and Environmental Standards* throughout the construction, operation, maintenance, and decommissioning of a Small Clean Energy Infrastructure Facility. The Applicant's Small Clean Energy Infrastructure Facility shall comply with all criteria and standards including but not limited to setback requirements, zoning criteria, compliance monitoring, discharge controls, erosion and runoff prevention, monitoring impacts on abutting properties, contamination and remediation, encroachments on critical resources, Emergency Response Plan requirements, and measures to address potential harms relating to abandonment of a Small Clean Energy Infrastructure Facility.

(2) Local Governments may adopt additional standards, provided such standards are reasonably necessary to protect the public health, safety, or welfare and do not conflict with the standards specified in 225 CMR 29.00 or any associated Department Guideline.

29.07 : Application of Site Suitability Guidance

(1) Exemptions. The following types of Small Clean Energy Infrastructure Facilities shall be exempt from the requirements of 225 CMR 29.07:

(a) A Small Clean Energy Infrastructure Facility with a Site Footprint~~-~~, of one acre or less;

(b) A Small Clean Transmission and Distribution Infrastructure Facility that is not sited in a newly established public right of way~~, as defined in the Site Suitability Guidance~~;

(c) A Solar Facility with a nameplate capacity, as measured in alternating current, of less than or equal to 25 kW; or

(d) A Behind-the-Meter Small Clean Energy Infrastructure Facility, as measured in alternating current, of less than or equal to 250 kW.

(2) Determination of Total Site Suitability Score and Criteria-specific Suitability Scores.

(a) Pre-filing Requirements for Applicants. Applicants shall estimate the Total Site Suitability Score and Criteria-specific Suitability Scores for the proposed Small Clean Energy Infrastructure Facility prior to seeking a Formal Score Determination pursuant to 225 CMR 29.07(2)(b). Applicants shall share these estimated scores with Key Stakeholders in any pre-filing engagements that occur prior to the receipt of a Formal Score Determination.

(b) Formal Score Determination. Applicants shall submit a site plan, detailed explanation of the design of a Small Clean Energy Infrastructure Facility, and its anticipated Total Site Suitability Score and Criteria-specific Suitability Scores to the Site Suitability Score Reviewer not less than 45 days prior to submitting their Consolidated Local Permit Application to the Local Government. The Site Suitability Score Reviewer shall review the information provided and determine the Small Clean Energy Infrastructure Facility's Total Site Suitability Score and Criteria-Specific Suitability Scores within 30 days of receipt. These scores shall be submitted by the Applicant as part of the Site Suitability Report, pursuant to 225 CMR 29.07(3).

1. Cure Process. If the Site Suitability Score Reviewer has insufficient information to complete its review, it may request information from the Applicant necessary to do so, and the Applicant shall have 30 days to provide this information from the date it is requested. The Site Suitability Score Reviewer shall complete its review of any revised set of information within 30 days of receipt. If the information provided is still insufficient, the Site Suitability Score Reviewer can issue a determination that its review cannot be completed. An Applicant that receives such a determination ~~must wait 30 days before it can resubmit a new request for score determination from the Site Suitability Score Reviewer for the same Small Clean Energy Infrastructure Facility~~may seek review directly from DOER.

(3) Site Suitability Report. Except in the case of a proposed Small Clean Energy Infrastructure Facility that meets the criteria for an exemption under 225 CMR 29.07(1), all Applicants seeking a Consolidated Local Permit shall be required to provide a Site Suitability Report to the Local Government as part of their Consolidated Local Permit Application, which shall include the following information pertaining to the Small Clean Energy Infrastructure Facility:

(a) The Total Site Suitability Score;
(b) All Criteria-specific Suitability Scores;
(c) An explanation of why the site for the proposed Small Clean Energy Infrastructure Facility was chosen;
(d) Proposed Minimization and Mitigation Measures for any impacts identified in Criteria-specific Suitability Scores, pursuant to 225 CMR 29.07(5) through (7);
(e) Documentation to support the applicability of any Site Suitability Score Modifiers;
(f) Documentation of social and environmental benefits, if applicable; and
(g) Analysis of social and environmental burdens, if applicable.

The Department may prescribe the manner and form in which the Site Suitability Report shall be submitted to a Local Government via the establishment of a Guideline.

