



**NORTHERN  
MIDDLESEX  
COUNCIL OF  
GOVERNMENTS**  
SERVING THE REGION SINCE 1963

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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.

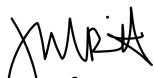
### **Conclusion**

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](mailto:mtenhoff@nmcog.org) with any questions regarding NMCOG’s comments.

Sincerely,



Jennifer Raitt  
Executive Director