



February 13, 2026

Secretary Rebecca Tepper  
Energy Facilities Siting Board (EFSB)  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, 9th Floor  
Boston, MA 02114

Jeremy McDiarmid, Chair  
Department of Public Utilities  
One South Station  
Boston, MA 02110

**Submitted electronically:** [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov)  
[sitingboard.filing@mass.gov](mailto:sitingboard.filing@mass.gov)  
[energypermitting@mass.gov](mailto:energypermitting@mass.gov)

**Re: Docket # EFSB 25-10-A - 980 CMR 15.00 (Cumulative Impact Analysis/Site Suitability) and EEA's draft Guidance on Site Suitability Reports for Clean Energy Infrastructure Facilities**

Dear Secretary Tepper and Chairman McDiarmid:

Mass Audubon appreciates the opportunity to offer comments on the Energy Facilities Siting Board (EFSB) draft regulations 980 CMR 15.00 and associated guidance and mapping tools for Cumulative Impact Analysis and Site Suitability evaluation of clean energy facilities and infrastructure projects pursuant to *An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers* aka the Climate Act of 2024 (Chapter 239 of the Acts of 2024). This letter also supplements comments previously submitted to the EFSB and Department of Energy Resources (DOER) on other portions of draft regulations and guidelines implementing this important law.

Mass Audubon served on the Commission on Energy Infrastructure Siting and Permitting and provided substantial technical analysis including our *Growing Solar, Protecting Nature* report.<sup>1</sup> Our focus continues to be on supporting the Commonwealth's climate goals for achieving Net Zero by 2050 while also protecting natural and working lands that are critical to the state's climate, biodiversity, and equity goals. This new siting and permitting law offers significant opportunities to better align projects with all of these important goals.

We appreciate the recent clarification that Cumulative Impact Assessment (CIA) and Site Suitability Report (SSR) are complementary, not mutually exclusive. All projects should be subject to site suitability review, whether or not they are in a Burdened Area. **We remain concerned that the provisions for implementing the avoid, minimize, mitigate hierarchy need to be strengthened and clarified to meet the full intent of this law to protect human health and the environment.** In particular, the highest sensitivity lands should be subject to an alternatives analysis focused on avoidance first and only then

---

<sup>1</sup> [www.massaudubon.org/growingsolar](http://www.massaudubon.org/growingsolar)

minimization. Mitigation must be quantifiable and proportionate to impacts. The Site Suitability Report and evaluation of impacts in the EFSB decision-making (980 CMR 15.11) must include all new impacts from the project, not just impacts in already Burdened Areas.

### **Detailed Comments**

#### **Provisions of the 2024 Climate Act Protecting Human Health and the Environment**

The law includes several provisions explicitly requiring the Executive Office of Energy and Environmental Affairs (EEA), EFSB, and DOER to develop and apply methodologies for avoiding, minimizing, and mitigating impacts to the environment and human health. This includes:

*Section 30. The executive office of energy and environmental affairs shall establish and periodically update a methodology for determining the suitability of sites for clean energy generation facilities, clean energy storage facilities and clean transmission and distribution infrastructure facilities in newly established public rights of way. The methodology shall include multiple geospatial screening criteria to evaluate sites for: (i) development potential; (ii) climate change resilience; (iii) carbon storage and sequestration; (iv) biodiversity; and (v) social and environmental benefits and burdens. The executive office shall require facility development project proponents to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate siting impacts and environmental and land use concerns. The executive office shall develop and periodically update guidance to inform state, regional and local regulations, ordinances, by-laws and permitting processes on ways to avoid, minimize or mitigate impacts on the environment and people to the greatest extent practicable.*

Similar language follows in other parts of the law pertaining to the new siting and permitting system for large and small clean energy facilities and infrastructure.<sup>2</sup>

#### **Cumulative Impact Analysis (CIA) and Site Suitability Report (SSR)**

We appreciate that the revised draft regulations now recognize that CIA factors and those in the SSR are somewhat different, with the former focused primarily on human health and safety considerations whereas the latter address categories of environmental sensitivity and impact. There are, however, both areas of overlap and gaps. For example:

- **Overlap:** The Site Suitability guideline includes Social and Administrative Burdens, which are also included in the CIA.
- **Gaps:** The Enviro Screen used in determining Burdened areas includes several water-related indicators like groundwater threats, impaired water bodies, flood risk and drought.

---

<sup>2</sup> 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 law'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;"

However, the site suitability analysis and decision-making process (980 CMR 15.11) appears to be limited to adverse impacts within the Specific Geographic Area of the project around already Burdened Areas. It also does not evaluate the risk of projects exacerbating water quality degradation or flooding, only the existing risk of the site to flooding. While risks to the project itself are certainly relevant, the review must also protect the surrounding community from increased risks and impacts caused by the project.

### **Impacts to Natural and Working Lands and Communities Outside of Already Burdened Areas**

The proposed approach does not address key concerns that were significant motivation for the inclusion of the above provisions in the law, i.e. that communities are at risk of loss of significant areas of forest cover that is vital to the state's goals for biodiversity, climate resilience, and reduction of other impacts to people and the environment. For rural communities that do not currently qualify as burdened under the proposed criteria, there needs to be a mechanism to evaluate and to the extent possible avoid impacts that would create new undue burdens. This new permitting system needs to both avoid, minimize, and mitigate the impacts of individual projects and also consider the cumulative impact of multiple projects proposed within a community.

Removal of extensive areas of forests, even with careful planning and typical best management practices for construction, maintenance, and stormwater management, results in significant increases in runoff, reductions in groundwater recharge, and reduced water quality.<sup>3</sup> Communities need to be protected from new, project-related risks of water quality or groundwater impairment, floods, and droughts, not just recognition of where those problems already exist. Water supply protection must also protect private wells in the many communities that are not served by public water supplies.