(4) Request for Score Review. If an Applicant for a Consolidated Local Permit submitted to a Local Government, the Local Government, or any other Key Stakeholder disputes the Total Site Suitability Score or Criteria-specific Suitability Scores submitted as part of the Site Suitability Report, they may submit a request for score review to the Department. Such request shall contain a detailed description of the error(s) that the party asserts were made in the calculation of one or

more scores and the Department shall complete its review within 30 days of receipt. The score determination by the Department shall be final and not subject to appeal.

(5) Minimization and Mitigation Measures.

(a) Application of Site Suitability Report. A Local Government may use the Site Suitability Report required by 225 CMR 29.07(3) to prescribe different types of Minimization and Mitigation Measures, which shall have a rational nexus to the environmental and community impacts of the proposed Small Clean Energy Infrastructure Facility~~'s siting on the environment, people, and the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity, and protection of natural and working lands, to the extent practicable~~.

(b) Scope and Type of Minimization and Mitigation Measures. The scope and type of Minimization and Mitigation Measures that a Local Government may require shall be based on a Small Clean Energy Infrastructure Facility's Total Site Suitability Score and Criteria-specific Suitability Scores and shall meet the specifications in the Department's *Guideline on Minimization and Mitigation Measures.* If the Total Site Suitability Score or Criteria-Specific Suitability Scores are high enough, as prescribed in the Department's *Guideline on Minimization and Mitigation Measures*, such measures may include Compensatory Environmental Mitigation Measures, as prescribed in 225 CMR 29.07(6).

(c) Exemptions for Highly Suitable Facilities. A Local Government may not require Minimization measures for Small Clean Energy Infrastructure Facilities that achieve highly suitable Total Suitability Scores or Criteria-specific Suitability Scores, as prescribed in the Site Suitability Guidance, without the express consent of the Applicant.

(6) Compensatory Environmental Mitigation. A Proponent may provide~~Local Government may offer~~ Compensatory Environmental Mitigation~~ to an Applicant~~ in situations where a proposed Small Clean Energy Infrastructure Facility has received a highly unsuitable Total Site Suitability Score or Criteria~~-~~ specific Suitability Score, consistent with the Site Suitability Guidance and the Department's *Guideline on Minimization and Mitigation Measures*, or may be mutually agreed to between the Local Government and the Applicant. Such measures shall have a rational nexus to environmental and community impacts of the proposed Small Clean Energy Infrastructure Facility~~'s siting on the local environment and people, and be consistent with the Commonwealth's goals and objectives for climate mitigation, resilience, environmental justice, biodiversity. and protection of natural and working lands to the maximum extent practicable~~. Qualifying Compensatory Environmental Mitigation shall meet the specifications in the Department's *Guideline on Minimization and Mitigation Measures*.

(7) Compensatory Environmental Mitigation Fees. Local Governments may impose Compensatory Mitigation Environmental Fees to satisfy the Applicant's Minimization and Mitigation requirements. The fees shall be paid by the Applicant in lieu of the Applicant's own performance of Minimization and Mitigation Measures under 225 CMR 29.07(5). Payment of Compensatory Environmental Mitigation Fees under this section shall not excuse an Applicant's additional mitigation requirements required under local, state or federal law.

(a) In setting Compensatory Environmental Mitigation Fees, Local Governments shall refer to the Applicant's Site Suitability Report and calculate the fee in accordance with Department specifications in *Guideline on Minimization and Mitigation Measures.*

(b) Compensatory Environmental Mitigation Fees established by the Local Government shall be paid by the Applicant in a manner to be established by the Local Government. Payment

may be made to either the Local Government or a Non-Profit Entity for the purposes of satisfying the Applicant's Minimization and Mitigation Measure requirements under 225 CMR 29.07(5).

1. In the case that the Applicant pays Compensatory Environmental Mitigation Fees to the Local Government, the Local Government shall hold all monies in a special gifts account and monies shall not be included in the Local Government's general fund.
2. In the case that the Applicant pays Compensatory Environmental Mitigation fees to a Non-Profit Entity:
   i. The Local Government may require that an Applicant receive its permission before the Applicant elects to pay fees to such Non-Profit Entity; and
   ii. The Non-Profit Entity shall hold all monies in a manner to be determined by the Department.

