

October 27, 2021

Attn: Gina Bellato, Solar Program Manager
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
Email: DOER.SMART@mass.gov

Re: Revised SMART Program ASTGU Guidelines

Dear Commissioner Woodcock and Ms. Bellato,

A coalition of concerned conservation organizations, solar energy advocates, and solar developers respectfully submit this letter regarding the revised Agriculture Solar Tariff Generation Unit guidelines released on October 6, 2021. We support fair and flexible AGSTU guidelines that will help drive more dual-use solar development across the Commonwealth, protecting access to farmland and supporting the decarbonization goal of net zero greenhouse gas emissions by 2050, as codified in the Next Generation Climate Roadmap Act of 2021 (Climate Act).¹ We appreciate the opportunity to share the comments presented in this letter and welcome further opportunities to support the advancement of dual-use solar across the Commonwealth.

The SMART Program and the ASTGU Guidelines have the potential to minimize the loss of farmland to permanent development. With flexible dual-use solar opportunities, farmers can generate a diverse, dependable income stream that is not at risk of failure due to drought or flood. Farmers can become financially resilient in the face of climate change, which provides them with the flexibility to adapt their operations to increase their land's resiliency as well. These benefits are additive to the clean, renewable energy production that supports meeting the climate goals signed into law by Governor Baker this year.

As farmers continue to face difficult economic barriers to farm viability, they are often faced with the sale of land for permanent development, to residential, commercial, or solar developers. Not only is the ASTGU program an opportunity for these same farmers to keep their land in production, but it is also an opportunity to re-evaluate the role renewable energy development has in restricting farmland access for historically underserved producers² as well as young and beginning farmers who face often insurmountable barriers in their search for accessible farmland.³

According to American Farmland Trust's *Farms Under Threat: State of the States* report, between 2001-2016, more than 27,000 acres of agricultural land was lost to development, representing enough land to generate as much as \$26 million in annual agricultural revenue. More than a third of this land was some of the Commonwealth's best farmland.⁴ In addition, Massachusetts has more than four times as many farmers over the age of 65 as there are under the age of 35, meaning that the majority of the farmland in Massachusetts will change hands in the next decade. In many instances, this generational shift will take place without a succession plan or interested farmer to take over the operation, putting Massachusetts farmland at increased risk of permanent development.⁵

With only 11 MW of ASTGU capacity approved to date as part of the 3,200 MW SMART program, creating additional restrictive and subjective requirements in the Guidelines at this stage will not only limit the near-term opportunities for innovation and experience, but will inevitably suppress timely and widespread adoption of dual use practices when it is clear that just the opposite is needed. Although the ASTGU incentive was intended to be a viable alternative to traditional solar development, the revised Guidelines increase risk and

¹<https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter8>

²<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/people/outreach/slbfr/>

³<https://www.youngfarmers.org/wp-content/uploads/2018/02/NYFC-Report-2017.pdf>

⁴<https://farmland.org/project/farms-under-threat/>

⁵<https://csp-fut.appspot.com/>

uncertainty in the ASTGU program, potentially driving development outside of the SMART program and under the ISO-NE wholesale program instead, thereby bypassing SMART's land use restrictions altogether.

Broadly, our coalition is concerned that, taken together, the proposed revisions to the Guideline will stifle robust adoption of dual use solar in the Commonwealth and will thus be in conflict with the Commonwealth's stated goals. We strongly believe that the SMART Program and ASTGU Guidelines should be aligned with the mandates set forth in the Climate Act thereby creating a broader public benefit for the climate change mandates. Instead, we find that the revised ASTGU guidelines create overly restrictive requirements and significantly narrow the flexibility afforded to farmers.

We provide the following comments on specific aspects of the revised guidelines, with the goal of increasing the flexibility of the ASTGU program and thereby increasing participation:

- 1. Purpose and Background- The goal of the SMART Program is to reach 80 MW AC capacity of ASTGU systems. The Department plans to review the ASTGU program once the goal of 80 MW AC capacity is reached and may adjust the ASTGU requirements following the review if necessary.***

Comment:

We suggest the Department remove the reference to the stated 80MW goal, which is not currently in the regulations.

- The Department's clear indication of a plan to review the Guidelines when 80MW of projects have been qualified is giving the market a clear signal of when future changes might be expected, but the reference to a goal, which had been not referenced in any prior regulatory process, could indicate that there will only be 80 MW of ASTGU.
- Based upon the number of projects that have been qualified so far, the imposition of a cap is both unnecessary, and could restrict the development of a number of important projects that will help the Commonwealth reach both its larger food security and clean energy goals.

We suggest adjusting the language to state the Departments intention to review the ASTGU program once the first tranche of 80 MW AC capacity has been reached and may adjust the ASTGU requirements following the review if necessary.