Similar concerns apply to biodiversity considerations. Where many solar or battery projects are proposed in one community or area, the individual losses of habitat add up to much greater cumulative impacts on biodiversity than the sum of acreage lost. New transmission lines cutting through forested blocks have fragmentation and edge effects beyond the footprint of the project.

The SSR and EFSB review process for projects need to take these factors into account. We recommend that the final regulations and guidance documents be revised to address these types of impacts. The review should include cumulative impacts of new clean energy facilities sited in the community within the 10 years prior to the new filing as well as impacts of the newly proposed facility.

### **Mitigation Hierarchy: Avoid, Minimize, Mitigate**

This hierarchy is applied broadly across many different regulatory systems globally and at the federal, state, and local levels. In Massachusetts, examples include the Wetlands Protection Act and the Massachusetts Environmental Policy Act.

Avoidance of undue impacts to highly sensitive resources and the surrounding community is the first priority in the mitigation hierarchy. This is accomplished first by selecting a site or route for a project that avoids the most highly sensitive locations or features as much as possible. Only after an appropriate site or route is selected should minimization and then mitigation measures be applied.

---

<sup>3</sup> <https://snepnetwork.org/watershed-protection-standard-toolkit/>

As proposed, the site suitability analysis recognizes that some sites contain features that are “unsuitable, high impact.” For such locations, the applicant should be required to submit a rigorous alternatives siting analysis that evaluates locations with lesser sensitivity and demonstrates that no other site is feasible. In the rare instances where highest sensitivity features must be impacted, the project design should be refined to minimize impacts to those features as much as possible. All unavoidable impacts to high- or medium-sensitivity features should be mitigated in ways that actually compensate for the losses. Planting of trees does not compensate for loss of an area of highly biodiverse, high-carbon intact forest. Permanent conservation of similar forest at multiple times the size of the area impacted may be the only feasible compensation for such losses, although it should be recognized that this still constitutes a net loss to the Commonwealth’s natural resources as a whole. This needs to be factored into a rigorous approach to site selection and alternatives analysis.

Minimization should be applied through careful project design within a site.

Mitigation must meaningfully compensate for remaining unavoidable impacts. The proposed definition of Mitigation, “Measures taken which include, but are not limited to, the repair, rehabilitation, or restoration of an area affected by an adverse impact of siting,” is insufficient. The definition in the Site Suitability guidance should be revised to include compensation for unavoidable impacts. Consider using language like the definition in the Wetlands Protection Act regulations at 310 CMR 10.04:

*Mitigation means rectifying an adverse impact by repairing, rehabilitating or restoring the affected resource area or compensating for an adverse impact by enhancing or providing replacement resource areas.*

Mitigation for unavoidable impacts to high scoring lands in the biodiversity, climate resilience, or farmland criteria should include on-site and/or off-site land conservation either through donation by the proponent of land to the municipality, a local land trust, or the state or through payment to a local or state land conservation fund.

The SMART 3.0 regulations at 225 CMR 28.00 include clear standards for eligible and ineligible sites and a formula for calculating mitigation payments for unavoidable impacts. These regulations should include similarly quantifiable and consistent methods for mitigation.

In sum, the regulations at 980 CMR 15.00 need to be revised to more closely track and implement the language in the law cited above, to actually avoid, minimize, and mitigate impacts to climate resilience, carbon storage and sequestration, biodiversity, and other community impacts, including impacts to local water resources and local risks of flood and drought.

We support the provisions in Section IV.E. of the guideline acknowledging that facilities remain subject to all other state and local laws related to water resources, endangered species, noise, air quality, public health, and other topics. However, those laws do not substitute for the requirements in the 2024 Climate Law, which must be fully upheld in the EFSB regulations and Site Suitability guidance.

### **Specific Comments on EEA’s draft Guidance on Site Suitability Reports for Clean Energy Infrastructure Facilities**

#### **III. Definitions**

Support the addition of definitions for Avoidance, Minimization, and Mitigation. The definition of Mitigation should be revised to include on-site or off-site compensation for unavoidable impacts to high-value resources, as discussed above.

#### IV. C. Criteria

(i) Climate Resilience: This section only addresses climate exposure risks for the project itself. It should be expanded to include risks the project imposes on the surrounding area, e.g. risks created by clearing forest and increasing impervious surfaces, thereby increasing runoff and flood risks.

(ii) Carbon Storage and Sequestration: The average of the highest 50 or 75% values within the project site should be used instead of averaging across the entire site.

(iii) Biodiversity: We support the proposed addition of the BioMap “Local Components.”

#### IV.D. Score Modifiers

(i) Development Potential: As noted in previous comments, it is not appropriate to include golf courses in Previously Developed Lands, as these properties often contain areas of forest and wetlands. If they are included, these lands should not receive a zero score in the criteria.

Article 97: Upholding the rigorous protections for permanent protected lands under Article 97 is of paramount concern.

#### V.C. (i) Permitting Adjudication, Use of Criteria Specific Scores

Tree planting should be removed as mitigation for destruction of forests, as this not equivalent compensation. The previously proposed language about making mitigation payments to a local or state land protection fund for unavoidable forest losses should be reinserted in the guidance.

### **Conclusion**

Thank you for the opportunities to comment throughout the process of implementing this important new law. We plan to submit additional comments on site suitability and the mitigation hierarchy to DOER under the remaining comment period for the small clean energy siting regulations. Mass Audubon appreciates the agencies’ diligence in working to align permitting for the clean energy transition with goals for biodiversity and equity.

Sincerely,



E. Heidi Ricci  
Director of Policy and Advocacy

Cc: Rick Collins, DOER Director of Clean Energy Siting