(c) The Applicant shall not pay Compensatory Environmental Mitigation Fees to a Non-Profit Entity of which the Applicant or its successors hold a financial or voting interest, controlling or otherwise.

29.08 : Pre-Filing Requirements

(1) The Applicant shall complete all pre-filing requirements in 225 CMR 29.08 before submitting a Consolidated Local Permit Application to the Local Government. A Consolidated Local Permit Application submitted before the completion of all pre-filing requirements shall be automatically denied without prejudice.

(2) Notice of Intent to File Application. The Applicant shall submit a Notice of Intent to File Application during the Pre-filing Period. ~~The Pre-filing Period shall be not more than sixty (60) days prior to the planned submission of a Consolidated Local Permit Application.~~ Notices of Intent to File Applications shall be submitted to a Local Government Representative and shall include:

(a) A project description including the type and nameplate capacity of the proposed Small Clean Energy Infrastructure Facility, the energy benefits that will be provided by the Small Clean Energy Infrastructure Facility, any impacts the Small Clean Energy Infrastructure Facility may have on the community, the site work required, proposed structures to be constructed at the Small Clean Energy Infrastructure Facility's site, and a description of the Small Clean Energy Infrastructure Facility's alignment with the Commonwealth's energy goals and climate mandates;

(b) Site Footprint locus maps, including an aerial and GIS map, outlining the existing site conditions and any environmental, cultural, and historic features;

(c) A completed Abbreviated Notice of Resource Area Delineation that includes a wetland evaluation and map of the site, or, if requested by the local Conservation Commission, a Request for Determination of Applicability;

(d) A draft Emergency Response Plan to be approved by the Local Government's fire, police, and emergency management departments;

(e) The Applicant's self-attested Pre-Filing Engagement Certification Checklist affirming the Applicant will complete the following stakeholder engagement after the submission of a Notice of Intent to File Application. The Applicant's stakeholder engagement plan shall be

appropriate for the size and scope of the Small Clean Energy Infrastructure Facility and meet Department specifications in its Guideline on Pre-Filing Stakeholder Engagement.

(f) Public Notice Requirements. The Applicant shall meet the following public notice requirements.

1. The Applicant shall host a public meeting open to Key Stakeholders. The Applicant shall provide notice not less than 14 days before the public meeting, which shall be held in a hybrid format and in a publicly accessible location. The meeting shall be recorded and made available to the public within five (5) days of the meeting date. The meeting shall conform to Department specifications in its *Guideline on Pre-Filing Stakeholder Engagement*.

2. The Applicant shall provide notice to Abutters of the proposed Site Footprint via United States Postal Service First Class Mail®. Determination of ownership and common boundary shall be made with reference to the current local tax assessors' records and maps. Notice shall include but not be limited to the following:
   i. The proposed Small Clean Energy Infrastructure Facility's site address, a map of the Site Footprint, and the name of the project developer;
   ii. A description of the size of the proposed Small Clean Energy Infrastructure Facility, which includes the Site Footprint and the project's generation and energy storage capacity;
   iii. Public meeting details, including dates, times, locations, and accessibility information; and
   iv. Information about relevant websites managed by the Local Government, the Department, and the Applicant.

3. The Applicant shall provide notices to two or more multimedia media outlets such as radio, newspaper, or social media. The Applicant shall also provide notices to the Local Government's website and three different public buildings or community facilities within the Host Municipality. If the proposed Small Clean Energy Infrastructure Facility abuts or straddles multiple municipalities the Applicant shall provide the same notices in all impacted Municipalities

(3) Upon completion of the stakeholder engagement activities described in 225 CMR 29.08, the Applicant shall submit a self-attested Pre-Filing Engagement Completion Checklist to the Local Government.

(4) The Local Government Representative shall determine within thirty (30) days of the Applicant's submission of a Notice of Intent to File Application whether the Applicant has completed all pre-filing requirements. The Local Government Representative may consult other municipal officials in carrying out the duties required in this section.

(a) If the Local Government Representative determines the Applicant has not completed all pre-filing requirements, t~~T~~he Local Government Representative shall notify the Applicant, and the Applicant must remedy all identified pre-filing deficiencies within thirty (30) days of the Local Government's notice.

