

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources  
251 Causeway Street, Suite 500, Boston, MA 02114  
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

MATTHEW A. BEATON  
Secretary

JOHN LEBEAUX  
Commissioner

**FINAL**  
**Meeting Minutes, Board of Agriculture**  
**MA Department of Agricultural Resources**  
**30 Riverside Drive, Lakeville, MA**  
**11/14/18**

**Board Members in Attendance:** Chair Abrams, Laura Sapienza-Grabski, Lucinda Williams, Judy Leab, Michael Smolak, Fred Dabney, Skip Vadnais, Jr., Crystal Card, Alison Carr, and Donald Chase.  
**Absent:** Lydia Sisson; Noli Taylor, Michelle Harvey.

1. **Call to Order:** Chair Abrams called the meeting to order at 10:00am and acknowledged that quorum has been met. Ms. Sapienza-Grabski and Ms. Bouchard noted that they are recording the meeting.
2. **Minutes Summary:** The Board considered for approval the meeting minutes of 09/20/18. In regard to the meeting minutes of 06/12/18, under section two (2) of the minutes, Ms. Sapienza-Grabski would like to add a comment to reflect Mr. Vadnais' had stated that he did not receive the letter from the Chair. **Action Taken:** Mr. Smolak made the motion to amend and accept the meeting minutes of 06/12/18 and accept meeting minutes of 09/20/18; Mr. Dabney seconded. The motion passed unanimously.

**New Business:**

3. **Food Safety Presentation and Q&A:** Michael Botelho, of the MDAR Food Safety Program, welcomed the Board to the new Lakeville office and introduced three farmers that are involved in the Commonwealth Quality Program (CQP). Peter and Lynn Reading of C&C Reading Farm in West Bridgewater, own and operate 75 acres on APR land. They have a CSA; Pick-Your-Own, farm stand (blueberries, strawberries, pumpkins, Christmas trees) and are open until December. They stated they appreciate the relationship established with MDAR and NRCS and support of farmers. CQP has helped with getting into Whole Foods, Hannaford, Shaw's, Stop & Shop, Big Y, farmers' markets and has opened the doors into the retail/wholesale markets. Service dogs and food safety concerns were also discussed. FSMA considerations moving forward will have an impact on the Reading's farm, but they obtained a grant with the help of Laura Maul and found that to be very beneficial. Bay State Organics is impressed with the food safety program. CQP brand has helped with wholesaling of products. Currently the farm is in five Whole Foods locations. The grant was also used to fence in high value crop areas to keep deer out. Three wells, hydration, and built farm stand after acquiring APR property.

**Discussion:** The Board discussed a variety of items including the pricing with Whole Foods and the 90-day payment plan along with the kind of issues that farmers have with PYO, security and theft. The Board discussed how Certification/CQP Program has helped farmers getting in at Whole Foods. Thereafter, a brief discussion ensued relative to service dogs coming into the farm stand and on the farm.

At this time, the Board was introduced to Mr. Jimmy Ward of Wards Berry Farm; a 200 acre farm with 20 acres certified organic, all fruits and vegs, 30 acres sweet corn, 30 acres squash and pumpkins. Retail store, PYO, farmers' markets, CSA, and wholesale distribution. Farmland owned by Mass Audubon. Mr. Ward explained to the Board how he heard about FSMA via UMass and trainings he's attended to be in compliance with wholesaler demands. Continuing Mr. Ward provided an overview of the number of full and part-time staff he employs and mentioned whole markets requiring a certification program. Mr. Ward concluded with information regarding a training he attended to learn about water quality standards in growing produce and how MDAR grants and staff have assisted him improvements to his operation.

