



ENVIRONMENTAL LEAGUE  
OF MASSACHUSETTS

July 25, 2025

BY ELECTRONIC MAIL ONLY  
DOER.SMART@mass.gov

Grace Fletcher  
Massachusetts Department of Energy Resources  
100 Cambridge St, 9th Floor  
Boston, MA 02114

**Subject: SMART 3.0 Emergency Regulations Public Comment**

Dear Ms. Fletcher and DOER SMART Team,

ELM appreciates the opportunity to provide comments on the emergency regulations for the SMART 3.0 Program that the Department of Energy Resources (DOER) filed on June 20. The SMART program is critical for incentivizing responsibly sited solar projects in the Commonwealth. It is also a key tool for the Commonwealth to achieve the goals in its 2030 and 2050 Clean Energy and Climate Plans. For these reasons, ELM appreciates DOER's thoughtful enhancements to the program.

**28.02: Definitions**

The federal government is no longer recognizing environmental justice (EJ) communities or supporting programs to support disadvantaged communities. For these regulations, the state's definition and map should be utilized. See the Massachusetts Office of Environmental Justice and Equity (OEJE) for the EJ Population Maps. DOER should also consult with the OEJE to ensure that these regulations are consistent with the state's EJ Strategy and any recent adjustments related to changes at the federal level.

**28.05: Annual Adjustable Block Rate and Structure**

The growth of the solar industry in Massachusetts is a success story of good solar policy, and DOER's SMART 3.0 revisions are a logical and necessary evolution. As the solar industry continues to mature, it is appropriate for DOER to align SMART incentives with the latest market and policy signals. ELM is pleased to see that the base compensation rates and adders can adjust to changing market conditions each year, while allowing long-term price certainty for individual projects that participate in the program. Further, the limit on the base compensation rates and adders to change no more than 10% year to year appropriately addresses potential price volatility by bounding the rates developers can expect. As markets and federal policy rapidly shift, it is critical to ensure the Commonwealth has the price flexibility necessary to respond to unforeseen developments, and these revisions strike an appropriate balance.

Following passage of the federal reconciliation bill on July 4, solar projects now face harsh and fast-approaching deadlines to leverage various federal tax credits. ELM encourages DOER to consider raising or eliminating the Annual Capacity Block of 450MW in the first year of the program to enable as many projects as possible to hit the federal deadline. Solar projects are among the lowest-cost solutions for the Commonwealth to achieve its climate and clean energy goals, but it will be more challenging to build these systems once federal tax credits expire next year. As the Commonwealth addresses energy affordability challenges more broadly, ELM encourages DOER to maximize the ability of solar projects to leverage SMART incentives while it is most cost-effective for them to build.

Assigning set-asides for projects between 250kW and 500 kW, low income properties, and community shared solar projects will help ensure that these projects are able to participate in the program. The proposed regulations also allow but do not require set-aside capacity for small (below 25kW) projects and behind-the-meter projects between 25 kW and 250 kW. We support incentivizing such projects as these are likely to fit on small parcels or within developed and low-impact sites. ELM recommends revising the SMART 3.0 regulations to include the adder for rooftop raised racking that was included in the draft regulations or, alternatively, expanding the definitions of solar canopies to include raised rack solar. Such projects will help enable the Commonwealth to achieve its clean energy goals while prioritizing siting on the built environment. ELM also notes that the Solar Canopy Working Group is in the process of developing recommendations for siting such projects, and urges DOER to consider adopting the ultimate recommendations from that group once they are published.

#### **28.06: Qualification Process for Solar Tariff Generating Units (STGUs)**

ELM supports the requirement to demonstrate an executed Interconnection Service Agreement to establish eligibility. As a general rule, we support a faster, consistent statewide approach to permitting smaller solar systems, to reduce the costs associated with individual municipal permitting processes.

#### **28.07: Program Eligibility - Energy Storage Requirement**

ELM strongly encourages DOER to eliminate or significantly revise the requirement that all solar tariff generating units (STGU's) greater than 1,000kW be co-located with an energy storage system. While storage will be critical to lowering energy costs and enabling the Commonwealth to achieve its clean energy goals, requiring STGU projects to be paired with storage may inadvertently undermine or slow solar deployment. ELM recommends expanding the category of projects eligible for exceptions to the energy storage requirement (such as canopy systems) or eliminating the requirement altogether. ELM agrees that solar projects should be encouraged to pair with energy storage systems, but recommends doing so through incentives rather than requirements, such as compensation adders.

#### **28.07(5)(b): Locational Compensation Adders**



ELM supports the locational compensation rate adders for brownfield and landfills, canopies, dual use agriculture, and floating STGUs. ELM strongly supports both the size exemptions for brownfield and landfill projects. ELM also supports providing for a broad range of secondary functional uses underneath at least 75 percent of a canopy STGU project. This is an efficient use of land, primarily within other built land uses.