1. If the Local Government Representative finds that the Applicant failed to resolve all pre-filing application deficiencies within thirty (30) days, the Local Government Representative may again allow the Applicant thirty (30) days to cure the stated

deficiencies, or deny the Applicant's Notice of Intent to File Application without prejudice and the Applicant may file a new Notice of Intent to File Application.

(5) The Applicant may contest the Local Government Representative's determination that pre-filing requirements are not met by requesting review of the Applicant's pre-filing activities by the Regulatory Circuit Rider. The Regulatory Circuit Rider's review must occur as soon as practicable, but no more than 5 business days from the Applicant's request for review. If the Regulatory Circuit Rider makes a determination that the Applicant has completed all pre-filing requirements, the Applicant may submit a Consolidated Local Permit Application for the Small Clean Energy Infrastructure Facility to the Local Government.

(6) In the event that the Local Government Representative determines that all pre-filing requirements have been met by the Applicant, the Applicant may submit a Consolidated Local Permit Application.

29.09 Consolidated Local Permit Application

(1) ~~Permit fees shall be assessed at the time of the Consolidated Local Permit Application's submission to the Local Government. Permit fees shall be referenced in the Local Government's Clean Energy Infrastructure Permitting Bylaw and may include a fee structure to cover required technical consultants including but not limited to engineers, architects, wetlands scientists, and attorneys.~~

(2) The Consolidated Local Permit Application shall be submitted by the Applicant to the Local Government in a manner and form to be determined by the Department. The Applicant shall provide information including but not limited to local permit applications and related supporting materials.~~:~~

~~(a) A summary of the project in a form to be specified by the Department in its *Guideline on the Consolidated Local Permit Application*;~~

~~(b) A detailed description of the proposed Small Clean Energy Infrastructure Facility, including the proposed Site Footprint and the surrounding area with relevant maps, figures, drawings, anticipated permits, any proposed Community Benefits Plan if applicable, a description of any proposed Payment in Lieu of Taxes (PILOT) payment, or other attachments. The description shall meet Department specifications in its *Guideline on the Consolidated Local Permit Application*;~~

~~(c) A Site Suitability Report, if applicable, as prescribed by 225 CMR 29.07(2);~~

~~(d) All materials needed to secure electrical, plumbing, excavation, earth removal, or curb cut permits, or any other permits from the Local Government's Building Department, Public Works Department, or other local authorities having jurisdiction, as applicable, as specified by the Department in its *Guideline on the Consolidated Local Permit Application;*~~

~~(e) All materials necessary for site plan review, if required by the Local Government, including, but not limited to, plot plans featuring location maps, dimensions of structures, abutting streets and ways, existing utilities, existing and proposed grading, all required screening, landscaping, lighting, and signage, vehicular circulation, setbacks, zoning, and all other information required by the Department in its *Guideline on the Consolidated Local Permit*~~

~~*Application;*~~

~~(f) All materials necessary to request local permits required under 310 CMR 10.00: *Wetlands Protection* if applicable and all applicable local bylaws, as well as any proposed remediation, restoration, or replanting activities as required by federal, state, or local law, and all other information required by the Department in its *Guideline on the Consolidated Local Permit Application;*~~

~~(g) All requests for relief from applicable zoning or land use regulations, bylaws, and ordinances as well as any materials needed to support the requests including, but not limited to, zoning maps and use tables, and any other materials required under the Local Government's bylaws or ordinances and all other information required by the Department in its *Guideline on the Consolidated Local Permit Application;*~~

~~(h) A description of all stormwater and erosion control measures description as required under the Local Government's stormwater permit bylaw or ordinance, and federal or state law;~~

~~(i) All materials necessary for any permits or decisions to be issued by local public health and safety authorities, including any plans addressing nuisances, approved emergency response plans, other materials required by the state and local public health and safety authorities, and all other information required by the Department in its *Guideline on the Consolidated Local Permit Application;*~~

~~(j) A description of additional local permits or decisions required, but not applicable to a designated section on the application, including, but not limited to, historic districts, designated economic or redevelopment zones, tax incentive zones, shade trees, municipal light departments, or agricultural areas; and~~

~~(k)~~(a) The following disclosures in a manner to be specified by the Department in its *Guideline on the Consolidated Local Permit Application*:

1. Documentation reflecting the Applicant's demonstrated commitment to workforce or economic development within the Commonwealth;

2. A statement of intent concerning efforts that the Applicant and its contractors and subcontractors will make to promote workforce or economic development through the project;

3. Documentation reflecting the Applicant's demonstrated commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth;

4. Documentation as to whether the Applicant and its contractors and subcontractors participate in a state or federally certified apprenticeship program and the number of apprentices the apprenticeship program has trained to completion for each of the last five (5) years;

5. A statement of intent concerning how or if the Applicant and its contractors and subcontractors intend to utilize apprentices on the project, including whether each

of its contractors and subcontractors on the project participates in a state or federally certified apprenticeship program;

6. Documentation relative to the Applicant and its contractors and subcontractors regarding their history of compliance with chapters 149, 151, 151A, 151B and 152, 29 U.S.C. section 201, et seq. and applicable federal anti-discrimination laws;

7. Documentation that the applicant and its contractors and subcontractors are currently, and will remain, in compliance with chapters 149, 151, 151A, 151B, and 152, 29 U.S.C. section 201, et seq. and applicable federal anti-discrimination laws for the duration of the project;
8. Detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the project, including documentation of the Applicant's history with picketing, work stoppages, boycotts or other economic actions against the applicant and a description or plan of how the Applicant intends to prevent or address such actions; and

9. Documentation relating to whether the Applicant and its contractors have been found in violation of state or federal safety regulations in the previous ten (10) years.

(3) The Applicant shall provide a digital copy of the Consolidated Local Permit Application to the Department as directed by the Department.

29.10 Consolidated Local Permit Application Review Process.

(1) Completeness. The Local Government shall determine whether a Consolidated Local Permit Application is complete not later than thirty (30) days after receipt. If a Consolidated Local Permit Application is deemed incomplete, the Local Government shall notify the Applicant and specify deficiencies. The Applicant shall have thirty (30) days, and any additional time as determined by the Local Government, to cure any deficiencies before the Consolidated Local Permit Application is rejected. The Local Government shall determine whether the revised Consolidated Local Permit Application cures all deficiencies not later than thirty (30) days of receipt.
   (a) If the Local Government determines the Applicant has not cured all deficiencies, it may allow the Applicant an additional thirty (30) days to cure stated deficiencies or deny the Consolidated Local Permit Application without prejudice.
   (b) If the Local Government does not determine whether a Consolidated Local Permit Application is completed within thirty (30) days of receipt, the Consolidated Local Permit Application shall be deemed to be complete and subject to the common conditions and requirements for constructive approval prescribed in 225 CMR 29.12.
   (c) The Applicant shall within seven (7) days provide a digital copy of the complete Consolidated Local Permit Application as directed by the Department.
   (d) The Local Government or the Department shall make efforts to make the Consolidated Local Permit Application available to the public.

(2) Review. The Local Government shall complete its review and issue a decision on a Consolidated Local Permit Application within twelve (12) months of receipt of a complete Consolidated Local Permit Application, or from the date it is deemed complete pursuant to 225 CMR 29.09(1)(b). All Local Government boards and departments reviewing the Consolidated Local Permit Application

may conduct their reviews concurrently provided that those reviews are complete within twelve (12) months and the Local Government's bylaws and ordinances do not direct a shorter review period. Local Government boards and departments shall maintain intergovernmental collaboration throughout the application review process.

(a) In the case that a Local Government lacks the resources, capacity or staffing to review a Consolidated Local Permit Application within twelve (12) months, it may, not later than sixty (60) days after receipt of such application or at any time thereafter with the consent of the Applicant, request in writing a De Novo Adjudication of such application by the EFSB Director pursuant to 980 CMR 14.02(1)(c) and 14.02(2)(b).