Mr. Botelho noted about \$6M in Southeast, MA in terms of produce sales. The Board inquired about the costs of making improvements and their impacts. Mr. Ward noted there have been costs in terms of food safety but increased efficiencies. FSMA does require additional documentation and they transcend across the business in terms of their value and reference. The Board then discussed food safety outbreaks in MA and Mr. Botelho noted currently 7 in MA all restaurant based. Continuing Mr. Botelho gave a brief overview of how MDAR works with DPH who has authority to inspect and the FDA. The MDAR Food Safety team meets with wholesalers to discuss the regulatory framework in MA and works with buyers to push MA certified products. Highlighted was the issue in the fruit and vegetable space regarding the average age of farmers and how that acreage will transfer.

Following the Board asked questions and discussed FSMA triggers including farms covered by the rule if you have \$25,000 in sales or above. Leafy greens and frozen berries have been linked to the most food safety outbreaks this year. Goals of the CQP Program were discussed and Mr. Botelho talked about how the Program integrates the Produce Safety Rule into a combined program, resulting in compliance and market access, education and regulation, link to grant funds, and on-farm technical assistance. Transportation concerns were also discussed in terms of barriers and opportunities (CA to MA costs over \$10,000 in transportation costs). Board members commented on the presentation and the CQP Program while noting how buyers and consumers are driving these standards and how the robust MDAR Program is in terms of food safety and meeting those market access demands. The value of videos for food safety training was discussed along with how UMass is developing SOPs. The challenges in working across sectors were discussed before the Board moved on to talk about how pesticide storage fits as it is part of the audit process for farms. Mr. Botelho talked about the voluntary farm registration database and how this may allow for a centralized database to be integrated across the Department on this platform. Food Safety registration will be up and running by Spring. **Action Taken:** None.

4. **Land for Good Presentation and Q&A:** Mr. Smolak introduced Jim Hafner, Executive Director, from LFG. Transition of family farms and succession planning concerns. Study from American Farmland Trust ("Keeping Farmers on Farmland") was the framework for the discussion. LFG is New England-wide, and the audiences are farm seekers, Farm Legacy

program, Working Lands Program, and community (collaborators, food advocates, Buy Locals, policymakers). Education and trainings, one-on-one advising and coaching by field agents, innovation (policy analysis, research). Over the next 10 to 15 years, about 30% of farmers will exit the farming sector in MA (130,000 acres; \$1.8B in assets; 1/3 of market value). Ag Census of 2012 was used and based on that data, over 90% don't have a secondary operator working alongside them (scaling and size capabilities/restraints to support another operator). Beginning farmers (63%) are 45 or older and smaller net farm income. Commodity disconnect: older farmers have more extensive farm commodities on their operations, rather than beginning farmers who are typically more focused/less diversified. Focus groups of farmers and common themes are: want land to remain in farming, interested in and willing to look outside the family for a successor, open to innovative approaches, farmland protection as an important succession tool, recognize challenges for incoming generations, want help navigating succession planning/assistance with finding a successor, and policy improvements (ag easement funding, ability to subsidize easements).

**Discussion:** Mr. Hafner asked the Board about their personal challenges with succession planning. Board members talked about family members interests in taking over their farms and challenges. The Board asked about APR aspect with LFG; Mr. Hafner noted they are not in the land protection sector and more farm viability arena. Also, Mr. Hafner noted the biggest issues are the "soft issues": communications, equity, family dynamic, etc. Mr. Hafner talked about the collaboration with MDAR: Farm Viability Enhancement Program (VT has a similar program; 2 farms over 2 years) and APR Programs (one-on-one advising with typically 2-3 farms/year, Succession School that is 3 days over the winter with 24 farm participants: goal setting, communication, successors, other topics); MDAR provided a cost-share to farmers last year for the School. Essex Greenbelt also part of the programming efforts. Workshops with MDAR (3 planned for the winter) and Ag Business Training Program: Tilling the Soil course. Improving the enabling environment among other service providers (real estate agents, attorneys, MDAR APR staff, among others). Farm Transfer Network of New England where advisors make themselves visible to farmers. New England Farmland Finder that links farmers with those looking for farmland properties (Beginning Farmer and Rancher grant will allow for national workshops on this program). All scales, all ag sectors, all locations there are similar issues (viability concerns for their farms but also want to pass along to a successor). Board members expressed an interest in following-up with Mr. Hafner after the meeting to learn more about succession planning and programs offered through LFG. **Action Taken:** None.

