



October 25, 2019

Kaitlin Kelly
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Email: DOER.SMART@mass.gov

Re: Agricultural Systems Guideline Comments

Dear Kaitlin,

We appreciate DOER requesting input from stakeholders regarding the Guidelines for Agricultural Solar Tariff Generation Units.

The proposed Guidelines do not reflect the changes proposed at the DOER 400 MW review presentation given in Amherst, MA. While there may be language changes in SMART regulations, for the purpose of clarity should the language also be recited in the Guidelines?

Land in Agricultural Use. All land as defined under M.G. L. c. 61A, §§1 & 2, **enrolled in a program established pursuant to M.G.L. c. 61A, and** land that had been enrolled in a program established pursuant to M.G.L. c. 61A within the past five years.

Important Agricultural Farmlands. Means those soils found to be Important Farmlands pursuant to 7 C.F.R. §657.5, that includes Prime Farmlands, Unique Farmlands and Additional Land of State Importance.

Chapter 61 Lands:

Both the proposed SMART regulations and the Guidelines include Chapter 61A regarding Taxation of Agricultural and Horticultural Land, they do not include Chapter 61 Forest Land. It is perfectly understandable that DOER does not want to encourage the cutting of trees under Chapter 61 tax protected status. However, this land is in private ownership capable of being sold at any time subject to the payment of back taxes for the previous five years and used for any lawful use allowed by zoning. Including Chapter 61 Forest lands in the SMART ASTGU program would convert forest lands back to agricultural land for the next twenty years.

Public policy silence on this issue will not save Chapter 61 lands from being developed for other more intensive uses particularly if the location is in a higher economic demand area of Massachusetts. We are currently engaged with a landowner that runs a small farm on 90+ acres of land to which a good portion of the land is in Chapter 61 Forestry. The landowner is selling the land. The land will either be used for market rate housing, solar PV depending upon the economic viability of the revised SMART program, perhaps a combination of both housing and solar or an Agricultural Solar Tariff Generation Unit which we believe would be the best use of the land.

An example of a piece of land that is under Chapter 61 Forestry that due to development pressure, in our opinion, would serve the local community and Massachusetts better as an Agricultural Solar Tariff Generation Unit is attached.

Chapter 61 Section 8 and 61A: Section 14 – No Change of Use or Conversion

We interpret the SMART solar policy development of the Agricultural Solar Tariff Generation Unit concept to encourage the continued use of farming in Massachusetts.

In speaking with some towns, they interpret the installation of solar PV with or without an ASTGU system installed, to constitute a change of use or a conversion to a use not consistent with Chapter 61 or 61A tax legislation.

If a municipality exercises the interpretation that an ASTGU constitutes a conversion of use, Chapter 61 and 61A calls for a 120-day period of consideration for the Town or a non-profit to acquire the property under a right of first refusal.

To prepare for this right of first refusal submittal and review period lasting 120-days, to meet the requirements of the checklist represented in legislation would take a perimeter and site plan survey as well as mapping of wetlands if applicable. Depending upon the time of year that process could take 60-90 days.

If the interest of DOER and MDAR is to encourage farming under the SMART program, something needs to be done relative to the award of SMART Block allocation as with a declining block program, the ASTGU systems are starting with 8%-16% revenue erosion just to get pass the Chapter 61 and 61A rights of first refusal processes.

ASTGU Guidelines: 6. Agricultural Yields (6)

Perhaps there some wording needs to be changed in this section. If Yield with No Solar (Yns) represents nature's natural condition with no solar installed and (Yws), Yield with Solar, represents a program compliant design allowing only 40% solar equipment shading on every square foot of impacted field design, how could Yields with Solar (Yws) must be greater than Yields without Solar, (Yns) by a factor of 1.40? How could the solar condition be higher than the natural, non-shaded condition?

6) Compare the results; Yws must be greater than Yns to be beneficial and to be greater by at least a factor of 1.40 more than Yns to demonstrate an agriculturally effective system design and meeting the minimum agricultural yield requirements as an ASTGU.

3. Waivers: 25-year Planning Horizon

Does this 25-year planning horizon requirement mean that the SMART tariff provision dealing with ASTGU systems will be extended beyond the current 20-year tariff obligation for an extra five-years? If so, great otherwise could a SMART tariff provision obligation extend beyond 20-years?



ASTGU Unit Size 2.5 MW D.C.

We understand possible policy considerations of using ratepayer funds to encourage development of solar or agriculture. The policy should be how does the 44th smallest state¹ in the USA by land mass with the 11th largest economy by GDP² create more farmland for twenty or more years?

Farms and farmland turnover due to deaths, family inheritance, land sales due to life transitions or retirements typically involve large parcels of land that have been in families for generations. Five (5) MW AC solar systems built to ASTGU standards will consume 7-8 acres per MW consuming 35-45 acres of land. Spacing the panels out over 90 acres might give rise to some interesting agricultural uses not yet envisioned.

Our current experience with existing farm families shows housing being developed on land not capable of being used for solar development particularly if the family is moving away from the farm or non-farming members force a sale. The proposed policy of allowing 2.5 MW DC only provides an economic model for a certain consumption of land. The proposed policy does not allow for maintaining larger tracts of land that have soils of Prime Farmland, Farmland of Unique Importance or soils of Statewide Importance to be set aside in state-wide farmland inventory.

Best Regards,

A handwritten signature in black ink, appearing to read "Doug Pope", with a stylized flourish at the end.

Doug Pope
President

Attached: Massachusetts Department of Revenue, Taxpayer's Guide to Classification and Taxation of Chapter Land in Massachusetts

¹ https://en.wikipedia.org/wiki/List_of_U.S._states_and_territories_by_area

² https://simple.wikipedia.org/wiki/List_of_U.S._states_by_GDP