(3) Decision on Individual Application Components. All Local Government boards, offices, commissions, and departments tasked with reviewing the Consolidated Local Permit Application under 225 CMR 29.10 shall issue their respective decisions on Individual Application Components, which grant, grant with conditions, or deny the application, as expeditiously as possible, consistent with existing laws on such permits, but in no case later than within twelve (12) months of the date that a complete Consolidated Local Permit Application was received by the Local Government. Decisions on Individual Application Components shall be promptly communicated to the Local Government Representative issuing the Decision on the Consolidated Permit Application. If a Local Government board or department issues a decision on Individual Application Components denying the application before other Local Government boards and departments reach a decision on their respective Individual Application Components, the Local Government boards and departments with pending applications shall continue their review and issue a decision on their respective Individual Application Components. A decision by a Local Government on an Individual Application Component may not be appealed or reviewed independently. However, if an Individual Application Component is denied, that single denial is sufficient to immediately trigger an Applicant's ability to seek a de novo adjudication with the Energy Facilities Siting Board pursuant to G.L. c. 164, § 69W.

(a) Decision on Consolidated Local Permit Decision Application. The Local Government Representative shall issue its decision on the Consolidated Local Permit Application to the Applicant and the Local Government's Town Clerk. That decision shall incorporate all decisions on Individual Application Components and include applicable conditions. In the case that one or more Local Government boards and departments issue a decision denying an Individual Application Component, the Consolidated Local Permit Application shall be denied.

1. Approval. In the case that the Local Government approves the Applicant's Consolidated Local Permit Application, the Local Government shall issue a decision approving the Consolidated Local Permit Application that incorporates all Individual Application Components. An approved Consolidated Local Permit Application may include one or more permits.

2. Denial. In the case that the Local Government denies the Applicant's Consolidated Local Permit Application, the Local Government shall issue a decision on the denied Consolidated Local Permit Application which shall include detailed reasoning for the denial. A Consolidated Local Permit Application shall be presumed to be denied without prejudice and the Applicant may submit a new application.

(4) Information Requests and Process for Denial

(a) An Applicant shall respond to all communications made by the Local Government or the Department within three business days, provided that communications are made in person or using the contact information listed on the Consolidated Local Permit Application. The Applicant shall submit any ~~revisions~~ information requested in such communication within seven business days, unless an extension has been granted in writing by the Local Government or the Department.

1. The Local Government or the Department may consider an Applicant's failure to respond to communications as basis for the denial of a Consolidated Local Permit Application without prejudice, or other action deemed appropriate by the Department.

(b) If, as determined by the Department, a Local Government routinely submits requests for information that are superfluous to its review of a Consolidated Local Permit Application, or communicates with an Applicant in a manner that is designed to place the Applicant into a state of non-compliance 225 CMR 29.10(4)(a), the Department ~~may~~ shall direct the Local Government to cease such behavior and ~~may~~ shall document its occurrence to the Board in the event that the Small Clean Energy Infrastructure Facility advances to a De Novo Adjudication.

(5) De Novo Adjudication of Consolidated Local Permit Decisions.

(a) Applicants and other individuals or entities substantially and specifically affected by a proposed Small Clean Energy Infrastructure Facility may file a written petition to request a De Novo Adjudication of a decision on a Consolidated Local Permit Application by the director of the Board pursuant to 980 CMR 14.00.

(b) Pursuant to 980 CMR 14.02(2)(a), a petition for a De Novo Adjudication must be filed within thirty (30) days of the Local Government's decision on a Consolidated Local Permit Application or Constructive Approval of a Consolidated Local Permit Application. A ~~single decision~~denial on Individual Application Components is ~~not~~ eligible for an independent De Novo Adjudication if requested by an Applicant, but may not be~~or~~ otherwise independently appealed or reviewed.

29.11 Regulatory Circuit Rider

(1) The Department shall employ one or more Regulatory Circuit Rider or Riders with suitable qualifications and experience to help Local Governments and Applicants apply 225 CMR 29.00, applicable sections of M.G.L. c. 25A, Department Guidelines, and applicable local bylaws.

(2) Upon request, the Regulatory Circuit Rider shall answer questions and provide guidance on the Consolidated Local Permit Application and requirements of the relevant regulations and laws, including in disputes between Applicants and Local Governments. The Regulatory Circuit Rider services shall be provided free of charge to Applicants and Local Governments.

(3) The Regulatory Circuit Rider may provide assistance in matters including, but not limited to, determinations of completeness for pre-filing requirements and Consolidated Local Permit Applications, the Consolidated Local Permit Application review process, understanding Total Site Suitability Score and Criteria-specific Site Suitability Score results, requests for information as outlined under 225 CMR 29.08(4)(b), and the development of appropriate Environmental Mitigation measures.