5. **Consultation on Renewable Energy Draft Policy:** Commissioner Lebeaux noted that it will be on future agendas as well and introduced Gerry Palano who will also provide greater detail about the policy. Trying to find a middle ground for farmers to take advantage of solar on their farms and still be respectful of the preservation of the land. It expands on what MDAR has previously been doing and establish a balance between statutory restrictions and individual farm contracts. Simultaneously going to the ALPC for its approval. Mr. Palano noted that the guidelines are a continuing effort to engage all farms, including APR farms, to encompass sustainability efforts on farms and in agriculture. Solar projects are prioritized that are applied to the farms and actually being used on the farm. Other renewable technologies also being looked at to be incorporated into the APR program. Chapter 48 Section 3 (zoning) it also complies with and more than half the energy being used on the

farm then it complies with the guidelines. Policy is relative to ground-mounted systems, but roof-mounted systems will likely not have same limitation.

**Discussion:** Ms. Sapienza-Grabski submitted a comment letter (attached) on the regulations and comments in regards to interpretation of the policy. Please see attached letter for reference. Board members asked about the purpose behind Section III; Mr. Palano noted concerns around parcel separation. Chair Abrams said without the provision it would not address the non-APR parcels. Board members asked about the calculation for the formula and Mr. Palano explained the 50% threshold formula. Board members discussed Section III, 4 and adding language about the USDA regarding approved solar equipment and the definition in the guidance document. Mr. Palano talked about the Rural Energy Program through USDA and the ranking/score program they utilize. The Growing Sunshine Program was discussed and whether dairy farms can benefit from more solar energy projects. In Section IV, Definitions, Ms. Sapienza-Grabski said that the definition of APR should be amended. She also asked about when the water rights/restrictions were added into the definition. The use of the term “commercial” agriculture in the policy was discussed along with the purpose and it was noted that it was not reflected in the definitions (agricultural operations is used). Mr. Palano noted that MA has the SMART Program (DOER Program), encouraging solar development and MDAR has worked on a dual use provision and with UMass at their South Deerfield farm to pilot a program; November 26<sup>th</sup> the program will be launched. APR programs are not superseded by the dual-use provision provided in the SMART program. Ms. Sapienza-Grabski asked if non-APR farms are treated differently. Mr. Palano said that no, they are not included within the 50% threshold (local ordinances/municipalities would have enforcement authority, not MDAR). Commissioner Lebeaux noted that these comments will be taken under advisement. **Action Taken:** None.

#### **Old Business:**

6. **APR Legislation Discussion:** ALPC met recently and working to satisfy the August 1<sup>st</sup>, 2019 deadline. The Ag Board was made aware of the meeting; no quorum was met; 3 members were able to attend. The ALPC will meet again in November and December; November 26<sup>th</sup> has been set for the date based on availability of members. There has not been a location set yet for the meeting. Please let MDAR know if you are planning to attend that meeting. Chair Abrams has asked that the December ALPC meeting be coordinated with the Ag Board. A draft is being developed that will be shared for review shortly. Board members noted the tight legislative timeframe requiring meetings take place on a continued basis and inquired about a possible extension of the timeline. Chair Abrams asked that December 12<sup>th</sup> be added as a date for a meeting, based on Ag Board availability. Mr. Chase asked about the meeting dates for future meetings and coordination between ALPC and Ag Board for the November 26<sup>th</sup> meeting. **Action Taken:** None.
7. **Meeting Dates:** The Board considered the proposed meeting dates for 2019 including:
  - a. December 2018 Meeting – To be determined.
  - b. January 9<sup>th</sup>, 2019
  - c. March 13<sup>th</sup>, 2019
  - d. May 8<sup>th</sup>, 2019
  - e. July 10<sup>th</sup>, 2019
  - f. Thursday, September 19<sup>th</sup>, 2019; Big E Massachusetts Day
  - g. November 13<sup>th</sup>, 2019

