

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENERGY RESOURCES
COMMENTS OF SOLAR COLLECTIVE, LLC ON
SMART PROGRAM 3.0 REGULATIONS – 225 CMR 28:00

I. INTRODUCTION

On June 20, 2025, the Massachusetts Department of Energy Resources (“DOER”) filed emergency regulations for the SMART 3.0 Program with the Secretary of State’s Office under 225 CMR 28.00 (“Emergency Regulations”). In a June 20, 2025 email to stakeholders, DOER stated that it would accept public comment on the Emergency Regulations and could make revisions in response to such feedback during the three-month rulemaking period.

Solar Collective, LLC d/b/a Solar Collective Agrivoltaics (“SC Agrivoltaics”) appreciates the opportunity to submit comments on the Emergency Regulations. SC Agrivoltaics originates, develops, and owns/operates dual-use solar projects on farmland in Massachusetts and other states. SC Agrivoltaics caps its project size at 500 kW AC on 3.5 acres to preserve the natural landscape while maximizing income for the farmer. SC Agrivoltaics’ Massachusetts portfolio includes more than 30 projects in active development -- from cranberry bogs in Southeastern Massachusetts to dairy operations in the Berkshires.

II. COMMENTS

Fallow Farmland

225 CMR 28.07(5)(b)3.c provides that a “Dual-use Agricultural STGU must be sited on Land in Agricultural Use, land classified as Important Agricultural Farmland, Fallow Farmland, or on Newly Created Farmland.” 225 CMR 28:02 defines Fallow Farmland as open arable land that has not been cultivated or used in agriculture for “a period of **one to five years** preceding the

Pre-Determination Application for a Dual-use Agricultural STGU.” (emphasis added) The one to five year time period appears to be a carryover from SMART 2.0’s Guideline Regarding the Definition of Agricultural Solar Tariff Units (April 12, 2022 Revision).

However, the fortunes of renewable energy have changed considerably since 2022. The “One Big Beautiful Bill” signed into law by President Trump on July 4, 2025 will quickly phase out tax credits for clean energy projects, and the President’s July 7 Executive Order¹ directing the US Treasury Department to “strictly enforce” rules related to the commencement of construction for projects seeking safe harbor qualification that can extend tax credit availability up to four years beyond a project’s construction start date. Such withdrawal of federal support, at a time when electricity demand is increasing, will make it much harder for Massachusetts to meet its legally mandated carbon reduction mandates.

This challenge has not gone unnoticed by Massachusetts energy officials. In a July 20, 2025 *Boston Globe* article discussing the effect of the federal clean energy funding rollback on Massachusetts, Secretary of Energy and Environmental Affairs Rebecca Tepper stated “[w]e need all the megawatt hours that we can get from solar and wind, [s]olar is the cheapest and fastest way for us to bring energy into the state. It’s bipartisan and extremely popular with customers.”² In the same article, DOER Commissioner Elizabeth Mahoney said that “policymakers had taken the federal government’s hostile approach to clean energy into account when creating state-funded programs,” and that the Commonwealth wants “to do everything we can for the next couple of years to be there for [the clean energy industry].”

¹ See Executive Order, *Ending Market Distorting Subsidies for Unreliable Foreign Controlled Energy Sources* dated July 7, 2025.

² See, Yogev Toby, *Massachusetts Braces for Clean Energy Layoffs Amid Trump’s Cuts*, BOSTON GLOBE (July 20, 2025) (https://www.bostonglobe.com/2025/07/20/business/trump-inflation-reduction-act-wind-solar-massachusetts-new-leaf/?p1=BGSearch_Advanced_Results)

SC Agrivoltaics submits that one way for the Commonwealth to obtain “all the megawatt hours that we can get” from solar is to remove the arbitrary one-to-five-year time period from the definition of “Fallow Farmland.” Open arable land that has not been cultivated or used in agriculture for seven to eight years or even ten years is just as suitable. In SC Agrivoltaics’ experience, some farmers allow their acreage to go fallow because cultivating such land is increasingly unprofitable. Allowing for the installation of solar on such land could prove to be the critical catalyst for the resumption of cultivation. The alternative to such agricultural tethered dual-use is something that is unfortunately being seen all too often -- sale of farmland for development of non-agricultural uses that won’t help the Commonwealth achieve its carbon reduction mandates. Accordingly, to preserve as much farmland in the Commonwealth as possible, SC Agrivoltaics requests that DOER expand the time period in the definition of Fallow Farmland to at least ten years preceding the Pre-Determination Application for a Dual-use Agricultural STGU.