29.12 Common Conditions and Requirements for Constructive Approval.

(1) Applicability. This section applies to Consolidated Local Permit Applications which result in Constructive Approval.

1. In the case that a Consolidated Local Permit Application meets the criteria to receive Constructive Approval, conditions and requirements as specified in the Department's *Guideline on Common Conditions* shall apply to the resulting Consolidated Local Permit. Those conditions and requirements shall include but not be limited to:
    i. Administrative and legal conditions and requirements addressing compliance, site inspections, changes in ownership, timelines, and project alterations;
    ii. Conditions and requirements for construction addressing visual impact, vegetation, earthwork, working hours, chemicals and hazardous materials, and lighting at the site;
    iii. Conditions and requirements for operation and maintenance addressing facility access stormwater control, emergency response, storage of hazardous materials, and general facility operations; and
    iv. If applicable, c~~C~~onditions and requirements for addressing decommissioning including determination of inoperability, performance mods, material disposal, recycling, and abandonment of Small Clean Energy Infrastructure Facilities and any related equipment.

29.13 Model Small Clean Energy Infrastructure Facility Permitting Bylaw

(1) The Department shall develop a Model Small Clean Energy Infrastructure Facility Permitting bylaw, which will outline the processes and procedures Local Government boards and departments shall follow pursuant to the Consolidated Local Permit Application review process.

(2) Local Governments may adopt the Department's Model Small Clean Energy Infrastructure Facility Permitting bylaw, which may:

(a) Identify the Local Government Representative responsible for overseeing the pre-filing requirements;

(b) Identify the Local Government Representative responsible for overseeing the Consolidated Local Permit Application review process, and compiling all Local Government board and department permits, decisions, mitigation agreements, Community Benefits Plans, and orders of conditions, and issuing the final decision on the Consolidated Local Permit Application;

(c) Identify the Local Government Representative responsible for enforcing all permit conditions;

(d) Set application and peer review fees;

(e) Establish the cadence and deadlines by which the Local Government's boards and departments shall adhere to in their review of Consolidated Local Permit Applications and Individual Application Components;

(f) Develop a Consolidated Local Permit Application review process consistent with 225 CMR 29.10 and applicable state law;

(g) Identify the process under which relevant Local Government boards and departments will consult with each other and ensure that prior to the issuance of any decision on a Consolidated

Local Permit Application, each decision on an Individual Application Component is aligned; and

(h) Incorporate the concurrency and transition periods, as described in 225 CMR 29.05, for the effective date of all standards established by the Department in 225 CMR 29.00.

(3) The Local Government may modify the Model Small Clean Energy Infrastructure Facility Permitting Bylaw, provided such modifications do not conflict with the requirements of 225 CMR 29.00 or M.G.L. c. 25A, §§ 2 and 21.

29.14 Enforcement

(1) In the event of the sale of a Small Clean Energy Infrastructure Facility, all permit conditions and requirements, mitigation obligations, and Community Benefits Agreements shall apply to all successors in interest to the permitted Small Clean Energy Infrastructure Facility.

(2) Successors in interest may petition the Local Government to modify the pre-existing permitting obligations attached to the Small Clean Energy Infrastructure Facility. The Local Government shall not be obligated to grant such petition or otherwise reconsider the successors' obligations as relates to the relevant Small Clean Energy Infrastructure Facility.

29.15: Reporting

The Department shall, on a quarterly basis, determine whether more than 50 percent of Consolidated Local Permit Applications for Small Clean Energy Infrastructure Facilities processed in the preceding 24-month period throughout the Commonwealth have received Constructive Approval. If more than 50 percent of applications have been so approved, the Department, Department of Public Utilities, and the Office of Environmental Justice and Equity shall, within six (6) months of the conclusion of the twenty-four (24) month period, analyze and report on the cause of the high rate of Constructive Approvals by Local Governments and make recommendations to Local Governments, the General Court, and the Governor on how to reduce the number of Constructive Approvals and increase the number of decisions reached by means other than Constructive Approval.

29.16: Severability

If any provision of 225 CMR 29.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 29.00: M.G.L. c. 25A, §§ 2, 6, and 21.