**Discussion:** The Board discussed the next meeting being in December pending the determination of an ALPC quorum, then Ag Board quorum. Ms. Sapienza-Grabski noted there is a conflict in the language and the approval of the ALPC having final authority and not Ag Board. The two should work side by side and members should be present at the November 26<sup>th</sup> meeting to work on the regulations. Chair Abrams polled the group about the November 26<sup>th</sup> meeting and as of now, six members can attend (not a quorum). Chair Abrams then polled on the December 12<sup>th</sup> meeting and it appears there would be a quorum.  
**Action Taken:** None.

8. **Date, Time, Location of Next Meeting:** TBD based on ALPC meeting and availability to meet jointly on December 12, 2018. **Action Taken:** None.
  
9. **Announcements:** Commissioner Lebeaux noted that it was Assistant Commissioner Randle's one-month anniversary with MDAR and it has been going very well. The honey provided for today's meeting was provided by the State Apiary Program, which had a very successful harvest this year. Commissioner Lebeaux asked Ms. Card to report on the beekeeper stakeholder meeting with county beekeeping groups and MDAR held on November 7<sup>th</sup> in Boston. The group carefully went through the proposed changes and the one issue that was problematic was registration (fees, neighbor complaints); otherwise the group appreciated the outlet for feedback and very pleased with the regulations overall. Commissioner Lebeaux noted that MDAR is trying to find a middle ground on the registration issue. The group also praised Chief Apiary Inspector Kim Skyrms and the inspectors and did not mind the idea of the list that Kim has been compiling. Commissioner Lebeaux noted the registration list is for disease control and traceability, as all other livestock species have mandatory registration. There is in excess of 4,000 beekeepers in the state and roughly 200 that have registered. Some counties want to manage on their own and this has proven to not work. Ms. Card also has concerns with being able to identify and treat/manage an outbreak if the counties are managing for disease. Ms. Card also noted that there are too many external factors that are detrimental to the sustainability of the bee populations and they must be managed accordingly. Ms. Leab asked if there is a fee to register; Commissioner Lebeaux noted there is currently no fee in place. MDAR is internally now trying to recognize beekeepers concerns and implement them into the regulations. Mr. Vadnais, Jr. asked about what veterinarians are providing antibiotics to beekeepers (insurance and restrictions), and reluctance to proscribe. Ms. Card said she has traveled to other states and worked with their veterinarians to get prescriptions. Mr. Smolak asked about future presentations, such as FSA, Farm Credit East, etc. Chair Abrams agreed in the future after the January meeting, that would be great. **Action Taken:** None.
  
10. **Adjournment:** Action Taken: Mr. Smolak made a motion to adjourn the meeting at 12:46pm. The motion was seconded by Mr. Vadnais, Jr. The motion unanimously passed.

**Meeting Documents for 11/14/18:**

Ag Board Meeting Agenda for 11/14/18

Draft Meeting Minutes for 9/20/18

Draft Meeting Minutes for 6/12/18

Final Meeting Minutes for 8/8/18

Renewable Energy Draft Policy

Ms. Laura Sapienza-Grabski Memo on the Renewable Energy Draft Policy

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114  
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

MATTHEW A. BEATON  
Secretary

JOHN LEBEAUX  
Commissioner

**AGRICULTURAL PRESERVATION RESTRICTION PROGRAM GUIDELINES**  
**REQUESTS FOR A CERTIFICATE OF APPROVAL TO CONSTRUCT A GROUND MOUNTED RENEWABLE ENERGY SYSTEM**