ELM supports efforts to increase clarity of provisions for floating STGUs to specify that this is only for artificially created water bodies, and that provisions excluding projects on wetland resource areas cite the Wetlands Protection Act. Rivers and streams should be included as well as ponds and lakes mentioned in the draft. Artificial water bodies created to support agriculture, such as reservoirs and canals on cranberry or other farms, should only qualify for floating solar if the farm remains in operation. The eligibility determination by the Department of Environmental Protection should include an opportunity for review and comment by the local conservation commission.

### **28.07(5)(c): Off-Taker Based Compensation Adders**

ELM strongly supports the requirement that 40% of generation from community shared STGUs support low-income customers, most of whom are already challenged by the front-end costs of solar systems, and/or are renters who are not empowered to make decisions about properties.

### **28.08: Land Use**

ELM strongly supports DOER's high-level siting objectives for revisions to the SMART program, i.e., to (1) protect our highest value forests contributing to emissions reductions in the Natural Working Lands sector' (2) balance solar development within the built environment with cost-effective ground mounted development, (3) create a mechanism to mitigate the impact of solar infrastructure. ELM encourages DOER to explicitly include and acknowledge these objectives in the Purpose and Application section of CMR 28.01, as this section of the regulations sets the basis for the entire program.

Achieving the Commonwealth's near- and long-term goals for climate and biodiversity requires preservation of critical forests and wetlands. These ecosystems store and remove carbon from the atmosphere while also providing habitat for wildlife and resilience and ecosystem services that benefit communities across the Commonwealth. The SMART program revisions appropriately balance incentives for solar deployment while preserving critical land and minimizing cumulative impacts on burdened communities. In calculating the adders each year, ELM encourages DOER to consider appropriately high incentives for solar projects sited on the built environment such as canopies and rooftops - which do not require land conversion - and shared community solar projects that benefit consumers.

ELM supports the proposed revisions designating ineligible lands for solar development, including all Resource Areas as defined in the Wetlands Protection Act regulations at 310 CMR 10.04. We also support excluding eligibility in Buffer Zones. Inland and coastal floodplains (Bordering and Isolated Land Subject to Flooding and Land Subject to Coastal



Storm Flowage) are Resource Areas and should be excluded to avoid stranding investments in energy systems in locations at high risk of flooding.

ELM also supports including as ineligible areas in BioMap Core Habitat and provisionally recommends including Critical Natural Landscape as these areas are also of high biodiversity value and are essential to maintain the functionality and connectivity of ecosystems. It is appropriate for DOER to use the best tools at its disposal in its planning, including BioMap, in determining eligibility for ratepayer-supported financial incentives for clean energy development.

ELM is extremely supportive of the provision to enable an Environmental Monitor to ensure that projects subject to the mitigation fee comply with SMART performance standards during construction. In tandem with the mitigation fee, the environmental monitor's ability to enforce performance standards is a powerful tool to mitigate negative impacts on the surrounding environment.

### **28.09: Mitigation Fee**

Finally, ELM is pleased with the inclusion of a per-acre mitigation fee. In lieu of subtractors, a mitigation fee is an appropriate tool for disincentivizing development on critical land. ELM fully supports the inclusion of carbon storage, ecological integrity, critical natural landscape, agricultural potential, cumulative impacts, and grid alignment as key criteria for measuring project impacts. ELM supports the inclusion of grid alignment as a criterion, since projects located near existing infrastructure can translate to reduced electric rates for consumers while avoiding the need to convert land for new projects. While projects near existing grid infrastructure can generate lower electric costs for the benefit of ratepayers, communities surrounding existing infrastructure have often already borne a disproportionate share of burdens associated with hosting energy projects. As such, ELM stresses the importance of appropriately balancing cumulative impacts and grid alignment in calculating the mitigation fee.

ELM cautions that the mitigation fee's effectiveness will hinge on how each criterion is weighed. To achieve desired objectives, the fee must be high enough to discourage development in sensitive areas and to compensate the public for lost natural resources, but not so high as to penalize solar projects with large benefits or energy cost savings for the Commonwealth. Further, it's important that the fee is high enough to incentivize developers to first avoid or minimize negative impacts before pursuing mitigation. Without details on how the mitigation fee will be calculated, it is difficult for ELM to provide meaningful input. ELM looks forward to the issuance of guidance with more details, and to providing further comments at that time.

ELM supports DOER's proposal that mitigation fees payments must be done prior to project approval, deposited in a separate EEA account dedicated to land conservation and stewardship. ELM recommends that the final regulations include a provision for an annual public report on mitigation funds received into the Trust Fund and expenditures from the fund. ELM also supports the Alternative Compliance Pathway allowing compensatory



mitigation provided pursuant to the site suitability standards for clean energy siting and permitting. This is appropriate to avoid requiring duplicate mitigation for the same natural resource impacts. DOER will need to further clarify how these two mitigation processes will be coordinated between the SMART program and local consolidated project permitting.

ELM thanks DOER for implementing a comprehensive suite of productive reforms to the SMART Program, particularly those that incentivize responsible siting and permitting of future solar projects. ELM appreciates the opportunity to provide comments on the SMART 3.0 regulations, and looks forward to further engagement on effective implementation of the program.

Sincerely,

Erin Smith  
Clean Grid Director

