



July 25, 2025

Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
Attn: Samantha Meserve

Sent via email: DOER.SMART@mass.gov

Re: Comments on 225 SMR 28.00

Dear Ms. Meserve:

Thank you for the opportunity to comment on the Department's Emergency Regulations (225 CMR 28.00) for the new SMART Program ("SMART 3.0"). As background, Renewable Energy Development Partners, LLC ("REDP") is a locally owned and managed project development firm with a 14-year track record of developing successful commercial-scale solar projects in Massachusetts and throughout New England. We have participated in every MA statewide solar incentive program since the initial SREC I program, and are currently developing a substantial portfolio which we hope to construct under the new SMART program.

As an initial comment, we would like to express our continuing appreciation to the Department for its comprehensive review of the SMART program, productive recommendations for improving the program and effective outreach to stakeholders for input. Overall, we believe the SMART 3.0 program provides an effective framework for the continued success of the solar energy industry in Massachusetts.

As a stakeholder, we would like to offer comments on certain aspects of the SMART 3.0 emergency regulations, as follows:

Ineligible land

We note with very significant concern that 225 CMR 28.08(1)(a) would deem as ineligible any project where the project footprint overlaps with any wetland resource area, or buffer zone. The previous regs had a similar prohibition on development within a wetland resource area, but importantly contained the following exception language: "*except as authorized by all necessary regulatory bodies*". The new regs expand the ineligible land definition to include wetland resource area buffer zones, and do not include this exception language. The lack of this language is a fatal flaw to essentially ALL of our proposed agrivoltaic projects. Furthermore, we know that it would be fatal to any proposed ASTGU in a cranberry bog setting, and suspect that it would be fatal to numerous other proposed projects as well.

Most of the projects that we have developed, or intend to develop, in partnership with local farmers involve the development of land abutting wetland resource areas and as a result some portion of the project (access roads, fencing, buried electrical lines, etc.) inevitably falls within a resource area buffer zone. Consistent with state and local regulatory requirements, in all of these cases we have historically sought and received approval for the work from local conservation commissions and have employed design and construction practices that are meant to avoid or minimize wetland resource impacts. We firmly believe that local conservation commissions are best suited to make determinations about whether proposed work in jurisdictional areas is appropriate or not, and accordingly we would recommend including the previous exception language (“*except as authorized by all necessary regulatory bodies*”) in the SMART 3.0 regulations.

Energy storage exception

We note that while the Department has provided a “good cause” exemption from the energy storage requirements at 225 CMR 28.07(4)(e), the Department has elected not to include an exception based on the length of time the project has been in development, as in the existing SMART regulations (225 CMR 20.05(5)(l)1). In other words, the SMART 3.0 regulations eliminate the relief from the energy storage requirement for projects that were entitled to such relief under the previous regulations. As the Department is likely well aware, there are numerous projects that were eligible for this relief and were intending to be financed and constructed under the prior program. However, exceedingly long delays associated with utility group studies, coupled with significant increases in solar and storage costs in the face of declining incentive rates, and further exacerbated by lengthy utility upgrade (and therefore interconnection) schedules, have required many developers, including REDP, to put certain projects on hold. The release of the SMART 3.0 straw proposal last summer breathed new life into many of these otherwise well-sited and beneficial projects; however, elimination of the guaranteed relief from the ESS requirement presents a new and potentially fatal challenge to these legacy projects that have been years in development.

The Department is presumably well aware that the solar project development cycle in Massachusetts can take years. Significant time and expense are invested in preparing a project for approval by the landowner, distribution utility, local land use boards and often state regulatory agencies. These substantial investments in time and money are made prior to receiving any assurance of financing, and the decision to make these investments is based in large part on reliance in the current program regulations and the presumed equitable treatment of legacy projects in the event of regulatory changes. Indeed, it is reflective of the Department’s recognition of these facts that grandfathering provisions are routinely included in the release of any new regulatory requirement.

A mandate under SMART 3.0 to add storage to a project that has spent years and potentially hundreds of thousands of dollars getting to the point of being “shovel ready” potentially puts the entire project at risk. The project proponent must go back to the landowner, utility, local land use boards and state regulators to seek approval for the change to the design of the project to add the ESS, adding time and cost and potentially further challenges to the financial viability of the project, and exposing the project to local opposition and legal challenges if the perceived environmental risks of the ESS have not yet been fully addressed in the community.

For the same reasons that the Department included the “grandfathering” exception to the energy storage requirements under the prior regulations, we would respectfully recommend the Department to provide a similar grandfathering provision for legacy projects under the SMART 3.0 regulations.

Energy storage requirement

We note that the SMART 3.0 regulations mandate the addition of energy storage for systems >1,000 kW (225 CMR 28.07(4)(e)). As we have commented in the past, we have concerns regarding the blanket requirement for coupled energy storage systems (ESS) which could cripple the development of certain beneficial projects that otherwise meet many of the Department’s programmatic goals.

In brief, there are situations in which paired energy storage systems may not be the best solution.

- No update to ESS incentive rates
- Local bylaws imposing strict siting and operational requirements on ESS, over and above what is typical for PV
- Coordinated opposition to ESS by anti-solar groups

We would recommend the Department consider exempting projects that are sited to help fulfill one or more of the Department’s other policy goals, including canopy, agricultural, landfill and brownfield projects.

Project segmentation

We note that the SMART 3.0 regulations prohibit no more than one ground mounted STGU on a single parcel, and that the exceptions in 225 CMR 28.08(5)(a) allow the installation of another “type” of STGU (canopy, floating, etc.) provided that the STGU is “separately metered” from the other STGU. We have submitted many interconnection applications to the utility which show separately metered STGUs, of different types, on the same parcel (in compliance with the exception language), and the utility routinely responds that both projects will be interconnected behind a single utility meter with a blended SMART rate reflecting the two different STGU incentive rates. Each STGU therefore has a dedicated, customer-owned revenue grade meter but there is only one utility meter. We would request the Department amend its segmentation language to confirm that this arrangement is acceptable, and to reflect this standard practice by the utilities.

In closing, we would like to commend DOER staff for their continued diligence and efforts in implementing and improving the SMART program. Thank you again for the opportunity to comment on the new regulations for this important program.

Regards,



Hank Ouimet
Managing Partner

Cc: Jon Klavens, Esq., Klavens Law Group