- I. **PURPOSE:** By obtaining an Agricultural Preservation Restriction ("APR"), it has been and remains the intent of the Commonwealth of Massachusetts to perpetually protect and preserve agricultural lands, to encourage sound soil management practices in accordance with generally accepted agricultural practices, to preserve natural resources, to maintain land in active commercial agricultural use, and to ensure resale of an APR at an agriculturally affordable price for future agricultural use. An APR prohibits activities or uses which may be detrimental to: the actual or potential agricultural viability of an APR, water or soil conservation; generally accepted agricultural practices; and activities or uses which may be wasteful of the natural resources of the Commonwealth.
- II. **AUTHORITY:** Per the terms of APRs and at the Department's discretion, the Department may grant a Certificate of Approval ("COA") to construct an agriculturally related structure, including an agriculturally related Ground Mounted Renewable Energy System ("RES") on the Premises.
- III. **DEPARTMENTAL PREREQUISITES TO ISSUING A COA FOR A GROUND MOUNTED RENEWABLE ENERGY SYSTEM:** In order to grant a COA for a Ground Mounted Renewable Energy System, the Department must find all of the following:
1. The APR contains language requiring the Owner to petition the Department for approval to construct an agricultural structure;
  2. The Premises is being utilized for commercial agriculture;
  3. Non-contiguous APR land or non-APR land owned by the same entity and to be served by the output of the Ground Mounted Renewable Energy System must also have a De-commissioning Plan. The Department reserves the right to require implementation of the plan upon the severing of ownership of the agricultural operations served by the Renewable Energy System;
  4. The Ground Mounted Renewable Energy System will be located so as to minimize negative impacts to the agricultural productivity of the Premises;
  5. The Applicant has submitted to the Department a detailed site plan showing where the proposed Ground Mounted Renewable Energy System will be located on the Premises and where any existing structures and improvements are currently located;
  6. The Ground Mounted Renewable Energy System must have either a rated annual output capacity (kWh or BTUs) not greater than 2.0 times the documented historical or projected annual agricultural energy (kWh or BTUs) use on the APR land or the Agricultural Operation.
  7. If approved:

- a. The location of the Ground Mounted Renewable Energy System will not interfere or lead to the likelihood of interference with the Agricultural Use; and,
  - b. The proposed Ground Mounted Renewable Energy System must be sited to minimize impacts on productive agricultural land.
8. If the Ground Mounted Renewable Energy System is to be installed on APR land with prime soils or soils of state significance to farming, the following conditions must apply:
- a. Site preparation and disturbance of the existing soil conditions of the land must be kept to a minimum; and,
  - b. No topsoil may be removed unless appropriately stockpiled and replaced on the site.

IV. **DEFINITIONS:** As used throughout this Guideline, the words or phrases listed below shall have the following meanings:

Agricultural Operation: a farming business encompassing a single economic unit under the same ownership and control, from which is derived a commercial agricultural product.

Agricultural Use: the raising of animals, including but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market, as defined in General Laws, Chapter 61A, Chapter 1, as amended. Also horticultural uses, the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a program certified by the state forester to be a planned program to improve the quantity and quality of a continuous crop for the purpose of selling such products in the regular course of business; or when primarily, directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products and preparing them for market, as defined in General Laws, Chapter 61A, Chapter 2, as amended.

Agricultural Preservation Restriction ("APR"): a perpetual restriction to retain land or water areas predominately in their agricultural farming or forest use by forbidding or limiting certain property development rights.

APR Grantor: the party, parties, entity or entities that executed the APR.

Applicant: the record title owner of the APR who applies for a COA.

Certificate of Approval ("COA"): a certificate in recordable form issued by the Department that allows certain limited activities and uses for agricultural purposes on the APR with or without conditions.

Department: the Department of Agricultural Resources of the Commonwealth of Massachusetts, 251 Causeway Street, Suite 500, Boston, MA 02114-2151.

De-commissioning Plan: a clear plan with contingencies, developed at or before the time of installation, for the de-commissioning of the Renewable Energy System. The plan must account for removing the

components of the Renewable Energy System and any related infrastructure and returning the Premises to its original condition as closely as possible.