- 2. Section 4.ii - All land intended to be newly created farmland shall be deemed eligible farmland if it has been in active agricultural use and managed as a commercial enterprise by the farm applicant for not less than three consecutive years immediately prior to the date of application to the SMART program.***

and

Section 5.ii - For ASTGUs on Important Agricultural Farmland, applicants must demonstrate a history of production of their proposed agricultural commodity on the proposed ASTGU site for not less than three years immediately preceding the date of application to the SMART program.

Comment:

We suggest removing the requirement set forth both in section 4.ii and 5.ii that requires three consecutive years of the proposed commodity production immediately preceding application to the SMART program. This requirement should be removed because -

- It discourages the diversification of farm crops and production systems, including crop rotation and the integration of both crops and livestock – both key principles of regenerative agriculture.
- Farmers should be solely responsible for determining the best type of agricultural production for their land. It is not reasonable to require farmers to commit to the same crop for the life of a solar project, nor is it a recommended agricultural practice.

- The new farmland restriction exacerbates the impact of inequitable land ownership on farmland access and participation in dual-use agriculture. New and beginning farmers, BIPOC farmers, and other historically underserved communities are more likely to adopt flexible farming strategies, adapting to market and climate conditions. These revised guidelines inequitably exclude their participation in the SMART program as part of an ASTGU project.
- As written, this update requires the farmer to have been on that land for at least 3 years. In many cases, new farmers are brought in to farm on-site, which would not be possible under this construct, exacerbating the risk of permanent development when retiring farmers cannot secure clear succession plans.

We suggest replacing the requirements with the Chapter 61A eligibility requirements and/or on important farmland, as doing so would create consistency and be reasonable to follow.

3. *Section 6.i - Waiver for Decreased Yield: Due to unforeseen circumstances, such as weather events, pests, or change in crops, the agricultural yield for any given year may be lower than stated in the agricultural plan or previous year's annual report... If the applicant's waiver is approved by the Department, the applicant may not apply for an additional waiver in the subsequent year.*

Comment:

We suggest removal of any and all yield requirements from the ASTGU program, thus negating the requirement of waivers for decreased yields. We suggest using the requirements set forth in Chapter 61A to determine continued eligibility for land in agricultural or horticultural use: *Gross sales resulting from land in agricultural or horticultural use total no less than \$500 per year, and for land greater than 5 acres in area, the minimum gross sales will be increased at the rate of \$5 per acre.*⁶

- There is no definition of what constitutes “decreased yield.” This provision suggests that any level of depressed yields would require a waiver, no matter how small the reduction.
- The reality of farming in today’s climate is that yields vary from year to year and those variations increase as climate change advances. Drought and flood have impacted MA agriculture in back-to-back years. This provision will amplify the risks of weather-related yield losses and unfairly penalize farmers and dual use projects for unforeseen circumstances.
- This provision would likely cause farmers to prioritize yield over best practices and ignores the uncertainty farmers already face due to climate change.

4. *Section 3.b.iii - Compatible Sunlight Needs: Per SMART Regulations 225 CMR 20.06(1)(d)(4), applicant shall provide documentation that the project's proposed solar design's sunlight amount and sunlight reduction is compatible with the proposed agricultural crops and productivity over the project's lifetime.*

Comment:

We suggest removing this requirement from the guidelines. The SMART Regulations 225 CMR 20.06(1)(d)(4) already require documentation of the crops to be grown and their compatibility with the proposed project design. In addition -

- Requiring specific documentation that the sunlight amount and sunlight reduction is compatible with the proposed crop over the project’s lifetime is unreasonable and will deter pursuit of ASTGU approval by Massachusetts farmers. This provision generates confusion and uncertainty on how to

⁶ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter61A/Section3>

meet the required standards. There is no further explanation of what is deemed appropriate documentation or how “sunlight amount” is defined.

- Requiring a farm plan to identify a single proposed crop and prove its compatibility over the project’s lifetime negates the stated goal of ensuring “*the flexibility to adjust agricultural activities over time due to a variety of reasons, including different crops.*”

The below group of solar energy developers, advocates, agricultural organizations, and conservation organizations offer these comments as a working group aligned in our collective concerns regarding the direction that the ASTGU guidelines are moving. Many of the proposed revisions will have the effect of reducing the flexibility farmers need with respect to land use and crop selection, will hinder equitable access to farmland by a new and diverse generation of farmers, and will create further obstacles to the conversion or creation of productive farmland in the face of an alarming loss of farmland statewide.

We fully support the Department’s goals of a clear and well-regulated dual use program. To that end, prior to adopting any changes to the Guidelines, we would like to offer to meet with DOER, MDAR, and EEA staff, to generate open dialogue and to better understand the issues and concerns so that we may offer solutions that might work for all parties.

Thank you for your time and review of this important matter. We are happy to provide additional information or further guidance on this as requested.

Respectfully submitted by the following:

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