

# Michigan Department of Agriculture & Rural Development

## Environmental Stewardship Division

### COMMERCIAL SOLAR FACILITIES ON PA 116 LAND



A commercial solar panel operation is not permitted on land enrolled in a Farmland Development Rights Agreement under the PA 116 Program. The land use is not considered agricultural, and therefore, the land would need to be removed from the program prior to the construction of such a facility.

In order for land to be removed from a Farmland Development Rights Agreement, either the landowner or the land must qualify for removal by meeting one of the following criteria:

#### **Landowner basis for removal:**

1. Death of the landowner
2. Disability of the landowner

#### **Land basis for removal:**

1. Economic inviability of the farmland
2. Change in surrounding conditions that restricts farming
3. A natural change occurs to the land that causes the land to be unfarmable
4. A court order restricts the ability to farm
5. The land is to be owned by a public body for a public use
6. The land is to be owned by a 501(c)(3) organization for a non-profit use
7. The land is zoned for commercial or industrial use

#### **Option 7**

Under MCL 324.36111a, land may be released from the program due to public interest if the land is zoned in a commercial or industrial category.

#### **Conditions and process for requesting release under Option 7:**

1. The land is zoned in a commercial or industrial category; assuming that a commercial solar panel operation is permitted in one of those two categories.
2. If the zoning is present or is granted by the local governing body, the landowner would need to apply for approval for release of the land from the PA 116 Program.
3. The local governing body would need to include, in any approval under this method, findings of fact pertaining to the requirements as defined in MCL 324.36111a(2).
4. If approved by the local governing body, the application for release would be sent to the state for review and approval or denial.
5. If approved by both the local governing body and the state, and the land has been zoned either in a commercial or industrial category for at least three years, the landowner would be required to repay the past seven years of tax credits attributable to the parcel being released from the program.
6. If the property has been zoned commercial or industrial for less than three years, a permanent conservation easement would have to be placed on twice the amount of land being released from the program; or if the easement cannot be acquired, an amount equal to twice the development rights value of the land being released would be deposited into the state agricultural preservation fund. The landowner would also be required to repay the past seven years of tax credits attributable to the parcel being released from the program.