

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)

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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.