



Commonwealth of Massachusetts Department of Environmental Protection

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October 31, 2025

RE: Executive Office of Energy and Environmental Affairs (EOEEA), Site Suitability Assessments for Clean Energy Infrastructure, Draft Guidance, Public Comment Period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Department of Environmental Protection (MassDEP) Wetlands Program, please accept the following comments on the EOEEA, Draft Guidance on Site Suitability Assessments for Clean Energy Infrastructure. MassDEP offers targeted comments on specific sections of the draft proposed regulations.

1. Section IV. A.i.b.(p9) Offshore Linear Infrastructure: EOEEA states they will plan to update the guidance to provide more specific guidelines on Site Suitability Assessments for offshore linear infrastructure at a later date. MassDEP requests the opportunity to review the future, more specific updates to this Guidance.
2. Section IV.C.ii.(p10) Carbon Storage and Sequestration: Does the NFCMS take into account carbon sequestration at sites other than just forests, such as salt marshes and wetlands systems, which provide significant carbon storage?



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3. Section IV.E.ii.(p16) Wetlands:

- a. MassDEP suggest adding the following language to this section of the guidance: *“Projects that result in a discharge of dredged or fill material, dredging, and dredged material disposal activities in waters of the United States and require a Section 401 Water Quality Certification (WQC) are subject to the regulations at 314 CMR 9.00.”*
- b. Under Section 401 of the federal Clean Water Act, a 401 Water Quality Certification certifying that federally issued permits (Section 404 permit) comply with state water quality standards is required to be issued by the state for certain activities in wetlands and waters. MassDEP currently reviews jurisdictional projects for conformance with 314 CMR 9.00 and issues the 401 Water Quality Certifications which include project-specific permit conditions. Additionally, MassDEP is currently in the final stages of certifying the Nationwide Permits that the Army Corps of Engineers are issuing. There will be additional general certifications to follow, as well as changes to the 401 WQC regulations that will be needed and that MassDEP is working on.

4. Section V.C.iv. (p19) and VI.C.ii(p20) Use of Criteria-Specific Suitability Scores:

MassDEP notes that minimization should be required for all projects as part of the planning process and provided in the Site Suitability Assessment and any other wetland permits. Erosion Control Measures are best management practices, not minimization. MassDEP suggests changing the following language in this section; *(e.g., implementing erosion control measures)* to industry -wide accepted minimization measures such as: *“Implementing nature based solutions, reduction of impervious surface, and/or providing additional setbacks to sensitive areas.”* Additionally, compensatory mitigation (replacement) is required for all proposed loss of Bordering Vegetated Wetlands, per 310 CMR 10.55. All proposed alteration of jurisdictional wetland resource areas shall be required to meet the performance standards of 310 CMR 10.00. Similar mitigation may be required under 314 CMR 9.00 for discharge of dredged or fill material, dredging, and dredged material disposal activity projects.



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5. Section VI.C.ii (p21) Site Suitability Score Table: It is MassDEP's understanding that the Site Suitability Score is a separate evaluation from the permit application requirements under 225 CMR 29.00 and all permit applications must comply with the requirements of 310 CMR 10.00. This table states that a project with a Criteria Score Range of less than or equal to 1.0 requires "no minimization or mitigation measures." We recommend further clarification here and through this Guidance document that all mitigation must comply fully with the performance standards at 310 CMR 10.00.
6. As discussed in our meeting on October 23, 2025, with members of DOER, MassDEP is concerned about the logistics of how the WPA Form 3 Notice of Intent Application under the MA Wetlands Protection Act and Regulations will be submitted to the MassDEP system in the consolidated permit process. We look forward to discussing this with you further.

MassDEP Wetlands Program appreciates the opportunity to comment on EOEEA's Draft Guidance on Site Suitability Assessments for Clean Energy Infrastructure. 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,

Lisa Rhodes
Wetlands Program Chief
Bureau of Water Resources