Set-Aside Categories

In the Smart 2.0 Regulations (225 CMR 20.05(3)(c)), the set-aside for STGUs between 25 and 500 kW was a minimum of 20%. In the July 29, 2024 Straw Proposal With Clarifications, DOER increased the proposed set-aside for STGUs between 25 and 500 kW to a minimum of 30%. However, under the Emergency Regulations, the Program Year capacity of STGUs up to 25 kW and Behind-The-Meter STGUs greater than 25 kW and up to 250 kW is uncapped, while the minimum capacity set-aside for STGUs between 250 and 500 kW is 10% (225 CMR 28:05(5)). Although SC Agrivoltaics understands that this is a minimum and DOER can establish a higher set-aside, SC Agrivoltaics is concerned that such minimum will be easily reached. SC Agrivoltaics has reviewed the public interconnection queues for each

Massachusetts Distribution Company³ and, after filtering out all projects lower than 250 kW and greater than 500 kW, determined that there are already approximately a total of 61.5 MW of projects between 250 kW and 500 kW that have Interconnection Service Agreements -- 13.5% of the proposed 450 MW for the 2025 Program Year.⁴ While SC Agrivoltaics cannot ascertain from this review how many of these projects are in SMART 2.0 as opposed to SMART 3.0, these figures clearly reflect that the 250 kW to 500 kW is a popular project size. Thus, if DOER does establish the minimum set-aside at 10%, there is a real risk that some of SC Agrivoltaics' small farm partners will be unable to realize the SMART Program's agrivoltaics benefits. As described above, without these benefits, the land is at risk of being converted to other uses that are not compatible with the Commonwealth's clean energy mandates. Accordingly, SC Agrivoltaics urges DOER to increase the minimum percentage to 20%. If DOER does not wish to increase the minimum percentage from 20%, then SC Agrivoltaics requests that DOER exclude Dual-Use Agricultural STGUs from the 250-500 kW set-aside and allow such projects to be uncapped similar to how DOER has uncapped certain other project types.⁵

Siting in Wetland Resource Areas

Under the SMART 2.0 Regulations, a project sited in a Wetland Resource Area is STGU eligible if the siting is authorized by all necessary regulatory bodies. However, under the Emergency Regulations (225 CMR 28.08), a project is ineligible to be an STGU if its Project Footprint overlaps with a Wetland Resource Area including Buffer Zones regardless of regulatory body authorization. It is SC Agrivoltaics' understanding that it is DOER's intent to

³ Capitalized terms not defined herein shall have the meanings ascribed to them in the Emergency Regulations.

⁴ This figure is inclusive of 3.9 MWs of SC Agrivoltaics projects.

⁵ See 225 CMR 28.05(3)(c).

treat Wetland Resource Areas the same in SMART 3.0 as such areas are treated in SMART 2.0, i.e., a project in a Wetland Resource Area is STGU eligible if authorized by all necessary regulatory bodies, but the “authorized by all necessary regulatory bodies” phrase was inadvertently omitted.

To the extent that such omission is not inadvertent, SC Agrivoltaics requests that DOER reverse its decision, as such up front complete preclusion is unnecessary. It is not uncommon for an STGU (particularly an agricultural one) to overlap in some fashion with a Wetland Resource Area. As has been demonstrated since the SMART Program commenced, wetlands regulatory bodies are in the best position to determine if such overlap can be mitigated or minimized so that the project can go forward notwithstanding the overlap. These decisions are made on a case-by-case basis and are very fact and location specific. An absolute up front prohibition would preclude many projects that would otherwise be allowed by the regulatory body from going forward, thereby making it even harder to site solar facilities. Such additional siting difficulty would be at odds with legislation enacted in Massachusetts last year to make siting of solar facilities easier and faster.⁶ For these reasons, the absolute prohibition on siting an STGU in a Wetland Resource Area should be eliminated from SMART 3.0.

⁶ See, *An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers*, Chapter 239 of the Acts of 2024, as modified by Sections 136 and 137 of Chapter 248 of the Acts of 2024.

III. CONCLUSION

SC Agrivoltaics appreciates the opportunity to submit comments in this important matter and thanks DOER for its tireless efforts over the past several years in developing SMART 3.0. SC Agrivoltaics looks forward to reviewing the comments of other interested stakeholders and continued participation in this rulemaking.

Respectfully Submitted,

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