Owner: the record title owner of the Premises.

Premises: the acres of land and buildings and structures thereon described in the Exhibit A attached to and incorporated into the APR.

Ground Mounted Renewable Energy System: any ground mounted (physical structure installed, with or without footings, on the surface of the land) renewable or alternative renewable energy generating source and all its associated infrastructure, including but not limited to any energy storage, that meets the requirements of M.G.L. c. 25A, §§11F and 11F1/2 as recently amended by Chapter 251 of the Acts of 2014. Ground Mounted Renewable Energy System explicitly does not include: 1) systems which use agricultural resources such as biomass as inputs (anaerobic digestion), or 2) systems which are roof mounted to existing structures.

Adopted \_\_\_\_\_, 2018

---

John Lebeaux  
Commissioner



November 14, 2018

To: Board of Agriculture Members

CC: Commissioner Lebeaux

Secretary Alisha Bouchard

Dear Board Members,

I am writing this to inform you that I have concerns on the draft language for the "Agricultural Preservation Restriction Program Guidelines, Request for a Certification of Approval to Construct a Ground Mounted Renewable Energy System" that is on the agenda for today's meeting and that I have attached a marked up copy of the regulations for the Chair with the following outlined in this letter that I will have copies for all members.

Many of our dairy farmers are in distress and enabling them to take advantage of solar energy beyond their current needs for the farm, could preserve dairy farms in the Commonwealth, especially at time when energy demand continues to increase.

Incentives for all farmers to increase solar energy needs to be explored and examples such as the improvements made in Maine show why.

"In the spring of 2008, Oakhurst Dairy, a family- owned dairy in Portland Maine, installed one of the largest commercial solar thermal systems in the northeastern U.S. on the roof of its headquarters. Seventy-two panels preheated water for milk case washing, as well as floor and equipment cleaning. In the first year of operation, the solar system reduced the company's heating oil consumption by more than 5,000 gallons. The savings increased by 2,500 gallons because of the waste heat recovery extension that was integrated with the system. Total annual savings averaged 7,000 to 10,000 gallons, reducing the company's expenses by \$14,000- \$20,000 per year. The company boasts that the benefits of the project reach far beyond energy cost savings. A decrease of 88 metric tons of CO2 emissions per year helped the company towards meet its 'Governor's Carbon Challenge' goal of reducing its CO2 emissions 20% by 2010. Additionally the solar system enhances the company's public image and the employees' pride in their work."

Insert above is attached and from

[https://www.usda.gov/oce/reports/energy/Web\\_SolarEnergy\\_combined.pdf](https://www.usda.gov/oce/reports/energy/Web_SolarEnergy_combined.pdf)

Section III 1. Should say the APR "**contract**" contains language requiring the Owner to petition the Department for approval to construct an agricultural structure;

Note: As written it implies that **ALL** APR farms must be approved by the department for solar, even if the contract does not give the department the authority to do so.

The drafted regulations exceed the enabling legislation of the APR Program in Section III, 3 and in 6. I believe 3. Should be completely deleted and as drafted, it looks at land that is NOT in the APR program and it interferes with the farmer's ability to diversify and remain sustainable.

Section III, 4. Should have included the following language after the word "Premises": **or is an approved USDA solar equipment to enable both agricultural activities on protected soils for livestock or crops.**

In Section IV. Definitions , Agricultural Preservation Restriction ("APR"): Should say " a perpetual restriction to retain land by forbidding or limiting certain property development rights.

Also, additional information solar can be viewed on the USDA's page on "Alternative Farming Systems Information Center" <https://www.nal.usda.gov/afsic/solar-energy> and the Commonwealth should explore opportunities that other states are using for energy opportunities for all farmers and not penalize APR farmers for preserving their soils.

Smart growth plans and grants for communities should include incentives for ALL farmers to expand renewable energy opportunities.

Sincerely,

Laura Sapienza-Grabski

Board of Agriculture Member