

July 11, 2017

Commissioner Judith Judson  
Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

RE SMART Program Comments

Dear Commissioner Judson:

Thank you for the opportunity to comment on the Emergency Regulations for the SMART Program. As you know, I served on the Land Use and Siting Working Group for the SMART Program. As such, my comments below are focused on this subject area:

**Remove reference to federal prime agricultural farmland designations**

As currently drafted, the definition of “prime agricultural farmland” would seem to create a regulatory framework that is ambiguous, subjective, and extremely difficult to administer. The Natural Resources Conservation Service (NRCS) definition 7 C.F.R. §657.5(a) is very difficult to interpret. The definition below, and its reference in Section 20.05(5)1a and b (for determining whether a project is in Category 1), would seem to require a soil scientist be contracted for an opinion on all such potential Category 1 projects. Subsequently, the program administrator, who will not be technically equipped to make sure determinations, would have to be tasked with assessing the validity of the soil scientists’ opinion.

*Prime Agricultural Farmland. Means those soils identified by the United States Department of Agriculture Natural Resources Conservation Service to be prime farmlands pursuant to 7 C.F.R. §657.5(a).*

Instead of moving ahead with this construct, it should be sufficient to qualify under “Category 1 Non-Agricultural” (and perhaps “Category 1 Agricultural” as well) to be not located on Land in Agricultural Use. The reference in these provisions to “Prime Agricultural Farmland” should be removed (sections a. and b. on page 9 of the regulations).

Best regards,



Richard Kleiman