



Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
Email: green.communities@mass.gov
Re: Model Bylaw Comments
ATTN: Joanne Bissetta, Director, Green Communities Division

Dear Director Bissetta,

Hyperion Systems, LLC ("Hyperion") appreciates the chance to offer written comments to the Department of Energy Resources ("DOER") regarding the Model Zoning Bylaw.

Hyperion is a project developer and EPC based in Western Massachusetts. Hyperion has been in business in the Commonwealth for the past 15 years investigating the dual-use solar concept. Hyperion has strong working relationships with many of the stakeholders within the agrivoltaic industry including agricultural producers, research institutions, and other agrivoltaic developers. Our comments are guided by our personal experience and those of the overall industry working here in Massachusetts.

Hyperion commends DOERs pursuit of a common standard application process. This will undoubtedly hasten the deployment of renewable generating facilities in the Commonwealth. We do have some concerns with the process - Hyperion's comments focus on agrivoltaics projects < 1MWac.

Timeline

In our experience, these projects, < 1 MWac, are reviewed and voted on by the awarding authority within 2-4 months of project application submission. We are concerned that these projects will now take 12 months for the review and approval process. The federal Investment Tax Credit (ITC) expires end of year 2027, it is critical for these projects to be reviewed on the normal timeline to make efficient use of the ITC. The ITC directly benefits our farming partners who host the agrivoltaic arrays – the direct benefit is either through a higher annual lease payment or if the farmer/landowner owns the array themselves they will realize a greater cumulative cash flow over the life of the system with a breakeven period years earlier than without the ITC. It is our hope that the review timeline is not extended for these smaller agrivoltaic projects.

The Model Zoning Bylaw as written requires a project developer to submit a 90% drawing 60 days before engaging with a municipality. The added costs of reaching a 90% drawing prior to having any indication the project will be able to proceed will effectively end Hyperion's projects in development. To offer perspective on a 90% drawing, this drawing set is used for a building permit and electrical permit, not a site plan review.

In practice today, a 30% drawing set is required to present to the awarding authority. While there is a standard review process over the course of several meetings, it is beneficial for all parties to be able to engage immediately and receive feedback to implement any changes. During the local review process, almost all of our projects change in some way. Whether that is moving module rows or adding additional vegetative screening, it is helpful for us to receive that feedback right away. We believe this type of public engagement enhances our projects while not adding any undue delay. (As a side note, it's unclear to us how changes can be made to the application through Model Zoning Bylaw. In current practice, if an awarding authority requires changes, we implement those changes and then present at the next available public meeting). Hyperion recommends a timeline review that is consistent with the current process.

3.1 Solar Photovoltaic Installation Classes

While it is appreciated that agrivoltaic projects will be viewed as an Accessory Use to the Primary Use, which is the continued agricultural use of the land hosting the agrivoltaic array, the application will still be subject to the Site Plan Review, which as written can take up to 12 months. Hyperion agrees that agrivoltaic arrays are an Accessory Use and should be considered by right, but the elongated timeline concern persists. Hyperion recommends a shortened timeline review for these smaller, < 1MWac, projects than say a 20MWac system.

7.6.4 Fencing

"Solar Photovoltaic Installations that require Site Plan Review must be completely enclosed by chain-link or comparable fencing to prevent entry by large animals or unauthorized persons."

Requiring fencing for agrivoltaic projects in part defeats the purpose of combining solar PV with agricultural use – perimeter fencing requires unnecessary turning, which has the unintended consequence of taking land out of agricultural production. At almost all of Hyperion's agrivoltaic project sites, the landowner/farmer prefers not having a fence. There are construction techniques that meet National Electric Code protection and accessibility requirements while also not requiring a perimeter fence. Hyperion's recommendation is to change this section so that perimeter fencing is optional - so long as it meets National Electric Code requirements.

Thank you for your consideration of these comments and for the Department's commitment towards a renewable energy future for the Commonwealth.

Respectfully submitted by:

A handwritten signature in black ink that reads "Jake Marley". The signature is written in a cursive, flowing style.

Jake Marley
Hyperion Systems, LLC